

## FINAL REPORT

presented to the European Commission

LIBRA



Let's Improve Bargaining, Relations and Agreements  
on work and life times balance

Modena, February 2013



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Further information is available at [www.adapt.it/libra](http://www.adapt.it/libra)

## APPLICANT ORGANIZATION

**ADAPT** – Association for International and Comparative Studies in Labour Law and Industrial Relations (*Italy*)

## PARTNERS INVOLVED

**IAL** – Innovazione, Apprendimento, Lavoro (*Italy*)

**CISL** – Confederazione Italiana Sindacati Lavoratori (*Italy*)

**ABVV-FGTB** – Algemeen Belgisch Vakverbond-Fédération générale du travail de Belgique (*Belgium*)

**INCSMSP** – National Institute for Science Research in The Field of Labour and Social Protection (*Romania*)

**MOSz** – National Confederation of Workers' Council (*Hungary*)



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## INTRODUCTION

Reconciliation of work and family life has become increasingly important in recent years across the EU, mainly due to changes in the pattern and demands of work and changes in the family structure. The work-life balance is, in fact, a key area for European employment policy that aims at increasing participation of both men and women in the labour market and encouraging initiatives to support the health and well-being of employees.

In particular, globalization of the economy, the fast pace of technological development, and rising of female labor participation along with an increasingly ageing population have recently forced employers to make organizational changes and bring more flexibility in the workplaces that enable them and employees fulfill their needs simultaneously. This is because the previously mentioned factors have a significant impact on both individual workers and the success of companies. Taking this in to account, from the onset of the crisis in 2008, institutions of EU member states have committed themselves to pursue a strategy that will help Europe to come out stronger from the crisis and turn the EU into a smart, sustainable and inclusive economy, by delivering high levels of employment, productivity and social cohesion across the states. The Council of the European union acknowledges that not only equality between women and men, but also highly appreciates that the work-life balance issues are fundamental values (of the European Union) that have important links with productivity, which in turn is so vital to economic growth, prosperity and competitiveness.

The good justification is that increasing product-market competition can be a driving force behind higher productivity. However, even those critics of globalization who accept this argument claim that there is a hard trade-off between working time and private life. This is mainly due the fact that tougher competition comes at the price of reducing work-life balance. Others, by contrast, argue that competition can spur better WLB practices and, therefore, higher productivity, so there is a ‘win-win’ situation.

The issue of reconciling work and private life can be addressed using different perspectives of analysis:

- the reasons and evolutionary phenomena – social, economic and cultural – that are pushing for more attention to all issues concerning the search for an appropriate level of balance between the worlds of work and private life;
- the point of view (in terms of costs and benefits) of individuals living on their skin, the conflict between work commitments and personal needs and which can benefit the company – when implemented – the work-life balance policies that allow them a higher level of conciliation;

- the point of view of companies, in so far as the identification and adoption of certain policies of the Work-Life Balance is designed to achieve specific objectives (improving productivity, climate, motivation ...).
- the point of view, the wider impacts, that reconciliation policies have on society, especially as these policies are perceived as an instrument that produces a reduction of risks and diseases related to stress from work with consequent positive effects on public health expenditure.

The points mentioned above are the evolutionary dynamics that characterize the labor force.

Regarding the first point, it should be stressed that the increasing emphasis on the theme of work-life balance is mainly the result of the changes and metamorphoses that have characterized the composition of the workforce. In particular, we note the increased participation of women in employment, which marks the end of the model of social organization that could see work as a prerogative, reserved almost exclusively to men «economic changes in the last quarter of the 20th century have undermined this traditional model. Women's labor force participation increased steadily over the last century as rising educational levels of women, experiences gained from war-time employment, and the growth of the service sector to encouraged women to move outside the domestic sphere» <sup>(1)</sup>.

The increasing participation of women in employment can be explained as a direct result of a series of phenomena. First of all women today, thanks to their education, are facing the disciplines that were traditionally considered a male prerogative. In Europe, in particular, women are now outnumbering men in some key areas that require a high level of education (research and development, training, business services, health and social services). Despite the overtaking in these areas, however, the top positions are still occupied predominantly by men, while women hold less prestigious positions inexplicably to talk of "glass ceiling". Then the work has become increasingly a key component of identity for new generations.

If the greater participation of women in employment is a clear indicator of economic progress and social and occupational roles of a distribution that does not discriminate based on sex, the massive entry of women makes it redefinition of social roles and opens new perspectives for the men about a rethinking of the quality of life.

Falling short of the social contract that traditionally assigned to men and women provides sustenance to the family through work and women the care of home and family. This leads to a new situation in which everyone is entitled to both tasks whose regulation is within the family, resulting in difficulty finding an appropriate level of balance between work and private life spouses. This dynamic nature of work which is relative to households (actual and factual) in which both partners work, has in fact influenced the dominant society and with it the families with more traditional roles.

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<sup>(1)</sup> E. Applebaum, T. Bailey, P. Berg, A. Kalleberg, *Organizations and the Intersection of Work and Family: A Comparative Perspective*, in P. Thompson, S. Ackroyd, P. Tolbert, R. Batt (eds.), *The Oxford handbook on work and organization*, Oxford University Press, 2003.



## INTRODUCTION

The inter-gender dynamics described, however, are representative of a phenomenon that has characterized the socio-demographic composition of the workforce. The latter, in fact, is now very diverse and consists of people with various differences (gender, race and ethnicity, lifestyle) that also impacts on individual requirements.

The need for reconciliation, then, can distinguish itself with different needs and demands in respect of which it is for companies to find specific answers:

«This diversity has led to increased complexity in employees' preferences when it comes to work-life balance. In Italy, employees have a host of Demands Placed on them outside of work – from childcare, to eldercare, to community obligations, to personal needs (mental health, fitness, etc.). Their responsibilities in order to manage at home and work, many employees desire more in flexibility and control of their workday <sup>(2)</sup>».

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<sup>(2)</sup> M.C. Higging, M. Hicks, K. Kaufmann, M. Rondinella, *An introduction to Work-Life Balance. Note for classroom discussion*, Harvard Business School, March 2004.



Part I

PROJECT: AIM, RESULTS AND VALUE ADDED



CHAPTER I  
**LIBRA PROJECT:  
PRESENTATION, METHODOLOGICAL NOTE  
AND FINAL RESULTS**

*Summary:* 1. Presentation of LIBRA project. – 2. Methodological note and final results. – 3. The rationale and tools for context analysis: time flexibility and work organization. – 4. Definition of best practices: the indicators setting and technical-organizational indicators. – 5. Conclusions.

**1. Presentation of LIBRA project**

The overall aim of the project was to experiment a range of new and best job models that are designed to promote a work-life balance, diversity management and equal opportunities in the workplaces mainly by strengthening the capabilities of workers' representatives in their collective bargaining and social dialogue in all levels of the industrial relations. This is essentially stemmed from the issues of work-life balance, diversity management and equal opportunities have recently become a center of attention as a means of increasing productivity in the workplace in particular and enhancing social welfare at large. In this context, flexible-working time schedules, which is often considered to be a mechanism to support working parents and workers who care for relatives with disability in combining work and family life, has been taken into the forefront of labour policy agenda-as a key instrument in achieving the aforementioned objectives in the world of work.

To this aim, using a comparative analysis of the legal framework and best job practices of the countries involved in the LIBRA Project: namely, Italy, Belgium, Hungary, and Romania, intends to analyze some of the most important instruments of flexibility of time schedules adopted in the workplaces. Particularly, the specific activities of the project have been:

- desk research on different industrial relation systems and approaches to social dialogue that are suited to enhance work-life balance and productivities in the selected countries (using analysis of legislation, collective bargaining and agreements);

- identification of good practices developed in Europe, in particular in the countries involved;
- realization of two national workshops in Italy and in Belgium; and one National workshop in Hungary and in Romania each, named Conciliation systems and best practices of collective bargaining in order to determine the instruments that enables to transfer the tested models. In the workshops, there is been self-evaluation and in-class sharing of the most interesting and innovative practices already tested through instruments previously settled highlighting, above all, their strengths, criticality, transferability and sustainability;
- dissemination of results, impact multiplication and awareness raising towards relevant stakeholders through the set up and implementation of on-line permanent European Observatory (in several languages) and a newsletter, organisation of national seminars and a final conference.

In line with these specific activities, the main value added and innovative aspects of the project have been:

- widening the range of innovative solutions tested on the problems of conciliation, available to partners of the project;
- highlighting a possible synergy between the analyzed patterns, strengthening the impact of each single testing at a local, national and transnational level;
- identifying a defined intervention model, interchangeable in other European context;
- implementing a strengthened synergies, exchanges between European social dialogue sectoral committees and innovative strategies that involve the local decision makers;
- promoting vertical mainstreaming actions, identifying internal and external stakeholders to highlight the results of the project;
- constitution and implementation of Permanent European Observatory (in several language) which is an aim and also a new and best practice of the project.

## **2. Methodological note and final results**

The research is designed according to a unique methodological approach-with a decentralized collective bargaining power and a progressive quantitative relationship in a way to promote work-life balance and equal opportunities at the workplaces. For this reason, it is vitally important to note that the analysis focused on both the development of reconciliation and the welfare tools implemented in a decentralized bargaining approach in all the countries involved. Simply, the

research attempts to analyze not only the context of the conciliation in the work-life balance, but also the tools that support it.

One of the remarkable outcomes of the project - working on the issues of flexibility and conciliation at a company level – has meant not only improving the quality of life of working men and women, but also allows the company to promote a process of reorganization within itself, whose effects will be successful in the medium to long term.

This final report is organized into three parts. The first part presents the policies of the European frameworks for work-life balance; the second part is dedicated to the frameworks of all partner countries; and the last part summaries the existing literature related to the work-life balance issues.

In particular, in the second part there is empirical analysis of laws of both national and decentralized collective agreements-along with a survey of the most innovative solutions developed by national and collective bargaining in the countries involved (Italy, Belgium, Hungary, and Romania).

In this case, several tools and methods of conciliation, which produce different impacts on organizational corporate realities, have been identified. For example:

- Targeted interventions on schedules and timing of work and not work (leave, flexibility in the incoming and outgoing, bank of hours, telework, work islands);
- Care services and assistance provided to workers.
- Regulatory action relating to the types of employment contracts.

These different lines of actions are related to the articulation of their work time, personal services, and economic forms of intervention or support. The core problems that have to be dealt with here are: the contents of a decentralized collective bargaining and identifying the reference points to define the concept of reconciliation and its meaning “modular and various”.

Then there is also a description of good practices identified by the analysis of some case studies. This part is important for the individualization of conditions of portability of other contexts. In sum, of the total 563 materials presented in the LIBRA Permanent European Observatory, 286 of them are related to collective agreements while the remaining 277 are belong to legislation, as shown in the figure 1.

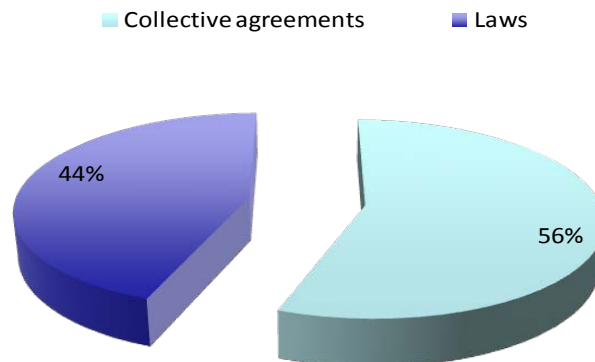
Figure 1 – Materials presented in the LIBRA Permanent European Observatory



Source: *Data processing ADAPT, January 2013.*

This situation indicates 44 % of the presented materials belonged to collective agreements, while 55% of them were laws (See figure n. 2.).

Figure No. 2: Collective agreements and laws in LIBRA Permanent European Observatory



Source: *Data processing ADAPT, January 2013*

### **3. The rationale and tools for context analysis: time flexibility and work organization**

The changing nature of working pattern and the complexity of financial markets have recently forced governments and employers to develop reconciliation policies and organizational services in the workplaces. Those policies are assumed to be instrumental in «improving the quality of life of all



people in respect and active solidarity of men and women» <sup>(1)</sup> invariably in all places of work. In this context, the difficulty of work-life balance is the rationale in which the theme of this report is built upon. The idea is that flexibility in the workplaces has become a priority issue not only from an individual perspective, but also with a significant social dimension. Following this, flexibility and reconciliation are increasingly entering the lexicon of gender studies on organizations in the debate on labor policies and practices in many organizations. This is because on the assumption that these concepts may create a more fluid working arrangement that enable to respond to a number of changes in the society and particularly in the labor market. Here, conciliation means a mechanism that allows more effective management of two different “states”: family and work.

Issues in analyzing such conciliation include the needs of companies, which in the context of globalization must meet specific production requirements and market, and those of workers. Therefore, companies have to operate in the manner characterized by cultural changes, social and demographic factors, such as the growing participation of women in the labor market which implies a different management of labor in order to improve the quality of work and welfare of the workers (as the opportunity to convert from full-time employment to part-time when the family needs dictate and / or vice versa).

The problem was then articulated in this way because at the company level it is important to develop a model that takes into account the plurality and clash of interests and to reconcile work and family time. Companies must find the ability to question, even experimenting with new forms of work organization and innovative tools dedicated to flexible and work-life balance. The theme of conciliation requires a strong integration of employment policies and training with social and economic policies. It is important to develop a strategy founded on the fact that, reconciliation is not a matter of few individuals, but involves a wide array of socio-economic values. The full agreement (sharing) can be achieved through three main interventions:

- 1) development of new forms of flexible work and training;
- 2) conciliation policies and the flexibility of corporate organizations;
- 3) conciliation policies for the coordination of the timing of the city and its services.

The research, conducted on a sample of business realities, was intended to illustrate the innovative models to support a flexible management of workers with the aim of identifying a useful methodological framework for solutions to

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<sup>(1)</sup> Resolution of the Council of Ministers of 29 June 2000 published in OJEU 31 July 2000, for employment and social policy, on the balanced participation of women and men in professional and family life.

organizational realities. In this context and the strategic and organizational choices of firms, they face issues related to changes in the composition of the workforce and the demand for increased flexibility. It is important to identify strategies for managing the workforce involved in different aspects such as contract type, hours, and pay. Specifically, the focus follows and provides a detailed description of the existing instruments of flexibility so as to facilitate the choice of operating strategies best suited to the individual business cases. The levers that make work-life balance possible can be grouped into five main categories, which in turn are subject to internal division:

- 1) flexibility:
  - of working time (“vertical” and “horizontal” part-time, weekend work, individual working time arrangements, continuous working day, working time accounts);
  - of work organisation (job sharing, shifts, leaves, telework);
- 2) services for individuals and families:
  - services provided at company, interorganisational, as well as local level (healthcare, recreational and medical prevention programmes);
- 3) training/placement/outplacement.

It follows that the possibility of achieving a balanced and full participation of men and women in employment, about equal pay, decision making-position, career path development, closely related to the possibility of practical solutions to the problem of work life balance. In this context, we should also consider two other aspects: the corporate culture and external environment of the company and the territory on which it operates and how to enter into relationships with other social actors present. The research shows that the element most widely used is flexibility in both timing and organization of work. Equally important are the interventions, such as the use of services to the family of inner type and the levers of services to the family-type inter-organizational and territorial.

#### **4. Definition of best practices: the indicators setting and technical-organizational indicators**

In this report, the analysis of complementary bargaining has led to the gathering of best practices of work-life balance, to have a common startup methodological framework on which to set up actions and proposals. One element, however, should be clear and defined in relation to the definition of best practice. For the practice to be best, it should have the following characteristics:

- derived from the analysis of experiences of conciliation conducted on theoretical papers and case studies;
- is an action that belongs to multiple categories of intervention: strategies, methodologies, organizational choices, modes of operation.
- is an action that can be reproduced and transferred into different contexts from its development.

The best practices of work-life balance fit into a context that links between the institutional and organizational level of the company and has elements of both the size of the garrison of that scenario in terms of technical and organizational aspects. In this context, an important role is represented both by the actions of the institutions that activate levers and political laws, and the strategic orientations of companies; areas that influence each other and may give rise to virtuous circles. The cases examined show the relationship between the institutional dimensions and the strategic and organizational structures conducted to identify indicators of setting common to all situations with successful conciliation practices. These indicators are the quality of inter organizational relations in the territory, the quality of industrial relations and corporate culture. Each of these indicators has other distinguishing features that help to define the general to move the corporate choices. The following table shows the positive relationship and exchanges that take place at various levels.

Table 1 – Indicators of setting for the activation of interventions to conciliation corporate

<b>Indicators</b>	<b>Quality of inter-organizational Relations</b>	<b>Quality of industrial relations</b>	<b>Corporate culture</b>
<b>Elements of analysis</b>	<ul style="list-style-type: none"> <li>• cooperation between enterprises and institutions, other businesses and nonprofit organizations</li> </ul>	<ul style="list-style-type: none"> <li>• political context</li> <li>• trade union</li> <li>• relations in the corporate</li> </ul>	<ul style="list-style-type: none"> <li>• approach to human resource</li> <li>• approach to ethical dimension</li> </ul>
<b>Elements of close examination</b>	<ul style="list-style-type: none"> <li>• previous experiences</li> <li>• areas of intervention, objectives, activities, evaluation</li> </ul>	<ul style="list-style-type: none"> <li>• orientation and associations representing,</li> <li>• constraints and opportunities</li> <li>• union density</li> <li>• internal conflict and experience of participation</li> </ul>	
<b>Elements consistent</b>	<ul style="list-style-type: none"> <li>• Experience</li> <li>• positive evaluation</li> </ul>	<ul style="list-style-type: none"> <li>• low-conflict</li> <li>• forms of participation</li> </ul>	<ul style="list-style-type: none"> <li>• consistency between</li> </ul>

<b>with practices of conciliation</b>		• membership of the union	documents and operating procedures
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Source: data processing ADAPT, 2012.

Next to the identification of indicators of scenario, the aims of the research are also identified in the form of technical and organizational indicators as shown in the table below:

Table 2 – Indicators technical organization for the activation of interventions to conciliation corporate

<b>Indicators</b>	<b>organizational innovation</b>	<b>elements of governance</b>
<b>Elements of analysis</b>	Level of innovation	<ul style="list-style-type: none"> <li>• presentation</li> <li>• selection</li> <li>• monitoring</li> <li>• assessment</li> </ul>
<b>Elements close examination</b>	<ul style="list-style-type: none"> <li>• places of organizational innovation</li> <li>• stakeholders</li> <li>• technical support</li> </ul>	<ul style="list-style-type: none"> <li>• Need assessment</li> <li>• consensus building</li> <li>• selection criteria</li> <li>• criteria and monitoring tools</li> <li>• criteria and assessment tools</li> <li>• size of the spread</li> </ul>
<b>Elements which increase the complexity</b>	<ul style="list-style-type: none"> <li>• innovation involving multiple organizational processes</li> <li>• innovation involving multiple parties / roles</li> <li>• the need for special technical equipment</li> </ul>	<ul style="list-style-type: none"> <li>• construction of a shared</li> <li>• high number of elements to monitor and evaluate</li> <li>• dissemination and vertical (most people) or horizontal (multiple devices conciliation)</li> </ul>

Source: data processing ADAPT, 2012

The combination of the two types of indicators made it possible to have a mapping of good practices of conciliation activated in different companies that are to be considered and determined by the joint action of the above elements. The aim of the study was to analyze the practice, identify and understand the reasons that lead to success within the organization. Then retraced the tools made available by the national collective bargaining and reinforced by the decentralized approach that allows balancing the needs of conciliation.

## 5. Conclusions

The policies of corporate welfare-implemented through forms of dissemination and knowledge, flexibility of working hours, the “reorganization” of the business structure are found to be lever-driven strategies for work-life balance. The idea is that the business realities, which develop more willingness to experiment these tools of work-life balance in the workplaces, have shown conciliatory increase in productivity. The immediate benefits noticed by the firms go in the direction of a sensitive reduction abstention and turnover. These first two positive effects for evaluating the benefits of “second analysis”: the company holds in its possession a worker, so it retains all the skills, however, held and from which it draws an advantage (otherwise, it does not explain the use). The synergistic combination of all the elements/results allows the company to retain employees. In fact, the family friendly policies contribute to create a sense of belongingness and awareness of the benefit to work in a workplace, are “sensitive”. This bond may be strategic and valuable during times of economic crisis, in which any measures of restraint and sacrifice may be accepted with a greater team spirit, or at least avoid conflicts of opposing positions. This is because the company, during periods of increased availability, has shown a real interest in the quality of life of employees.

It is essential to identify the step that allows ensuring the company’s productivity that it can happen only some if it goes over stereotypes associated with the theme of reconciliation in relation:

- to consider the workforce permanently employed in the farm system (with contracts if not indefinitely, at least long-term) and the quality of it;
- the economic availability of company.

Therefore, the first step is the picture of the company, in terms of contractual and organizational culture in order to have a knowledge of the organization and corporate structure also with respect to the actual needs of their workforce (in this sense can be useful questionnaires, completed on a voluntary and anonymous). It is also important to continue the knowledge dialogue already started with the trade unions. These cognitive tools may also be used during periods following the adoption of conciliatory measures, so as to verify the effective and positive impact.



**Part II**  
**THE EUROPEAN CONTEXT**





## CHAPTER II

# **THE EUROPEAN FRAMEWORK OF WORK-LIFE BALANCE**

*Summary:* 1. Gender equality and work-life balance in the European Union. Principles, policy documents and institutions. – 1.1. Work-life balance in the main recent EU policy documents. – 1.1.1. Europe 2020. – 1.1.2. Strategy for equality between women and men 2010-2015. – 1.1.3. The Pact for gender equality for the period 2011-2020. – 1.2. The dual approach to gender policies: gender mainstreaming and specific measures. – 1.3. Institutions, committees and groups which deal with gender equality. – 2. Work-life balance and gender equality in the basic legal texts: EU Treaties, the Charter of fundamental rights and the Woman's Charter. – 3. EU legislation on gender equality and work-life balance. – 3.1. Directive 2006/54/EC: Directive of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). – 3.2. Directive n. 2010/41/EU: Directive of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/ECC. – 3.3. Directive 2010/18/EU: Directive of the Council of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive of 3 June 1996 Directive 96/34/EC. – 3.4. Directive 2004/113/EC: Directive of the Council of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services. – 3.5. Directive 92/85/EEC: Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. – 3.5.1. Proposal for the revision of Directive 92/85/ECC on maternity protection. – 3.6. Directive 79/7/ECC: Council Directive of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security. – 3.7. Council Recommendation 92/241/EEC of 31 March 1992 concerning child care.

## 1. Gender equality and work-life balance in the European Union. Principles, policy documents and institutions

According to the European Pact for Gender Equality 2011-2020, gender policies are vital for economic growth, prosperity and competitiveness <sup>(1)</sup>. This is due to the fact the increase in female participation in the labour market has a strong economic multiplier effect: it raises household income, it increases demand for more services and, therefore, it boosts economic growth. A rise in women entering the labour market also helps to counterbalance the effects of the current demographic trends as it hinders the shrinking of working-age population and thus reduces the strain on public finances and social protection systems.

During the last decade, there has been a significant increase in the participation of women in the EU labour market with the female employment rate rising from 57.3% in 2000 to 63.2% in 2011 <sup>(2)</sup>. Women accounted for 9.8 million out of the 12.5 million additional jobs created between 2000 and 2009 <sup>(3)</sup>. In spite of this progress, the employment rates of men and women in the labour market are still very different in the EU-27: in 2011 male employment rate accounted for 75.1%, while the rate for women only reaches 63.2% <sup>(4)</sup>. This is, among other things, due to the fact women continue to shoulder most of the burden of family responsibilities and they still feel that they have to choose between career or family, finding it difficult to reconcile work with private life. In addition, many women work part-time or under atypical contracts and, although this permits them to remain in the labour market while managing family responsibilities, it often has a negative impact on their salary, career development, promotion prospects and pensions. The gender pay gap (the average difference between men's and women's hourly gross earnings across the economy as a whole) in the European Union remains at 17.8%, with Estonia at 30.9%, the Czech Republic at 26.2%, Austria at 25.5%, and Germany at 23.2% against Italy at 4.9%, Slovenia at 8.5%, and Belgium and Romania at 9% <sup>(5)</sup>. This means that women face a higher

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<sup>(1)</sup> Council of European Union, *Council conclusions on European Pact for Gender Equality 2011-2020*, 7 March 2011.

<sup>(2)</sup> Eurostat, *Employment rate in the EU -27 countries – age group 20-64*, 2 April, 2012, [http://epp.eurostat.ec.europa.eu/tgm/refreshTableAction.do?jsessionid=9ea7d07d30da9b39e514276747a29fe78103c2cf5ec6.e34MbxSaxaSc40LbNiMbxNahyOe0?tab=table&plugin=1&pcode=t2020\\_10&language=en](http://epp.eurostat.ec.europa.eu/tgm/refreshTableAction.do?jsessionid=9ea7d07d30da9b39e514276747a29fe78103c2cf5ec6.e34MbxSaxaSc40LbNiMbxNahyOe0?tab=table&plugin=1&pcode=t2020_10&language=en).

<sup>(3)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategy for equality between woman and men 2010-2015. COM (2010) 491 final*, 21 September 2010.

<sup>(4)</sup> Eurostat, 2011, *Employment rate in the EU -27 countries – age group 20-64*, cit.

<sup>(5)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategy for*

poverty risk, particularly women belonging to disadvantaged groups such as migrant workers, lone parents and the older workers seeking employment, who suffer the consequences of discrimination on two or more fronts.

To sum up, barriers to employment continue to influence crucial individual decisions of women: concerning education, career paths, working arrangements, family and fertility. These decisions have a heavy impact on the economy and society as a whole. The principle of equality between men and women, enshrined in the EU Treaties, makes it essential to offset the disadvantages faced by women regarding conditions for access to and participation in the labour market and the disadvantages faced by men regarding their participation in family life. The balanced participation of women and men in the labour market and in family life is essential to the development of society and it implies equal sharing between working fathers and mothers, in particular regarding time off work to look after children or other family members. Maternity, paternity and the rights of children are therefore essential values that need to be safeguarded by the Member States and the European Community <sup>(6)</sup>.

In this context, measures to facilitate work-life balance are not only a relevant condition for equal opportunities <sup>(7)</sup>, they can also have a very positive impact on the progress of women's participation in the labour market, on growth, social cohesion and fertility. As underlined by the Commission, «better support for reconciliation measures will enable men and women to exercise greater choice in balancing the work and private sides of their lives and will also contribute to achieving major policy objectives of the European Union, notably on growth and jobs, the social inclusion of vulnerable groups and gender equality» <sup>(8)</sup>. In fact, Member States which have put reconciliation policies in order are seeing higher numbers of both women and men in work and relatively sustainable birth rates <sup>(9)</sup>.

The Commission made reconciliation of work, private and family life one of the six priority areas of action in its Roadmap for equality between women and

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*equality between woman and men 2010-2015. COM (2010) 491 final, cit., 2008 figures except for Estonia (2007).*

<sup>(6)</sup> The Council of the European Union and the Ministers for Employment and Social Policy, *Resolution on the balanced participation of women and men in family and working life, 29 June 2000.*

<sup>(7)</sup> The Council of the European Union and the Ministers for Employment and Social Policy, *Resolution on the balanced participation of women and men in family and working life, cit.*

<sup>(8)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A better work-life balance: stronger support for reconciling professional, private and family life*, COM 2008/635 final, 3 October 2008.

<sup>(9)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategy for equality between woman and men 2010-2015*, COM (2010) 491 final, cit.

men for 2006-2010. This priority is also echoed in the European Pact for Gender Equality and in other important policy documents. A number of policy objectives are linked to reconciliation of professional and private life and they refer to a wide variety of issues which require the commitment of various players: European, national and local authorities as well as social partners at European, national and sectoral levels. In particular, the main key actions of EU work-life balance policies focus on:

- *Flexible working arrangements for both women and men.* According to the Commission, flexible working arrangements boost productivity, enhance employee satisfaction and employer reputation. However, the fact that many more women than men make use of such flexible arrangements creates a gender imbalance which has a negative impact on a woman's position on the workplace and their economic independence. Therefore, it is also crucial to support paths out of non-standard work and working times to avoid the risks of long term traps and the segmentation of women pushing them towards disadvantaged employment forms. Furthermore, it is essential to address the reconciliation needs of employees with care commitments and to recognize the risks of extending working hours or scheduling unsocial hours, particularly in bigger cities.

- *Increasing and improving care services.* Access to good quality, affordable childcare to suit parents and children's needs is one of the keys to facilitating women's access to the labour market. Providing services that meet the care needs of the elderly and of people with disabilities is also crucial for access of parents to paid employment. The need to improve childcare provisions was underlined by the European Council in the Barcelona summit when establishing the so-called Barcelona targets, as an integral part of the European Union's strategy for growth and jobs with the aim to help young parents – and in particular women – obtain work. The two 'Barcelona targets' set the objective of providing childcare for at least 90% of children between 3 years of age and mandatory school age and for at least 33% of children under 3 years of age <sup>(10)</sup>.

- *Better use of family related leave facilities for both women and men.* Services and structures are adapting too slowly to a situation where both women and men work. Few men take parental leave or work part-time; women remain the main carers of children and other dependants. Men should be encouraged to take

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<sup>(10)</sup> Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Implementation of the Barcelona objectives concerning childcare facilities for pre-school-age children*, COM (2008) 638 final, 3 October 2008. The 'Barcelona targets' were established by European Council in 2002, at the Barcelona Summit and were expected to be reached by 2010. However, the mid-term review of the progress made by Member States towards achieving these objectives showed that, in 2008, most countries had missed the targets for childcare provisions.

up family responsibilities, in particular through incentives to take parental and paternity leave and to share leave entitlements with women.

The latest policy documents of the European Union strive to make further progress and action in all these areas, underlining gender mainstreaming – the commitment for equality between women and men in all its activities – and especially the importance of the work-life balance dimension.

## **1.1. Work-life balance in the main recent EU policy documents**

### **1.1.1. Europe 2020**

The European Union’s new strategy for jobs and smart, sustainable and inclusive growth <sup>(11)</sup> aims to help the Member States and the European Union to deliver high levels of competitiveness, productivity, growth, social cohesion and economic convergence. Europe 2020, which follows the Lisbon Strategy for the period 2000-2010, puts forward three mutually reinforcing priorities:

- *Smart growth*: developing an economy based on knowledge and innovation;
- *Sustainable growth*: promoting a more resource efficient, greener and more competitive economy;
- *Inclusive growth*: fostering a high-employment economy so as to create social and territorial cohesion.

One of the five headline targets of the Strategy 2020 is the increase of the employment rate of the population aged 20-64 to at least 75%. This target should be achieved through the greater involvement of women, older workers and the better integration of migrants in the work force. This means it is necessary to give priority to addressing barriers to women’s participation in the labour market when implementing the Strategy. This includes promoting female entrepreneurship, reducing the gender gap in employment levels and working with Member States concerning the availability of affordable high-quality child care and other policies which aim to improve work-life balance. In particular, regarding the priority of *Inclusive growth*, the Flagship initiative “An Agenda for new skills and jobs”, which aims to create conditions for modernising labour markets with a view to raising employment levels and ensuring the sustainability of social models, points out that Member States will need to:

- promote new forms of work-life balance and active ageing policies and to increase gender equality;

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<sup>(11)</sup> Communication from the Commission to the European Parliament, *Europe 2020, A strategy for smart, sustainable and inclusive growth*, COM (2010) 2020, 3 March 2010.

- implement their national pathways for flexicurity, as agreed by the European Council, to reduce labour market segmentation and facilitate transitions as well as facilitating the reconciliation of work and family life.

In addition, work-life balance policies aimed at increasing women's participation in the labour market may contribute to the achievement of another headline target of the Europe 2020 Strategy: the reduction in the number of Europeans living below the national poverty lines, taking woman into particular consideration as they face a higher poverty risk <sup>(12)</sup>.

The Employment Guidelines, which form part of the “Europe 2020 integrated guidelines” also underline, in this regard, the importance of the implementation, assessment and follow up of employment policies that promote gender equality and work-life balance.

### **1.1.2. Strategy for equality between women and men 2010-2015**

The European Commission's Strategy for equality between women and men 2010-2015 <sup>(13)</sup> builds on the Roadmap for equality between women and men 2006-2010 <sup>(14)</sup>, on the European Pact for Gender Equality <sup>(15)</sup> and the Women's Charter adopted by the European Commission on 5 March 2010 <sup>(16)</sup>. In the Roadmap for equality for the period 2006-2010, the reconciliation of work, private and family life was presented as one of the six priority areas of action for gender equality. It combined the launch of new actions with the reinforcement of successful existing activities and reaffirmed the dual approach of gender equality based on gender mainstreaming (the promotion of gender equality in all policy areas and activities) and specific measures.

The new Strategy for equality between women and men represents the European Commission's work programme on gender equality for the period 2010-

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<sup>(12)</sup> Specifically, the headline target aims to reduce poverty by 25%, lifting over 20 million people out of poverty.

<sup>(13)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategy for equality between woman and men 2010-2015*, cit.

<sup>(14)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A Roadmap for equality between women and men*, COM (2006) 92 final, 1 March 2006.

<sup>(15)</sup> The Council of the European Union and the Ministers for Employment and Social Policy, Health and Consumer Affairs, *Employment and Social Policy*, 7 March 2011.

<sup>(16)</sup> Communication from the Commission to the European Parliament, *A strengthened commitment to equality between women and men, a women's charter*, Declaration by the European Commission on the occasion of the 2010 international women's day, COM (2010) 78 final, 5 March 2010.

2015, aiming additionally to stimulate developments at national level and to provide the basis for cooperation with the other European institutions and with stakeholders. It is a comprehensive framework committing the Commission to promote gender equality into all its policies for the following thematic priorities:

- equal economic independence;
- equal pay for equal work or work of equal value;
- equality in decision-making;
- dignity, integrity and ending gender-based violence;
- gender equality in external actions;
- horizontal issues such as gender roles, legislation and governance.

For each priority area, the Commission will set out the following key actions to stimulate change and achieve progress in equality between man and woman:

*a) Equal economic independence*

Equal economic independence is a prerequisite for enabling both man and woman to make their own choices. With the aim of achieving further progress in this area, the Commission has made a commitment to:

- support the promotion of gender equality in the implementation of all aspects and flagship initiatives of the Europe 2020 strategy, especially as regards the definition and implementation of relevant national measures. In the context of the Employment Guidelines and the evaluation of national employment policies, it will monitor the national policies adopted to improve gender equality in the labour market and boost the social inclusion of women;
- promote female entrepreneurship and self-employment;
- assess remaining gaps in entitlement to family-related leave, notably paternity leave and carers' leave, and the options for reducing them. Social partners will be consulted on further measures, under Article 154 TFEU;
- report on the Member States' performance with regard to childcare facilities;
- promote gender equality in all initiatives concerning immigration and integration of migrants.

*b) Equal pay for equal work and work of equal value*

The principle of equal pay for men and women for work of equal value is enshrined in the EU Treaties. Nevertheless, the gender pay gap in the European

Union remains high (17.8% in 2008) <sup>(17)</sup>. The pay gap also reflects other inequalities in the labour market which mainly affect women – in particular their disproportionate share of family responsibilities and the difficulties in reconciling work with private life. With the aim of tackling the gender pay gap, the Commission will:

- explore possible ways to improve the transparency of pay as well as the impact on equal pay of arrangements such as part-time work and fixed-term contracts;
- support equal pay initiatives on the workplace such as equality labels, ‘charters’, and awards, as well as the development of tools for employers to correct unjustified gender pay gaps;
- set up a European Equal Pay Day to be held each year to increase awareness on how much longer women need to work than men to earn the same;
- seek to encourage women to enter non-traditional professions, such as, for example, “green” and innovative sectors.

*c) Equality in decision making*

In most Member States, women continue to be under-represented in decision-making processes and positions, in particular at the highest levels, despite the fact they represent nearly half the workforce and more than half of the new university graduates in the European Union <sup>(18)</sup>. In order to counterbalance this trend, the Commission will:

- carry out targeted initiatives to improve the gender balance in decision making;
- monitor the 25% target for women in top level decision-making positions in research;
- monitor progress towards the target of 40% of members of one sex in committees and expert groups established by the Commission;
- support efforts to promote greater participation by women in European Parliament elections including their selection as candidates.

*d) Dignity, integrity and an end to gender-based violence*

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<sup>(17)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategy for equality between woman and men 2010-2015*, COM (2010) 491 final, cit.

<sup>(18)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategy for equality between woman and men 2010-2015*, COM (2010) 491 final, cit.



The Commission will adopt an EU-wide strategy on combating violence against women that will aim at eradicating all forms of violence against women.

*e) Gender equality in external actions*

In the context of the European Neighbourhood Policy (ENP), the European Union supports partner countries' efforts to promote gender equality. The ENP Action Plans set out a jointly agreed agenda of reform priorities and contain commitments of partner countries to engage in dialogue on related issues and to carry out policy and legislative reforms.

*f) Horizontal issues*

Key actions set out by the Commission in the Strategy for equality include:

- the promotion of non-discriminatory gender roles in all areas of life such as education, career choices, employment and sport;
- the continuous monitoring, enforcement, and regular evaluation and updating of European legislation regarding gender issues (with a particular focus on Directives 2004/113/EC and 2006/54/EC), as well as ongoing dialogue with businesses, social partners, equality bodies and civil society representatives. In this context, the Commission has launched a comprehensive study on the functioning of equality bodies across the 27 Member States and a more general study on access to justice in this area;
- the promotion of the full implementation of the Beijing Platform for Action <sup>(19)</sup> including the development and updating of indicators, with the support of the European Institute for Gender Equality;
- the presentation of an Annual Report concerning progress on gender equality, especially in the areas covered by the strategy, to an annual top-level Gender Equality Dialogue between the Parliament, Commission, Member States and key stakeholders;
- strengthening cooperation with the various institutions and stakeholders active in the field of gender equality (Member State governments, the European Parliament, social partner organisations, civil society, equality bodies, international organisations, EU agencies). To this aim, the Commission will

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<sup>(19)</sup> The EU and its Member States are also committed to promoting gender equality through the Beijing Platform for Action (BPfA) agreed at the UN World Conference on Women in 1995. The BPfA aims to remove obstacles to women's participation in all spheres of public and private life through an equal share in economic, social, cultural and political decision-making. It also aims to improve women's health and their access to education. The implementation of the BPfA agenda is reviewed by the UN every five years.

intensify exchanges of good practices between Member States in all the areas covered by the strategy. The Commission will continue to work closely with the European social partners and the organisations which represent civil society and will continue to raise awareness of and publicise the benefits of gender equality policies. It will, for example, improve its gender equality web portal with links and updates on progress.

### **1.1.3. The Pact for gender equality for the period 2011-2020**

The European Pact for Gender Equality was originally adopted by the Council of the European Union in 2006 <sup>(20)</sup> to encourage Member States and the European Union to take action concerning attempts to close gender gaps in the labour market, the promotion of a better work-life balance for all and the reinforcement of governance through gender mainstreaming and better monitoring. On 7 March 2011, a new Pact for the period 2011-2020 <sup>(21)</sup> was adopted by the Council to reaffirm and improve the former European Pact for Gender Equality in the light of the Commission's new Strategy for equality between women and men 2010-2015 and the Europe 2020 Strategy.

The Pact for gender equality urges the European Union and Member States to work towards achieving equality, ensure equal pay for equal work and promote the equal participation of women in decision-making and, in particular, to:

- close the gender gaps in employment and social protection, including the gender pay gap, with a view to meeting the objectives of the Europe 2020 Strategy, especially in three areas of great relevance to gender equality, namely employment, education and promoting social inclusion in particular through the reduction of poverty, thus contributing to the growth potential of the European labour force;
- promote better work-life balance for women and men throughout the life-course, so as to enhance gender equality, increase women's participation in the labour market and contribute to meeting demographic challenges;
- combat all forms of violence against women in order to ensure their human rights and to achieve gender equality.

In order to close gender gaps and combat gender segregation in the labour market, the Council outlines specific measures and urges Member states to:

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<sup>(20)</sup> The Council of the European Union, *Presidency Conclusions*, [7775/ 7775/1/06 REV 1], 23/24 March 2006.

<sup>(21)</sup> The Council of the European Union, Employment and social Policy, Health and Consumer Affairs, *Council conclusions on the European Pact for gender equality for the period 2011-2020*, 7 March 2011.

- a) promote women's employment in all age brackets and close gender gaps in employment by combating all forms of discrimination;
- b) eliminate gender stereotypes and promote gender equality at all levels of education and training, as well as in working life, in order to reduce gender segregation in the labour market;
- c) ensure equal pay for equal work and work of equal value;
- d) promote women's empowerment in political and economic life and advance women's entrepreneurship;
- e) encourage the social partners and enterprises to develop and effectively implement initiatives in favour of gender equality and promote gender equality plans on the workplace;
- f) promote the equal participation of women and men in decision-making at all levels and in all fields, in order to make full use of all talents.

In order to promote better work-life balance for women and men, the Council suggests Member States should adopt three main measures:

- a) to improve the supply of adequate, affordable, high-quality childcare services for children under the mandatory school age with a view to achieving the objectives set by the European Council in Barcelona in March 2002, taking into account the demand for childcare services and in line with national patterns of childcare provision;
- b) to improve the provision of care facilities for other dependants;
- c) to promote flexible working arrangements and various forms of leave for both women and men.

## **1.2. The dual approach to gender policies: gender mainstreaming and specific measures**

The European Union has adopted a dual approach to achieve the goals expressly mentioned in Articles 2 and 3 of the EC Treaty: eliminating inequalities and promoting equality between women and men in all its activities. The dual approach combines specific measures with gender mainstreaming.

The gender mainstreaming strategy is a global, horizontal approach for promoting gender equality. The principle of 'gender mainstreaming' consists in the integration of the gender perspective into every stage of policy process (design, implementation, monitoring and evaluation) and into all activities of the Union (research, dialogue, legislation, resource allocation, and planning, implementation and monitoring of programmes and projects). It implies assessing how policies affect the life and position of both women and men and taking responsibility to re-address such strategies if necessary. As part of the process of

gender mainstreaming, statistics, indicators and benchmarks are used to monitor progress in implementing the gender dimension in different policy fields, from employment to health, and from research to education.

The need to take systematic account of gender differences in the context of all policies including employment and the labour market was emphasized in the Commission Communication ‘Incorporating equal opportunities into all Community policies and activities’ <sup>(22)</sup>. According to this Communication «gender mainstreaming involves not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilising all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effects on the respective situation of men and women (gender perspective). This means systematically examining measures and policies and taking into account such possible effects when defining and implementing them». The Communication presents the actions required in various areas:

- *employment and the labour market*: the Commission intends to continue to structure a legal framework for equal opportunities, and to rationalise and improve the integration of its measures to support studies of female entrepreneurship and the reconciliation of family and working life;
- *women entrepreneurs and assisting spouses in SMEs*, including the agriculture and fisheries sectors: the Commission intends to reinforce measures to help women in SMEs, in particular by improving flexibility of work, vocational qualifications, and access to finance;
- *education and training*; all Community activities in the fields of education, training or youth designed to incorporate equal opportunities, either as a specific objective or an additional priority;
- *people’s rights*: the Commission has mounted actions to combat violence against women and the trafficking of people and to reintegrate the victims of such traffic into society, while activities to improve the safety and integrity of female refugees are being considered;
- *development cooperation*: the Commission intends to continue to incorporate the principle of gender mainstreaming in Community development policies and in development cooperation agreements with developing countries, using the strategies set out in the Commission’s Communication on integrating gender issues in development cooperation;

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<sup>(22)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Incorporating equal opportunities for women and men into all community policies and activities*, COM(96) 67 final, 21 February 1996.

- *staff policy*: the Commission has applied an equal opportunities policy to its staff for many years through positive action programmes.

The requirement to integrate gender mainstreaming into Union action has been confirmed in Article 23 of the Charter of Fundamental Rights of the European Union and in Article 8 TFEU (ex Article 3 of the Amsterdam Treaty TEC): «In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women».

In addition to the gender mainstreaming approach, the European Union has used a wide variety of specific measures, such as legislation, financial programmes or awareness-raising campaigns in order to promote equality between woman and men in all areas of work and life. The aim of these measures is to tackle specific problems such as the gender pay gap, discrimination against woman or the underrepresentation of women, particularly in the labour market and in decision-making processes and positions. The EU Cohesion Policy, in particular by means of the European Structural Funds and other specific programmes, play a key role in helping to reconcile work and family life and integrate disadvantaged women.

The European Structural Funds are one of the main instruments used by the European Union in order to co-finance initiatives at national and local level to promote reconciliation, for example by providing support for care services for children and other dependants, for training and qualifications of care workers and for employers who offer their employees career breaks, childcare and other family support services.

The European Social Fund is a Structural Fund set up to tackle differences in prosperity and living standards across EU Member States and regions and is in particular involved in promoting employment. Since 1993, the European Social Fund has made equality between men and women one of its priorities.

The European Regional Development Fund is another Structural Fund and aims to strengthen economic and social cohesion by correcting imbalances between EU regions. Among other things, the Fund provides financial support to encourage companies to create sustainable jobs. In particular, this Fund has been used to promote childcare facilities, a central issue for the promotion of work-life balance which is underlined in the Barcelona Targets. A recent innovation requires gender equality, non-discrimination and accessibility for the disabled to be taken into account in all projects.

In addition to the Structural Funds, the Commission also provides funding in the form of grants to projects or organisations which help implement EU policies in the field of gender equality and work-life balance.

The PROGRESS programme is the EU employment and social solidarity programme. It was established to give financial support for the implementation of

the objectives of the European Union in employment, social affairs and equal opportunities, and is set out in the Social Agenda. It also contributes to the achievement of the Europe 2020 Strategy.

The programme has five sections:

- employment;
- social inclusion and protection;
- working conditions;
- non-discrimination;
- gender equality.

In the framework of the PROGRESS programme, the European Commission has run several calls for proposals on improving gender mainstreaming in national policies and programmes.

The DAPHNE programme was launched by the European Union in 2000 with the aim to protect children, young people and women from all forms of violence and to attain a high level of health protection, well-being and social cohesion. DAPHNE III was launched in 2007 and will run until 2013. The DAPHNE programme has so far funded hundreds of projects around the European Union. Some of them have been launched by the European Commission itself but the majority are run by NGOs, with grant funding provided by the European Commission. Public authorities and institutions and non-profit making private organisations in the 27 EU Member States, EU candidate countries and EFTA/EEA countries can also apply for funding under the scheme.

### **1.3. Institutions, committees and groups which deal with gender equality**

Member States and the institutions of the European Union, a broad range of players, at national and European level, are involved in developing and delivering reconciliation policies. Many of them take part in the following European forum and institutions which deal with gender equality issues.

*a) High-Level Group on Gender Mainstreaming.* The High-Level Group on Gender Mainstreaming is an informal group created in 2001, which comprises high-level representatives responsible for gender mainstreaming at national level. It is chaired by the European Commission and meets twice a year in the country which holds the Presidency of the European Union. The members of this group are the Member States. The HLG plays a key role in the EU gender equality agenda, through the formulation, programming and implementation of the EU Gender Equality Pact and the Trio of Presidencies' Programme. It helps the Presidencies and the Commission to identify gender equality subjects and

priorities which are of political relevance, for debate by the Council of the European Union. The HLG is also the main forum for planning the follow-up of the Beijing Platform for Action inside the European Union and for preparing the annual meeting of the UN Commission on the Status of Women. It also assists the Commission in the preparation of its Report concerning Progress on Equality between Women and Men.

*b) Advisory Committee on Equal Opportunities for Women and Men.* The Advisory Committee was set up by the European Commission in 1981. It is composed of the representatives of EU Member States' ministries responsible for gender equality, representatives from gender equality bodies, European social partner organisations as well as the European Women's Lobby. It assists the Commission in formulating and implementing European Union activities aimed at promoting equality between women and men. To achieve these aims, the Committee expresses opinions and reports to the Commission on issues of relevance to the promotion of gender equality in the European Union.

*c) The European Parliament Committee on Women's Rights and Gender Equality.* The Committee is active in the promotion of gender equality in all policy areas debated by the European Parliament. It also plays a key role in driving gender policy forward and in reporting on gender mainstreaming in the work of European Parliament committees and delegations.

*d) The European Institute for Gender Equality.* The European Institute for Gender Equality was created in December 2006. It is a European agency which supports the EU-countries and the European institutions - in particular the Commission- in their efforts to promote gender equality, to fight discrimination based on sex and to raise awareness of gender issues. The tasks of the institute are: to collect and analyse comparable data on gender issues; to develop methodological tools, in particular for the integration of the gender dimension in all policy areas; to facilitate the exchange of best practices and dialogue among interested parties; and to raise awareness among EU citizens.

*e) National Equality Bodies.* These bodies have been established in all Member States. Their main tasks are to analyse, monitor and support equal treatment of all persons and ensure uniform application of gender equality laws at Member State level. They may form part of agencies with responsibilities at national level for defending human rights and they have the competence to provide independent assistance to the victims of discrimination, to conduct independent surveys concerning discrimination and to publish independent reports and make recommendations. Moreover, National Equality Bodies meet regularly as an EU network.

*f) The Advisory Committee on women and rural areas.* The Committee was created in 1998 and is made up of representatives of socio-economic organisations

such as agricultural producers, traders, consumers, the European Women's Lobby and workers.

*g) The Helsinki Group on Women and Science.* The Helsinki Group was established in 1999. It consists of national representatives from all the EU Member States, Bulgaria, Romania, Iceland, Israel, Norway, Switzerland and Turkey. The Group aims to promote equal participation of women in the sciences on a Europe-wide basis.

*h) The European Network to Promote Women's Entrepreneurship.* Created in 2000, it is composed of representatives from national governments and institutions responsible for the promotion of female entrepreneurship in 27 countries from the European Union, EEA and candidate countries.

## **2. Work-life balance and gender equality in the basic legal texts: EU Treaties, the Charter of fundamental rights and the Woman's Charter**

The principle of equality between women and men has been central to the European Union, its institutions, instruments and policies since its inception. It was firstly introduced in 1957, when the principle of equal pay for equal work became part of the Treaty of Rome, and since then it has been strengthened and consolidated throughout the basic legal texts on which the European Union and the European Communities are founded: the founding Treaties, the amending Treaties and other essential documents like the Charter of fundamental rights and the Woman's Charter.

The Treaty of Rome, signed by the six founding countries of the European Economic Community (EEC) in 1957, commits Member States to the right of equal pay for equal work for men and women in Article 119:

«Each Member State shall during the first stage ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work». For the purpose of this Article, "pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives, directly or indirectly, in respect of his employment from his employer.

Equal pay without discrimination based on sex means: «a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement; b) that pay for work at time rates shall be the same for the same job».



The Treaty on European Union (TEU) signed at Maastricht in 1992 <sup>(23)</sup> represents a new stage in European integration since it opens the way to political integration. Article 6 of the Treaty confirms and enlarges the principle of equal pay introduced in Article 119 of the Treaty of Rome foreseeing the possibility for Member States to maintain or adopt «measures providing for specific advantages in order to make it easier for women to pursue a vocational activity or to prevent or compensate for disadvantages in their professional careers».

In this way, Europe has established minimum requirements for equal pay, allowing States to adopt additional measures in order to remove the differences and barriers which limit the employment and the professional development of women.

The Treaty of Amsterdam which amends the Treaty on European Union, the Treaties establishing the European Communities and certain related acts <sup>(24)</sup>, signed in 1997, considerably strengthens the legal basis of equality between men and women establishing that the promotion of equality between women and men is one of the European Union's fundamental tasks. To this end, the Treaty creates new possibilities for Community action, in particular through Articles 2, 3, 137 and 141 (ex Article 119). The new provisions on equal treatment for men and women of the Treaty of Amsterdam include:

- more effective action to combat discrimination. The new Article 13 enables the Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, complementing Article 12, which prohibits discrimination on grounds of nationality;
- the extension of the principle of equality between men and women, which previously was only included in Article 141 (ex Article 119) of the EC Treaty with a more restricted in scope given it related to equal pay only.

In particular, the new provisions introduced are as follows:

- Article 2 was replaced by the following: «The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 3a, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the

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<sup>(23)</sup> Eur-Lex, *Treaty of European Union, Official Journal*, C 191 of 29 July 1992, <http://eur-lex.europa.eu/en/treaties/index.htm>.

<sup>(24)</sup> Eur-Lex, *Treaty of European Union, Official Journal*, C 340 of 10 November 1997, <http://eur-lex.europa.eu/en/treaties/index.htm>.

environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States».

- Article 3 of the Treaty, which lists the various measures which the Community should adopt to carry out the tasks specified in Article 2, was amended including a new paragraph, which reads as follows: «In all the other activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between men and women».

In Article 3, the Treaty institutionalises the concept of gender mainstreaming as a policy commitment, which had previously been introduced in the Communication from the Commission of 21 February 1996 “Incorporating equal opportunities for women and men into all Community policies and activities”<sup>(25)</sup>.

- Article 141 (ex Article 119) was amended enlarging the principle of equal pay and introducing the possibility for the Council to adopt measures to ensure the application of the principle of equality. The article reads as follows:

«1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, ‘pay’ means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The Council, acting in accordance with the procedure referred to in Article 189b, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers».

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<sup>(25)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Incorporating equal opportunities for women and men into all community policies and activities*, COM(96) 67 final, cit.

In the light of Article 141(3) of the Treaty, it is important to protect both male and female workers when they attempt to exercise their rights relating to paternity, maternity or to the reconciliation of working and family life.

In addition, the Treaty of Amsterdam institutionalised the concept of a European Employment Strategy (EES), following on from the integrated strategy for employment launched at the Essen European Council in December 1994. The European Employment Strategy is built around priority themes according to the following four pillars: employability, entrepreneurship, adaptability and equal opportunities.

The Consolidated versions of the Treaty on European Union (TEU) and the Treaty on the functioning of the European Union (TFEU) <sup>(26)</sup>, signed in 2010, consolidate the previous versions of the Treaties and commits both Member States and the Union to non-discrimination and equality between women and men, through the following Articles.

#### Article 2 TEU

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

#### Article 3(3) (ex Article 2 TEU)

«The Union [...] shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child».

#### Article 8 TFEU (ex Article 3(2) TEC)

«In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women».

#### Article 10 TFEU

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<sup>(26)</sup> Eur-Lex, *The Consolidated versions of the Treaty on European Union and the Treaty on the functioning of the European Union, Official Journal*, C 83, 30 March 2010, <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2010:083:SOM:it:HTML>.

«In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation».

#### Article 151 TFEU (ex Article 136 TEC)

«The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Union and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union's economy».

#### Article 153 TFEU (ex Article 137 TEC)

«With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields: [...] (i) equality between men and women with regard to labour market opportunities and treatment at work [...]».

#### Article 157 TFEU (ex Article 141 TEC)

«1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of

employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional career».

The Charter of Fundamental Rights <sup>(27)</sup>, which was formally proclaimed in Nice in December 2000 by the European Parliament, Council and Commission, brings together in a single document rights previously found in a variety of legislative instruments, such as in national and EU laws, as well as in international conventions from the Council of Europe, the United Nations (UN) and the International Labour Organisation (ILO). Equality is one of the six sections in which the Charter is divided. The other five are Dignity, Freedom, Solidarity, Citizens' rights, and Justice.

The Charter confirms the above-mentioned principles introduced in the Amsterdam Treaty. It states that equality between men and women must be ensured in all areas, including employment, work and pay and reaffirms the ban on discrimination on a wide number of grounds, including sex, in the following Articles:

#### Article 21

##### Non-discrimination

«1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited».

#### Article 23

##### Equality between women and men

«Equality between women and men must be ensured in all areas, including employment, work and pay.

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

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<sup>(27)</sup> Eur-Lex, *Charter of fundamental rights of the European Union, Official Journal*, C 364 of 18 december 2000, [http://eur-lex.europa.eu/en/dossier/dossier\\_38.htm](http://eur-lex.europa.eu/en/dossier/dossier_38.htm).

Moreover, introduces the principle of the reconciliation of family and professional life».

### Article 33 Family and professional life

- «1. The family shall enjoy legal, economic and social protection.
2. 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».

The Woman's Charter <sup>(28)</sup> reiterates the Commission's commitment to equality between women and men in the European Union and throughout the world considering that gender inequalities have direct consequences on economic and social cohesion, on sustainable growth and competitiveness, as well as on demographic changes. It was adopted on the occasion of the 2010 International Women's Day in commemoration of the 15th anniversary of the adoption of a Declaration and Platform for Action at the Beijing UN World Conference on Women and of the 30th anniversary of the UN Convention on the Elimination of All Forms of Discrimination against Women.

In this political declaration, the Commission again highlights the necessity to take gender equality into account in all of its policies. The Charter proposes five specific fields of action:

- Economic independence, which should be achieved in particular by combating discrimination, educational stereotypes, labour market segregation, precarious employment conditions, involuntary part-time work and the unbalanced sharing of care responsibilities with men. The Commission is committed to ensuring the full realisation of women's potential and the full use of their skills. Its action should facilitate a better gender distribution in the labour market and facilitate an increase in the number of quality jobs for women.
- Equal pay for women and men (for equal work or work of equal value), which is yet to be effective in the European Union. The Commission is committed to fighting against pay gaps by mobilising all available instruments, including legislative instruments.
- The representation of women in decision-making and positions of power, positions where they are still under-represented in comparison to men, in the

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<sup>(28)</sup> Communication from the Commission to the European Parliament, *A strengthened commitment to equality between women and men, a women's charter*, Declaration by the European Commission on the occasion of the 2010 international women's day, COM (2010) 78 final, cit.

public and private sectors. The Commission agrees to act in favour of fairer representation for women, in particular by adopting incentives at EU level.

- Respect for women’s dignity and integrity, but also an end to gender-based violence, including harmful customary or traditional practices. The Commission’s action is specifically aimed at eliminating inequality in access to healthcare and eradicating all forms of gender-based violence.

- External action of the European Union as regards equality between women and men. The Commission is committed to defending equality between women and men in its relations with third countries. It is to carry out awareness-raising actions, cooperation with competent international and regional organisations, and will support State and Non-State actors.

### **3. EU legislation on gender equality and work-life balance**

The European Union has a long-standing body of legislation against gender discrimination both in employment and in other fields of life. This body includes laws (regulations, directives and decisions) which take precedence over national law and are legally binding for national authorities, as well as non-binding instruments, such as recommendations and opinions, etc.

In particular, EU directives lay down certain end results that must be achieved in every Member State. National authorities have to adapt their laws to meet these goals, but are free to decide how to do so. Directives may concern one or more Member States, or all of them. Each directive specifies the date by which the national laws must be adapted – giving national authorities the room for manoeuvre within the deadlines necessary to take account of differing national situations. EU directives are used to bring different national laws into line with each other. This allows citizens who feel that they have suffered discrimination to take their cases to national courts.

The European legal framework is regularly evaluated and updated, also taking account of the ongoing dialogue with social partners, Equality Bodies <sup>(29)</sup> and civil society representatives, which is crucial to ensure progress in this field. The improvement and modernisation of the European regulatory framework aims to enable women to achieve greater economic independence and encourage men to play a greater role in family life and more specifically:

- sets out minimum requirements on parental leave;

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<sup>(29)</sup> All Member States have established national equality bodies to monitor the application of gender equality laws. They meet regularly with the European Commission to exchange information, ideas and best practices. National Equality Bodies can help citizens in legal actions and provide advice on the availability of legal remedies.

- provides protection to pregnant workers and recent mothers;
- sets out rules on access to employment, working conditions, remuneration and legal rights for the self-employed;
- ensures the equal treatment of men and women at work;
- prohibits discrimination in social security schemes.

The EU legal framework on work-life balance is constituted by the main following instruments:

**3.1. Directive 2006/54/EC: Directive of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)**

The purpose of the recast Directive 2006/54 is to ensure the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation bringing together in a single text the main provisions existing in this field as well as certain developments arising out of the case-law of the Court of Justice of the European Communities. To this end, with effect from 15 August 2009, the Directive has repealed the following Directives:

- 75/117/EEC, on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women;
- 76/207/EEC, on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;
- 86/378/EEC, on the implementation of the principle of equal treatment for men and women in occupational social security schemes;
- 97/80/EC, on the burden of proof in cases of discrimination based on sex;
- and also the directives amending these directives (98/52/EC, 96/97/EC and 2002/73/EC).

The recast Directive 2006/54 contains provisions to implement the principle of equal treatment in relation to:

- (a) access to self-employment and employment, including promotion, recruitment, dismissals and to vocational training;
- (b) working conditions, including pay;
- (c) occupational social security schemes particularly concerning the scope and conditions of access to the schemes, the contributions, the calculation of benefits and the conditions governing the duration and retention of entitlement.

The Directive also contains provisions to ensure that such implementation is made more effective by the establishment of appropriate procedures. To this end,



Member States must create remedies for employees who have been victims of discrimination, such as conciliation and judicial procedures. In addition, Member States should appoint bodies whose role is to promote, analyse and monitor equal treatment, to ensure that the legislation is followed and also to provide support to victims of discrimination.

**3.2. Directive 2010/41/EU: Directive of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC**

Balancing family life and work is a challenge not only for male and female employees but also for the self-employed and their partners who help them in their professions or businesses. Directive 2010/41 replaces and updates the former legislation (Directive 86/613/EEC of 11 December 1986), which established the principle of equal treatment between men and women in self-employment. This principle must be complied with when establishing, equipping or extending a business, as well as when launching or extending any other form of self-employed activity. The 86/613 Directive also recognise the need to provide reconciliation measures for self-employed women, especially in relation to maternity. However, it had a limited impact so in 2010 the Commission approved the new Directive in order to achieve the goals set by the original one more effectively. More specifically, the new Directive 2010/41/EU concerns:

*1. Maternity rights.* Self-employed women and female spouses or life partners who regularly contribute to the activity of self-employed workers without being employees or business partners shall be entitled to a maternity allowance for at least 14 weeks. This allowance shall be sufficient to enable them to interrupt their activities if they wish to do so.

This allocation shall therefore be equivalent to:

- the average loss of income or profit. This amount may however be subject to a ceiling limit; and/or
- the allowance provided at national level in the event of an interruption in activities on health grounds; and/or
- any other family-related allowance provided for and determined by the EU country.

During the interruption in their activities due to maternity, women shall have access to replacement services and national social services. The provision of these services may replace all or a part of the maternity allowance.

2. *Couples with a joint business.* The Member States shall take the measures necessary to ensure that spouses or life partners who establish a business together are treated under the same conditions as other persons. In addition, where a national social protection system exists for self-employed workers, the spouses or life partners who participate in the activities of the self-employed worker have the right to social protection in their own name. Member States may decide whether this social protection is to be implemented on a mandatory or voluntary basis.

In addition to this, European Union countries may adopt positive action measures. Such public measures are aimed at ensuring full equality between men and women in working life, for example by promoting business creation by women.

These changes are expected to reduce the vulnerability of assisting spouses and the disincentive for women to become self-employed due to the scant or total lack of social protection, in particular maternity protection.

### **3.3. Directive 2010/18/EU: Directive of the Council of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSSEUROPE, UEAPME, CEEP and ETUC and repealing Directive of 3 June 1996 Directive 96/34/EC**

This Directive puts into effect the revised Framework Agreement on parental leave concluded on 18 June 2009 by the European cross-industry social partner organisations (BUSINESSSEUROPE, UEAPME, CEEP and ETUC). It revises the former EU legislation (Directive 96/34/EC), which was based on a framework agreement concluded on 14 December 1995 by European employers' and trade unions' representatives (UNICE, CEEP and the ETUC). The 1995 framework agreement set out the minimum requirements on parental leave, as an important means of reconciling professional and family responsibilities and promoting equal opportunities and treatment between men and women.

The revised Directive on parental leave lays down minimum requirements designed to facilitate the reconciliation of parental and professional responsibilities for working parents, taking into account the increasing diversity of family. It concerns the following issues:

#### *1. Parental leave*

- male and female workers must have the individual right to parental leave on the grounds of the birth or adoption of a child to take care of that child until a given age up to eight years to be defined by Member States and/or social partners;
- the leave shall be granted for a period of at least four months and, to promote equal opportunities and equal treatment between men and women,

should, in principle, be provided on a non-transferable basis. To encourage a more equal take-up of leave by both parents, at least one of the four months shall be provided on a nontransferable basis. The modalities of application of the non-transferable period shall be set down at national level through legislation and/or collective agreements taking into account existing leave arrangements in the Member state.

*2. Employment rights and non discrimination*

- At the end of parental leave, workers shall have the right to return to the same job or, if that is not possible, to an equivalent or similar job consistent with their employment contract or employment relationship;
- the Member States and/or social partners shall take the necessary measures to protect workers against dismissal on the grounds of an application for, or the taking of, parental leave;
- rights acquired or in the process of being acquired by the worker on the date on which parental leave starts shall be maintained and will stand until the end of parental leave. At the end of parental leave, these rights, including any changes arising from national law, collective agreements and/or practice, shall apply.

*3. Return to work*

- In order to promote better reconciliation, Member States and/or social partners shall take the necessary measures to ensure that workers, when returning from parental leave, may request changes to their working hours and/or patterns for a set period of time. Employers shall consider and respond to such requests, taking into account both employers' and workers' needs in accordance with national law, collective agreements and/or practice;
- the Member States and/or the social partners shall take the necessary measures to allow workers to take time off from work, in accordance with national legislation, collective agreements and/or practice, for unforeseeable reasons arising from a family emergency in the event of sickness or an accident which makes the immediate presence of the worker indispensable.

The Member States may introduce more favourable provisions than those laid down in the Directive. The implementation of the provisions of the Directive will not in any way constitute sufficient grounds to justify a reduction in the general level of protection afforded to workers in the field covered.

### **3.4. Directive 2004/113/EC: Directive of the Council of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services**

This Directive states in writing the Commission's intention to present a proposal to prohibit discrimination based on sex outside the labour market, as expressed in the framework strategy for gender equality (2001-2005) and in the social policy agenda published in June 2000. In December 2000, the Nice European Council had encouraged the Commission to do so by calling for the adoption of a proposal for a directive to promote equal treatment for men and women in fields other than work and employment.

This Directive has its legal basis in Article 13 of the Treaty establishing the European Community, which states that the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, can take the necessary measures to combat all discrimination based on sex.

The purpose of this Directive is to lay down a framework for combating discrimination based on sex in the access to and supply of goods and services, particularly in the field of insurance, with a view to putting into effect the principle of equal treatment for men and women in the Member States.

The prohibition of discrimination between women and men applies to access to and supply of goods and services, in both the public and private sectors. The Directive applies to goods and services which are available to the public, irrespective of the persons concerned, and which are offered outside the area of private and family life. All direct and indirect discrimination between women and men is prohibited, including unfavourable treatment for reasons of pregnancy and maternity. Harassment, sexual harassment and incitement to discrimination are considered as discrimination based on sex and for this reason are also prohibited.

Differences in the treatment of men and women may be accepted only if they are justified by a legitimate aim, such as the protection of victims of sex-related violence (in cases such as the establishment of single-sex shelters) or the freedom of association (in cases of membership of single-sex private clubs). Any limitation should nevertheless be appropriate and necessary.

Member States can introduce or maintain provisions which are more favourable than those laid down in the Directive, but they cannot reduce the level of protection already granted in the fields covered by the Directive.

The principle of equal treatment does not exclude the adoption of positive action to prevent or compensate for disadvantages linked to sex in the area of goods and services.

In the field of insurance, the Directive prohibits, in principle, the use of sex as a criterion in the calculation of premiums and benefits for the purposes of

insurance and related financial services, in all new contracts concluded after 21 December 2007. Member States may however decide to permit such practices where sex is a determining factor in the assessment of risk based on relevant and accurate current and statistical data available to the public. In any event, all Member States must ensure that costs related to pregnancy and maternity (for example sickness insurance) are attributed equally to men and women.

The Directive states that each Member State is to select one or more bodies which will promote equal treatment for women and men on a national level, in the fields covered by the Directive. These bodies will be empowered to analyse the problems encountered, put forward recommendations and provide concrete assistance to victims.

### **3.5. Directive 92/85/EEC: Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding**

The objective of this Directive is to take minimum measures to protect the health and safety of pregnant workers, workers who have recently given birth and women who are breastfeeding. These women must be considered to be a specific risk group. To that aim, in consultation with the Member States, the Commission has drawn up guidelines for assessing the risks related to chemical, physical and biological agents, to certain industrial processes, to certain movements and postures and to physical and mental stress<sup>(30)</sup>. The Directive is a follow-up to Framework Directive 89/391/EEC concerning the implementation of measures to encourage improvements in the safety and health of pregnant workers, workers who have recently given birth and women who are breastfeeding. More specifically, the Directive concerns:

#### *1. Maternity leave*

Maternity leave must be for an uninterrupted period of at least 14 weeks before and/or after delivery, two of which must occur before the delivery.

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<sup>(30)</sup> Communication from the Commission to the European Parliament, *Guidelines on the assessment of the chemical, physical and biological agents and industrial processes considered hazardous for the safety or health of pregnant workers and workers who have recently given birth or are*, COM(2000)466 – Not published in the Official Journal, 5 October 2000. These guidelines apply to the assessment of chemical, physical and biological agents and industrial processes considered hazardous for the health and safety of such workers. They also apply to physical movements and postures, mental and physical fatigue and other types of physical and mental stress.

The pay and allowance for maternity leave shall be deemed adequate if it guarantees income at least equivalent to that which the worker concerned would receive in the event of a break in her activities on grounds connected with her state of health, and is subject to any ceiling laid down under national legislation. This right to pay or to an allowance may be subject to certain conditions, though not the condition that a period of work of more than 12 months should have immediately preceded the presumed date of birth.

#### *2. Exposure to risks*

Exposure of the workers in question to chemical, physical, biological and stress risks is to be avoided by provisionally adjusting their working conditions or their working hours. Where such adjustment is not technically and/or objectively feasible, or cannot reasonably be required on duly substantiated grounds, the employer shall take the necessary measures to move the worker concerned to another job. Where transfer to another activity is not feasible, the workers in question must be granted leave for the whole of the period considered necessary to protect their safety and health.

#### *3. Work environment*

Pregnant workers may under no circumstances be obliged to perform duties for which the assessment has revealed a risk of exposure to the agents and working conditions listed in the Directive.

#### *4. Night work*

Member States shall take the necessary measures to ensure that the workers concerned are not obliged to perform night work during their pregnancy and for a period following childbirth. This is subject to submission of a medical certificate, and the workers must be transferred to daytime work where possible, or otherwise by excusing them from work or extending maternity leave.

#### *5. Ante-natal examinations*

Pregnant workers have the right to take leave from work without loss of pay to enable them to attend ante-natal examinations if such examinations take place during working hours.

#### *6. Protection against discriminatory dismissal*

Women may not be dismissed for reasons related to their condition for the period from the beginning of their pregnancy to the end of the period of leave from work. In the event of dismissal, the employer must justify their action in writing. Measures should be taken to protect such workers from the consequences of unlawful dismissal.

#### *7. Employment rights*

The employment rights relating to the employment contract, including the maintenance of a payment to, and/or entitlement to an adequate allowance for the

pregnant workers, workers who have recently given birth and workers who are breastfeeding must be guaranteed.

The Directive may not have the effect of reducing the level of protection afforded to pregnant workers and workers who have recently given birth and/or who are breastfeeding compared with the existing situation in each Member State on the date on which it was adopted. Member States shall report to the Commission every five years on the practical implementation of the Directive, indicating the points of view of the social partners.

### **3.5.1. Proposal for the revision of Directive 92/85/ECC on maternity protection**

On 3 October 2008, the Commission adopted a proposal for a Directive <sup>(31)</sup> amending Directive 92/85/CEE which has yet to be adopted. The proposal of the Commission aims to contribute to better reconciliation of professional, private and family life considering that improving leave arrangements and strengthening employment rights helps to reconcile work and family life and to improve the participation of women with children in the labour market. These measures are expected to make it easier for women to stay in the labour market after giving birth, since it may be easier for women to return to the labour market after a longer maternity leave rather than taking parental leave.

The main proposals of the Commission are:

- to increase the minimum maternity leave from 14 to 18 weeks, in line with the ILO recommendation. This corresponds to 12 non-compulsory weeks that women can choose to take before or after confinement and six compulsory weeks after confinement. If the actual date of confinement differs from the presumed date, the period of leave before the birth could be extended without having an effect on the post-natal period. Moreover, additional leave may be granted in the event of premature childbirth, children that are hospitalised at birth, the birth of children with disabilities and multiple births;
- to introduce the principle of full pay during maternity leave. Member States may however set a ceiling that must not be less than sickness pay;
- to increase flexibility for women to decide when to take their maternity leave before or after giving birth (women would no longer be obliged to take a

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<sup>(31)</sup> Commission of the European Parliament and the Council, *Amending Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding*, COM (2008) 637 final – Not published in the Official Journal, 3 October 2008.

specific portion of leave before childbirth, as is presently the case in some Member States);

- to improve employment protection for women on, or returning from, maternity leave. At the end of maternity leave, mothers would have the right to return to work under equivalent conditions and to benefit from any improvements that have been made to working conditions. They may also request a re-examination of their working hours in order to better reconcile professional and family life.

- under the present legislation, women cannot be dismissed during their maternity leave for reasons of pregnancy or maternity. In the new proposal, even the preparation of dismissal during maternity leave for a dismissal after a woman's return is prohibited.

### **3.6. Directive 79/7/ECC: Council Directive of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security**

This Directive aims to implement the principle of equal treatment in matters of social security. This principle protects European citizens against discrimination on grounds of sex, whether direct or indirect. More specifically, it regards:

- the scope of the schemes and the conditions of access;
- the obligation concerning contributions and the calculation of these contributions;
- the calculation of benefits and the conditions governing the duration and retention of entitlement to benefit.

This Directive applies to statutory social security schemes which provide protection against sickness, invalidity, accidents at work and occupational diseases, unemployment and risks related to old age and to social assistance which supplements or replaces the basic schemes. It does not apply to survivors' benefits and family benefit schemes.

Member States may exclude the following aspects from the Directive:

- the determination of pensionable age;
- advantages granted to retired persons who have brought up children, specifically concerning periods of interruption of employment;
- old-age or invalidity benefit entitlement connected with the derived entitlements of a spouse;
- long-term benefits granted to a spouse connected with invalidity, old-age, accidents at work or the occupational disease of their spouse;



- a right of option before the adoption of the Directive, specifically the option not to acquire rights or incur obligations under a statutory scheme.

Member States periodically examine the necessity to exclude these categories in the light of social developments. Specific provisions may be made in order to ensure the protection of pregnant women.

### **3.7. Council Recommendation 92/241/EEC of 31 March 1992 concerning child care**

The objective of the Council Recommendation 92/241/EEC <sup>(32)</sup> is to recommend that Member States should encourage increased participation by men in childcare in order to achieve a more equal sharing of parental responsibilities between men and women, and to enable women to have a more effective role in the labour market.

It is recommended that the Member States make efforts in particular to ensure that childcare services:

- are offered at prices which are affordable to parents;
- combine reliable care from the point of view of health and safety with a general upbringing and a pedagogical approach;
- are available in all areas and regions of the Member States, both urban and rural;
- are accessible to children with special needs.

Member States should also take initiatives to:

- encourage flexibility and diversity of childcare services;
- ensure that the training, both initial and ongoing, of workers in childcare services is commensurate with the importance and the social and educative value of their work;
- encourage childcare services to work closely with parents and local communities through regular contact and exchange of information;
- encourage national, regional or local authorities, the social partners, other competent bodies and individuals, in accordance with their respective responsibilities, to make a financial contribution to the creation and/or operation of coherent childcare services which parents can afford and offer them a choice.

The Barcelona European Council held in 2002 renewed this recommendations urging the Member States to remove disincentives and obstacles to woman participating in the labour market, in particular, by providing

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<sup>(32)</sup> Eur-Lex, 92/241/CEE: *Raccomandazione del Consiglio, del 31 marzo 1992, sulla custodia dei bambini*, *Gazzetta Ufficiale*, n. L 123, 8 may 1992, 16-18, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992H0241:IT:HTML>.

childcare facilities for 90% of children over three years of age and 33% of children under the age of 3 by 2010 (the so-called Barcelona targets).

**Part III**  
**THE NATIONAL FRAMEWORK:**  
**OUTCOMES FROM DESK AND FIELD RESEARCH**



## CHAPTER III ITALY

### Section A ITALIAN LEGAL FRAMEWORK: MOST IMPORTANT LEGISLATION

*Summary:* 1. Italian legislation. – 2. Leave, permits and expectations in the law No. 183/2010. – 3. The Reform of the Labour Market in Italy so-called Monti-Fornero Reform (Law No. 92/2012): Main Reasons and General Framework. – 4. The new mandatory paternity leave: scope and methods for their use. – 4.1. The Italian reform in the European context: towards a new culture-parenting? – 4.2. The voucher baby-sitting and enhancement of other tools for flexible working hours. – 4.3. Financial security and implementation of the measures.

#### **1. Italian legislation**

The Italian legal framework has a number of laws that support reconciliation in the workplaces. Some of them are Art. 13 Law No. 196/97, which, in particular, sets the roof of maximum working hours; Law No. 285/1997 which lies down rules for the promotion of rights and opportunities of children and adolescents; Decree-Law 29/9/98 No. 335, replaced with amendments, law No. 409/1998 laying down provisions for overtime; Art. 17 Law No. 25/1999, which amended the regulation of night work; Legislative Decree No. 61/2000 laying down rules on the ratio of part-time work; the Law No. 53/2000, that controls the regulation of parental leave and coordination of the timing of the city; Law No. 328/2000- a law for the implementation of the integrated system of interventions and social services; Legislative Decree No.151/2001, Act on the protection and support of motherhood and fatherhood and Legislative Decree No. 276/2003, amending the previous regulations on part-time and more recently the Law No.183/2010 and Law No. 92/2012, so-called Monti-Fornero Reform.

The Italian legislation in the first phase (which has its basis in the Constitution) had aimed at protecting women, as worker and mother, with two important laws (Law No. 204/71 and Law No. 903/77) on its way in the nineties with the Law No. 125/91 (and subsequent amendments provided by Legislative Decree No. 198/2006, Code for Equal Opportunities) in positive action for gender equality in the work where Art. 1 states that the actions financed by the positive

law may relate to the balance between family and work responsibilities and a better allocation of these responsibilities between the sexes through a different organization of work, working conditions and working time. The provisions of Law No. 125/1991 are designed to promote women's employment and achieve substantive equality between men and women in the workplace. The law through the allocation of funds to public and private employers, training institutions, associations and unions sought to promote actions to increase the presence of women in sectors where women are under-represented and to overcome the discrimination resulting from organization of work. This law has been a support for the dissemination of culture of reconciliation and allowed to finance projects to meet the composition of the time and work and family responsibilities

Another important law was Law No. 53/2000, measures for the support of motherhood and fatherhood for the right to care and training, and the coordination of the timing of the cities that art. 9 provides in the first instance, for private employers and then to the public for the implementation of affirmative action in the work-life balance:

a) projects articulated to allow workers and employees to take advantage of special forms of flexible working hours and work organization, such as reversible part-time, telecommuting and work at home, the bank of hours, flexible schedules incoming or outgoing, on shifts and on different locations, time concentrated, specific interest in projects proposed to apply, and innovative systems for the assessment of performance and results;

b) programs and actions to support the rehabilitation of workers and employees after a period of parental leave or for reasons still linked to the need for reconciliation;

c) projects that, through the activation of networks of local authorities, companies and social partners, promote interventions and innovative services to meet the needs of conciliation of workers. These proposals may also be submitted by consortia or associations of undertakings, including the temporary or newly created, insisting on the same territory, and may include the participation of local authorities, as part of the plans for the harmonization of city times.

d) projects that enable business owners, self-employed or self-employed professionals, for reasons related to maternity or the presence of minor children or disabled people, to collaborate or replacement of any persons in possession of the necessary professional requirements.

In the programming most recent of equal opportunities policies at the national level (see Italy 2020 program of actions for the inclusion of women in the labor market) is the promotion of corporate conciliation strategy that assigns a primary role to the support of motherhood and the family that includes several lines of action: strengthening of services for infants and testing of good work for the

structuring of private care and personal assistance, including are also provided for the nests and care services and case management; relaunch art. 9 of Law No. 53/2000 through the widening of the base of the recipients of funding and the restructuring of the measures eligible for funding (see the changes made by art. 38 of Law No. 69/2009), the allocation of resources for the promotion of the provisions contained in the article and the identification of dedicated funds to support the self-employed.

It also identifies the road to promote incentives provided by law, the possibility of allowing for funding, even projects that are not supported by a union or collective agreement in nature but which contain, at least in small businesses, direct agreements between worker and employer.

Another goal is to promote new industrial relations for the revival of part-time work and other part-time contracts, modular and flexible, decentralized bargaining in identifying the «regulatory framework that allows and encourages individual agreements geared to the specific party needs of employment relationship» (Document Italy 2020).

In the policy document, it is also referred the possibility of taxation of sums paid for productivity bonuses which include also measures of conciliation and the modulation of working hours and working time.

A first implementation of the intervention program was represented by the agreement in 2010 of the understanding between the Government, autonomous regions and provinces (renewed in 2012, *Intesa Reconciliation of time living and working in 2012*) on the criteria for allocation of resources *Fund for Gender Equality* aims to develop a system of measures for the reconciliation between life and work. Resources are used to finance services for early childhood, measures to support the return of workers who have benefited from parental leave or treatment of vouchers and coupons for the purchase of services for care, support measures to methods of work performance and family-friendly contractual arrangements and other innovative measures in the regions.

In 2011, with joint opinion on the measures of work-life balance signed by the Government and social partners of 7 March, an agreement was also signed between the Ministry of Labour and the social partners for the support of family-friendly corporate policies which includes actions for the collection, analysis and dissemination of good practices.

## **2. Leave, permits and expectations in the law No. 183/2010**

The decree on the reorganization of the legislation on leave, expectations and permits for workers in the public sector and the private sector - in implementation

of the relevant provision in art. 23 of Connected work (Law No. 183/2010) - leads to the 7 items of news concerning leave and rest for parents, care of children or other persons with disabilities, care of disabled workers and the expectations of public employees for PhDs. The first innovative aspect is the introduction of the faculty, for the benefit of women who have had a spontaneous or therapeutic interruption of pregnancy after the 180th day from the beginning of pregnancy and women who have suffered the death of her child at birth or during leave to resume the work at any time, upon notice to the employer at least 10 days in advance and with the certification by the medical specialist of the NHS and the competent doctor, this is not detrimental to their health.

This provision, introduced from scratch in paragraph 1-b of art. 16 of Legislative Decree No. 151/2001, does not require therefore more women in the condition mentioned above to the period of compulsory leave. A second innovation was on adoption, acting on the recommendations of the Constitutional Court, that allows adoptive parents to enjoy the rest and to request (for civil servants) the assignment to a place of employment located in the same province or region in which the other parent carries on its activities, regardless of the age of the child as a reference but its entry into the family (cf. Art. 45, Legislative Decree No. 151/2001, reformed). A large group of interventions on the care of persons with disabilities, children, and relatives. With regard to the parents of minors handicapped, it is expected, by modifying the art. 33 of Legislative Decree No. 151/2001, that the extension of parental leave to be exercised by the completion of the 8th year of the child's life and usable on a continuous or split, is for a maximum period of three years, including voluntary absenteeism then "ordinary" art. 32 (in the previous version was in addition to it). It is admitted, also, the right to benefit from it, unlike in the past, even if the child is hospitalized, provided there is a demand for doctors to do so. Still, for the assistance of the handicapped child, it is confirmed that, as an alternative to the extension of parental leave may be required, until the completion of the third year of the child, the 2 hours of daily rest period paid pursuant to art. 33, paragraph 2, of the Law No. 104/1992.

However, changing the art. 42 of Legislative Decree No. 151/2001, providing that the latter measure is itself an alternative to the permissions provided by art. 33, paragraph 3, of the Law No. 104/1992 (the previous version was said «after three years of age») that is three days of paid leave per month covered by cash contribution, even on an ongoing basis as part of the month. The right is granted to both parents, including adopted children, who can benefit from it either. However, it is known that under art. 42, it is still allowed to use the services of an individual with a disability also special leave, pursuant to art. 4, paragraph 2, of the Law No. 53/2000, i.e., a period of leave, continuous or split, not exceeding 2



years. In reference to this leave, the new Legislative Decree acts on two fronts. First, in accordance to what was observed by the Constitutional Court, it is stated that the right belongs to various parties – namely a cohabiting spouse, father or mother, adoptive one of the children at home, brothers or sisters living together – but according to an order priority that only in case of death, absence or illness invalidate subjects indicated a prior right to enjoy it up to others.

The second point is rearranging and updating the rules on how the use of such leave must be regulated. It is important to make clear that leave of absence is granted within 60 days of the request, and shall not exceed two years for each person with a disability and working life. The person shall not be admitted to attend full-time (except, in this case, is required by the health provider, the person providing care services), cannot be recognized in more workers to support the same person (except for service to the same child with severe disabilities, in which case the rights are granted to both parents, including adopted children, who can benefit from it either, but in the same day, the other parent can not enjoy the benefits of Art. 33, paragraphs 2 and 3 of Law No. 104/1992, and 33, paragraph 1, Legislative Decree No. 151/2001). Again, the layout is updated in terms of compensation (corresponding to the last salary) and national contributions. It is also clear that such periods were not relevant to the maturation of the holidays, the 13th month salary and severance pay. Finally, it is confirmed that those who benefit from such leave of absence for a continuous period not exceeding six months are eligible to take advantage of unpaid leave in an amount equal to the number of days of annual leave that would have accrued in the same period of working time, without right to the cash contribution. Still in the area of assistance to persons with disabilities serious, also changes the paragraph 3 of art. 33 of Law No. 104/1992, for which the use of 3 days of leave paid monthly, in order to provide assistance to more people with severe disabilities, is expected to assist the spouse or a relative or is related within the first degree or even within the second degree, but only if the parents or the spouse of the person with disability have reached the age of 65 or are also suffering from disabling diseases or are deceased or missing.

In addition, it is stated that a worker who benefits from permission to assist a resident in more than 150 km away should attest to the achievement of the place of residence of the client. Not only that but also the new standard should be read in conjunction with Art. 24 of the Law No. 183/2010, which amended the rules and introduced the obligation of notification to the Department of Public data to be watched by civil servants on the basis of no. 104/1992, the notice to be sent by 31 March each year by all public administrations. Another novelty is the leave for the care of disabled persons: workers civilian disabled or invalids with a reduced capacity to work more than 50% are eligible every year, piecemeal, to leave to

care for a period not exceeding 30 days. But the application must be accompanied by a request of the doctor to verify the correspondence of the infirmity recognized by the other, it is necessary to return, documenting the successful submission to care (in the case of continuous treatments, the ‘certification can also be cumulative). This redundancy, which falls outside the period of respite, has the same treatment of sick.

The latest news, finally, concerns the dismissal of public employees for a PhD, formerly subject to change with the so-called Gelmini Reform (Law No. 240/2010). So, already introduced to limit the discretion of the administration on its concession, the new decree adds the rules provided for in art. 2 of Law. no. 476/1984, which is today a change, applies to all public employees “under contract”, art. 2, paragraph 3, of Legislative Decree No. 165/2001. Recalling briefly this discipline, employees of public administrations who are winners of the PhD program can take advantage of the scholarship, but only in case of admission without scholarship, or waive, keep the pay and pension administration which includes part of it. If, within two years after graduation interrupt, by their own will, the report must reimburse the funds. They have no right to those who have already obtained the title of Doctor of Philosophy, and those who have been enrolled in the doctoral program for at least one academic year, benefiting from such leave. The period of extraordinary leave is for the purpose of career advancement and retirement benefits. Generally, the new decree, as is clear at first sight and as succinctly pointed out, seems to be characterized, rather than for the reorganization of the whole subject, as well as required by delegation, for very targeted interventions of institutions - leave, expectations and allowed - most of them presented operational difficulties and application or abuse by the right holders. It should, however, recalled in this connection that the reform action, in the limits imposed by the law itself delegation, without any new or increased burden on the public purse.

### **3. The Reform of the Labour Market in Italy so-called Monti-Fornero Reform (Law No. 92/2012): Main Reasons and General Framework**

Prompted by the main European and international financial institutions, and in response to a particular – and in many respects unique – institutional and political scenario, the technocratic government led by Mario Monti carried forward an impressive reform of the Italian labour market just a few months after its appointment.

This state of affairs gave rise to an array of interventions across all economic and social sectors which – albeit long-awaited<sup>(1)</sup> – previous administrations have been unable to put in place. Law No. 92 of 28 June 2012 was preceded by an even more substantial and widely debated overhaul of the pension system<sup>(2)</sup> and was intended to amend the regulatory framework of the Italian labour market. Once the newly- installed government took office, and straight from the inaugural address, the measure was presented for public opinion as a matter of urgency. Discussing the current macro-economic context, the reform of the national labour market was portrayed as an inevitable move to secure the future of younger generations – most notably in terms of job opportunities and pension entitlement – as they have been hit the hardest by the crisis that was caused by the collapse of the financial markets<sup>(3)</sup>.

This is consistent with the view – not prevailing, although well-established among European commentators and decision-makers – that high unemployment rates, chiefly among young people, coupled with the steady increase in atypical and precarious employment, have been brought about by the high levels of protection for workers in salaried employment. An authoritative indication of this line of reasoning is the move made during the financial downturn by the President of the European Central Bank, Mario Draghi.

In order to safeguard the future of the youngest generations, Mr. Draghi openly questioned the long-term sustainability of the European social model. In this sense, he prodded European law-makers into reviewing national labour laws, deemed to be unbalanced in favour of adult workers (the insiders), particularly in the current recession.

The Italian Government followed Mr. Draghi's advice carefully, fuelling a polemical discussion concerning the European Central Bank and some other European bodies allegedly placing Italy under "special administration". This state of play de facto impinged on the effort – to date successful – on the part of both trade unions and pro-labour political parties, to counter the decisions made

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<sup>(1)</sup> See The White Paper on The Labour Market, which was drafted by Marco Biagi on 3 October 2001 under the Berlusconi Government. Significantly, most of the objectives set down by Mr. Monti and the Minister of Labour Elsa Fornero were already outlined by Prof Biagi ten years ago. An English version of the document is available in R. Blanpain (eds.), *White Paper on The Labour Market In Italy, The Quality of European Industrial Relations and Changing Industrial Relations*, Bulletin of Comparative Labour Relations, August 2002.

<sup>(2)</sup> For an overview of the reform of the pension system in the context of the so-called "Decree to Save Italy" see Monti's £30 billion survival plan, on [www.eurofound.europa.eu](http://www.eurofound.europa.eu).

<sup>(3)</sup> For an in-depth analysis on the reasons for the reform, particularly to offset the level of protection offered to young people against those supplied to their adult counterparts, see M. Tiraboschi, *Young Workers in Recessionary Times: a Caveat (to Continental Europe) to Reconstruct its Labour Law?*, in *EJCLS*, 1, No. 1-2, March-June 2012.

unilaterally by the Government <sup>(4)</sup>. As will be discussed further, Law No. 92/2012 (hereafter the Monti-Fornero Reform) has introduced numerous innovative measures. This aspect could be observed, as this substantial piece of legislation consists of 270 controversial paragraphs, yet grouped into 4 articles to expedite the approval process. For different reasons, the reform was hailed with outright hostility by the social partners (see par. 6). Such a reaction pressured the Legislator to promptly amend the provision, with a number of changes that were already foreseen by the Parliament and took place one month after its enforcement <sup>(5)</sup>.

The reform greatly assessed the main aspects of Italian labour law, namely the legal procedures to establish and terminate the employment relationship. It also deals with the sources of labour law, this is because of the preference that has been given to norms of a compulsory character, which narrows down the role of trade union law, particularly company customs. In addition, social concertation – once pivotal in the evolution of labour law in Italy – played a peripheral role while the provision was being devised.

In contrast to what has occurred in some other European countries – most notably in Spain – the reform does not touch internal flexibility, that is the set of legal provisions governing the employment relationship (personnel and job classification, working hours, job description, absence from work, and so forth). These aspects – which are clearly of great importance – still fall within the province of collective bargaining or are subject to mandatory forms of regulation that date back to the 1970s, such as Law No. 300/1970 (the Workers' Statute).

#### **4. The new mandatory paternity leave: scope and methods for their use**

Labour reform has, with regard to support for women's employment, an experimental measure, vouchers babysitting, for the years 2013-2015, and provides for the introduction of mandatory paternity leave. We extend a right of

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<sup>(4)</sup> At the time of Silvio Berlusconi's last term in office, trade unions were definitely given more room to manoeuvre following the passing of Art. 8 of Legislative Decree No. 138/2012 on the reform of the labour market. Then as now, the Government was prompted by the European institutions to take action. It thus empowered collective bargaining at company and territorial level to implement certain employment safeguards by way of derogation from national bargaining, in order to cope with the crisis and favor economic growth. Of course the levels of protection set down by the international Conventions, Community legislation, as well as certain limitations concerning labour issues imposed upon by the Italian Constitution were still valid. On that occasion, social partners succeeded in challenging the measures put forward by the Government. See various comments in *Diritto delle Relazioni Industriali*, Giuffrè, 2012 (under *Ricerche*).

<sup>(5)</sup> See Law No. 134 of 7 August 2012.

way to his father, that mandatory abstention, which is addressed to the natural mother. His father, currently benefits from an alternative to mother-but for the entire duration due to the latter or the remainder that know-would be only in clearly defined circumstances provided for by law <sup>(6)</sup>, such as death, serious illness ( the mother), child abandonment, exclusive custody to the father.

In view of the original text of the reform project, in which the father was required to the employee within five months after the birth of her son, be absent from work for a period of three days, continued-there, two of which in place of the mother, the new text of Art. 4, paragraph 24, letter to, not only reduces from three days to one, but also on the obligatory acts. The draft law provides for a mandatory day off two days of paternity and optional, in agreement with the mother (in relation to the period of compulsory maternity leave) and to replace him. No-drops while intervention is expected to extend to the workers' fathers, on the other hand, there is a proportional dimension of protection for mothers to the extent that there is a deduction of two days of leave compulsory maternity. In line with the EU orientation <sup>(7)</sup>, it would have been preferable to additional paternity leave and not a substitute for that of motherhood, or at least not over the same period and coinciding with the obligation to refrain from the mother.

In the case of enjoyment by the father of mandatory paternity leave for a period of two days, instead of the mother, is attributed to the worker a daily allowance paid by INPS equal to one hundred percent of the salary, and the remaining days, in addition to the obligation to refrain from the mother, the measurement of the same (indemnity) is equal to one hundred percent of the salary.

In this way you are working with a novelty to the extent that the benefit is increased to one hundred percent of pay, up from eighty percent that, in practice, be increased to one hundred by collective bargaining, which integrates the remuneration.

Finally, with regard to bureaucracy, the employee to be able to take parental leave is required to give prior written notice to the employer at least fifteen days prior to those calling for the abstention.

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<sup>(6)</sup> Art. 28, co. 1, d.lgs. No. 151/2001; circ. Inps 6 giugno 2000, No. 109; circ. Inps 2 aprile 2001, No. 82; mess. Inps 4 aprile 2007, No. 8774.

<sup>(7)</sup> On this point, please read the legislative resolution of the European Parliament of 20 October 2010 on the proposal for a directive of the European Parliament and of the Council amending Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers who have recently given birth or are breastfeeding, in *www.adapt.it*, Index A-Z, *Conciliazione vita e lavoro*.

#### 4.1. The Italian reform in the European context: towards a new culture-parenting?

In line with some dates back to the Court addresses, the constitutional framework allows a new culture of parenting which is more similar to that of welfare models of the northern Europe <sup>(8)</sup>. Indirectly, it is also proposed to determine a possible positive impact on women's employment and the reduction of gender inequalities in the labor market and wage differentials between men and women.

Despite the limitedness of period of leave, at least if you think the Scandinavian countries <sup>(9)</sup> and neighboring Spain, the intervention is significant with a first opening in the direction of a change of perspectives in a country like Italy, where, among the factors affecting participation of female at work, in addition to the inactivity, the rate of abandonment of employment related to their familial factors.

Table 1 – Leave: European countries in comparison

Country	Maternity	Paternity	Parental
<b>France</b>	<ul style="list-style-type: none"> <li>– 16 weeks (6 before delivery and 10 after; special cases for pathological pregnancy, twins, birth of a third child)</li> <li>– allowance equal to 100% of salary</li> </ul>	<ul style="list-style-type: none"> <li>– 11 days within the first 4 months after birth</li> </ul>	<ul style="list-style-type: none"> <li>– until 3 years of the child: 12 months (an additional year in the case of disability or illness of the child)</li> <li>– lump sum allowance; paid parental leave for parents with one child up to 6 months after the end of maternity leave</li> </ul>
<b>Germany</b>	<ul style="list-style-type: none"> <li>– 14 weeks (6 before delivery and 8 after,</li> </ul>	<ul style="list-style-type: none"> <li>– no day</li> </ul>	<ul style="list-style-type: none"> <li>– up to 3 years of the child: 12 months (can be</li> </ul>

<sup>(8)</sup> A key decision was that of C. Cost. No. 1/1987, which affected the evolution of legislative and started the process that led to the Constitutional Court «to rewrite some of the rules concerning the protection of women's work from the dual perspective of the affirmation of substantive equality between women and men also in the performance CDs duties of care towards children and a more developed awareness of the social function of motherhood and concurrent consideration of the interests of the child». On this point, and for a extensive interpretation, read P. Chirulli, *La corte costituzionale pronuncia una parola chiara in merito alla (non) spettanza dell'indennità di maternità al padre libero professionista in caso di filiazione naturale.*, in *GCost*, 2010, 5, 4013.

<sup>(9)</sup> Cfr. P. Moss, *International Review of Leave Policies and Related Research 2010*, Department for Business, Innovation & Skills, Employment relations research series No. 115, 2011.

ITALY

	<ul style="list-style-type: none"> <li>– which become 12 for twin birth)</li> <li>– allowance equal to 100% of salary</li> </ul>		<ul style="list-style-type: none"> <li>– increased to 14 if the father takes at least 2 months)</li> <li>– remuneration proportional to the salary received; parental leave allowance paid up to a maximum of 28 months. The rest of the 3-year period of leave is unpaid</li> </ul>
<b>United Kingdom</b>	<ul style="list-style-type: none"> <li>– from 2011: one year of leave, which becomes parental leave, so to share with your partner</li> </ul>	<ul style="list-style-type: none"> <li>– from 2011: one year of leave, which becomes parental leave, so to share with your partner</li> </ul>	<ul style="list-style-type: none"> <li>– 10 months (from 2011) with the extension to men</li> <li>– remuneration is equal to 90% of salary for the first 6 weeks, then it decreases</li> </ul>
<b>Italy</b>	<ul style="list-style-type: none"> <li>– 20 weeks (1 or 2 before the birth and after 3 or 4 it)</li> <li>– allowance equal to 80% of salary</li> </ul>	<ul style="list-style-type: none"> <li>– obligation to one day paid within 5 months after the child's birth</li> <li>– faculty of two days in substitution of the mother during the period of compulsory leave</li> <li>– allowance equal to 100% of salary</li> </ul>	<ul style="list-style-type: none"> <li>– up to 8 years of the child: 10 months usable ( which may be increased to 11, if the father takes at least 3)</li> <li>– until 3 years and for a period of 6 months (both parents allowance at 30%)</li> </ul>
<b>The Netherlands</b>	<ul style="list-style-type: none"> <li>– 16 weeks (plus another 2 weeks in the case of premature birth)</li> <li>– allowance equal to 100% of salary</li> </ul>	<ul style="list-style-type: none"> <li>– short: between 0.4 and 1 week (fully paid)</li> </ul>	<ul style="list-style-type: none"> <li>– up to 8 years of child: 3 months full-time or 6 months part-time for each partner</li> <li>– there is no compensation (though remember the presence of collective agreements that compensate this shortcoming)</li> </ul>
<b>Spain</b>	<ul style="list-style-type: none"> <li>– 16 weeks (before or after birth) to be shared with partners</li> <li>– allowance equal to 100% of salary</li> <li>– possibility of three years of unpaid maternity</li> </ul>	<ul style="list-style-type: none"> <li>– 1 month</li> </ul>	<ul style="list-style-type: none"> <li>– until the third year of the child made</li> <li>– no allowance</li> </ul>
<b>Sweden</b>	<ul style="list-style-type: none"> <li>– there is no specific</li> </ul>	<ul style="list-style-type: none"> <li>– the father is</li> </ul>	<ul style="list-style-type: none"> <li>– every parent has the right</li> </ul>

	maternity leave. Parents have the right to refrain from working for a total of 480 days. If the mother abstains, 60 days must be unexpended by his father (the days cannot be transferred between parents)	entitled to 10 days of leave to coincide with birth of the child	to take parental leave up to 18 months of the child, but the 480 days of paid leave can be taken until the age of 8 years of child
<b>Denmark</b>	<ul style="list-style-type: none"> <li>– 8 weeks (4 before the birth and 4 after)</li> <li>– allowance equal to 100% of salary</li> </ul>	– between 6 and 10 days	<ul style="list-style-type: none"> <li>– up to 9 years of the child, 32 weeks for each parent</li> <li>– a lump sum</li> </ul>

Source: ADAPT, data processing European Commission Memo/08/603; Guida Interpretativa Ces, accordo quadro sul congedo parentale (riveduto), 2011; OECD, Doing Better for Families, May 2011; Fornero's Reform, L. n. 92/2012; table by Valentina Sorci e Rosita Zucaro, December 2012

#### 4.2. The voucher baby-sitting and enhancement of other tools for flexible working hours

Other measures provided by the law under review is the introduction for new mothers, Art. 4, paragraph 24, letter b, the right to seek, within the limits of the resources provided and at the end of the period of maternity leave – for eleven months later and as an alternative to parental leave referred to in paragraph 1, letter a, Art. 32 of Legislative Decree 26 March 2001, No. 151 – vouchers for the purchase of baby-sitting services, and the ability to use the rates themselves for access to child care services provided by public and private accredited. The amount of the voucher, which will be modulated based on the parameters must be paid by INPS or by the employer.

The purpose of the rule, in this case, is not only to facilitate the reconciliation of work and family life, but also trying to avoid impacts and barriers to career employment when the mother is back. However, if the aim is also to ensure a better environment of work, which goes to make up for the lack or excessive cost of child care services, one could also consider a package of measures to ensure greater schedule flexibility, as well as mechanisms designed to encourage part-time and overall reductions in part-time volunteers for special needs related to the family. Some tools already implemented by the collective bargaining may be the recognition of laboring the possibility of applying the reversible transformation of



employment from full-time to part-time <sup>(10)</sup> for a certain period of time or monthly schedule of times work.

The institution of part-time, in fact, is a flexible instrument particularly useful for reconciling (the time of life and work), for example, to care for children or elderly people, and is particularly used by women because it allows preside “physically” to the workplace and to have, at the same time, an elasticity of behavior (and therefore time management family) successfully. In the face of national collective bargaining that the supplementary agreement of Council of Colussi <sup>(11)</sup> is one of the most widely used and appreciated by both the workers and the management, as it allows to improve the effectiveness and efficiency of business, reducing turnover, but also to meet the needs of workers to combine work with loads of care.

Another novelty that the reform could bring is load-balancing of care between parents, on the field of application and in particular the extension of the measure for fathers. In addition, each parent matures a right, individually and independently, the period of parental leave regardless of the employment status of the other. Pursuant to Art. 32, paragraph 4, of Decree-Law No. 151/2001, the possible use of leave is recognized even if the other parent does not have the right, so the working fathers have an independent right even if the mother is not working.

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<sup>(10)</sup> Kellogg in Italy have been introduced ad hoc tools and implemented initiatives to improve the flexibility of working with an acceptance rate of 100% of requests for part-time. In the Microsoft part-time work is considered at the request of each worker and recognized where it is not required by law. For further information read the research I-CSR, People First! The size of the balance between work and professional practice the new Italian, March 2011, 73-74.

<sup>(11)</sup> The supplementary agreement of Colussi, signed May 31, 2011, for example, provides for the company’s commitment to evaluate requests for processing time working full-time from part-time to the extent of 5% of staff (generally 3%) with particular regard to workers suffering from cancer, who need life-saving therapies with frequent intervals, to working parents until the end of the third year of a child’s life and workers with self-sufficient elderly unmarried. Also interesting is the case of Kraft Foods Italy which since 2000 has been a significant increase in the number of contracting part-time in the company, especially among women, to return from maternity leave. If in 2001 with Kraftava only two part-time in 2008, it records 20, mostly horizontal. The number shows an increasing trend and reflects the company’s choice to accept all requests forward-you. Among the part-time enabled, about 30% is held by employees in managerial roles. In Citini SpA of 40 women included in the organization 28.5% work on a part-time 4/5 hours per day and 30% with custom time, connected to the times of the nests, nursery school or the times working husbands, in order to facilitate the care of children or elderly. In some situations, it is also agreed the turn (for example, the case of a torque young married, employed in different departments, who have asked to work with the same time).

### **4.3. Financial security and implementation of the measures**

As far as the funding of an estimated expenditure of 78 million Euros for each of the years 2013-2015 is concerned, we will be with the partial use of the resources of the fund for the financing of interventions in favor of increasing employment of young persons and women (paragraph 27, Art. 24 of law No. 214/2011), the amount of which will be reduced.

The definition of the criteria and modalities of implementation of the two measures, however, is assigned to a ministerial decree to be taken within one month of the entry into the force of the law.

Section B  
RECONCILING PERSONAL LIFE AND WORK SCHEDULES  
FROM A PERSPECTIVE OF PRODUCTIVITY AND FLEXIBILITY

*Summary:* 1. Reconciliation of work and personal life within the framework of industrial relations, growth, and productivity: featured scenario. – 2. The “productivity issue”: economic aspects and role of collective bargaining for reconciliation policies. – 3. Working flexibility as instrument for the reconciliation and effectiveness of second-level bargaining. – 3.1. Internal and external labour flexibility. – 3.2. Advantages of flexible working time models and flexible business organization in company policies. – 3.2.1. The flexibility of working time and labour organization. – 3.2.2. Company policies and corporate social responsibility.

**1. Reconciliation of work and personal life within the framework of industrial relations, growth, and productivity: featured scenario**

The changes in organizational models and in production processes linked to the variations occurred on the labour market, and to the complexity of the financial markets, together with the business requirements and the family needs, force to reconsider reconciliation and enterprise services policies in an integrated and global way as to «improve the quality of life for all, in respect and in active solidarity between men and women» <sup>(1)</sup>.

The reconciliation of working time and personal life, in fact, is an issue that has been given increasing consideration not only by the Community institutions, but also by the national and regional ones, since besides being a priority on the European Social Agenda, it is also fundamental to boost Social Policy and is central to the cultural drive of local development. The importance to promote measures <sup>(2)</sup> aimed at bringing about work-life balance, and to encourage

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<sup>(1)</sup> Resolution of the Council of Ministers, June 29, 2000 published in GUCE on July 31, 2000, on employment and Social Policy, regarding the balanced participation of men and women at the professional and family life.

<sup>(2)</sup> See on the point Directive 93/104/CE of the Council, dated November 23, 1993, regarding certain aspects of working time organization, modified by directive 2000/34/CE, dated June 22, 2000, of the European Parliament and of the Council; National multi-industry agreement for the transposition of the European framework agreement on teleworking finalized July 16, 2002 among

reconciliation policies to improve demographic renewal <sup>(3)</sup> was acknowledged, at a European level, already at the beginning of the 1990s. The lack of policies apt to reconcile the professional and the private domain, in fact, if on the one hand has a negative impact on birth rates, on the other hand prevents the full active participation of women in the labour market, and consequently disrupts the competitiveness of a country, and thus its economic growth. The family commitments, as a matter of fact, are important factors influencing the women's decision to enter and stay in the labour market; it all becomes even more critical if we consider also other cultural factors. The data presented in the Annual Report 2012 issued by Social Watch Italia <sup>(4)</sup> still show the presence, in Italy, of cultural stereotypes in regard to the gender roles, and also an increase in female unemployment in the Centre and South of Italy, and the frequency to interrupt the employment relationship after a maternity leave, which relates to 30% of mothers, and 3% of fathers. Concepts that have been reiterated, in 2011, even by the European Council which considers the support to reconciliation measures to be a means to achieve the European Union main objectives, with particular regard to growth and employment, reduction of skills shortages, family well-being, social inclusion of vulnerable groups, and equality between men and women.

The balance between profession and family life has been also one of the priorities provided in the Roadmap for the equality between men and women elaborated by the European Commission for the years 2006 – 2010 <sup>(5)</sup>, where it was stated that an answer to the demographic decline was represented also by a better balance between profession and family life, to be achieved through less expensive and more flexible infant child care centers, and thanks to services in line with the needs of care of the elderly and of the disabled. Hence, the reconciliation measures -along with the assured access to quality care services- have a paramount impact on the participation of women in the labour market and on their procreative choices <sup>(6)</sup>. The reconciliation is, in this sense, multi-

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Unice/UEAPME, CEEP e CES; Directive 97/81/CE of the Council of December 15, 1997 regarding the framework agreement on part-time work finalized by UNICE, by CEEP, and by CES - Framework agreement on part-time work.

<sup>(3)</sup> The European Commission in the Communication, *Il futuro demografico dell'Europa, trasformare una sfida in un'opportunità*, COM(2006) 571, Bruxelles, 2006 underlines the importance of the European strategy to change the demographic challenge into an opportunity; among the intervention areas it singles out the measures apt to create favourable conditions for the increase of fertility rates.

<sup>(4)</sup> See Report in *Bollettino ADAPT*, no. 33/2012.

<sup>(5)</sup> Communication of the European Commission, March 1st, 2006.

<sup>(6)</sup> On this point, read *Quaderni FOP, Conciliazione vita-lavoro. Politiche, servizi e strumenti, numero 3-4, maggio-agosto 2011; 26*. For a European overview see J. Plantenga J., & C. Remery, *EU Expert group on Gender, Social Inclusion and Employment (EGGSIE), Reconciliation of Work and Private Life: a comparative review of thirty countries*, September 2005 and also The Commission's Network of legal experts in the fields of employment, social

dimensional, since it comprehends multiple legal institutions and non, all sharing, from a teleological perspective, the capability to allow male and female workers the exercise of their constitutionally protected rights, as the right to found a family, the right to work, and the right to develop their personality. On the other hand, if reconciliation measures are the answer of the legal system to the fundamental rights of male and female workers, it is equally true that one of the terms of the reconciliation– working time – relates to a mandatory legal relationship, from which the employer as well derives legitimate claims constitutionally guaranteed.

Thus, the issue is complicated and cannot be cut off from the much broader context related to the interaction among the labour market dynamics, productivity and industrial relations, without neglecting the fundamental role of collective bargaining. The relation among these aspects has in the last years modified the trade-off between employment growth and productivity dynamics, reshaping even further the role and the function of industrial relations. The latter, which answer the main challenges Europe has to face, including globalization, the widening of European Union, and the transition process toward a knowledge-based economy <sup>(7)</sup>, have – in comparison to the approach of the European Employment Strategy – undergone an evolution on the challenges arisen after the changes occurred in the well-established model of economic return and social development. In particular, today industrial relations have to deal with a competitive and “post-industrial” economy, widely dominated by the financial market and the internationalization, where the information technologies are transforming the organizational and productive methods. In this context, the industrial relations stakeholders, yet also the national governments and the community, are driving forces in the prospect of modernization through the social dialogue.

The recent legislative interventions, at a national, but also at a Community and international level, have run in this direction, and – as starting-point for the implementation of reconciliatory measures – have indicated the need of a synergic action among the social and institutional players and the social and contractual policies, in a system oriented toward the objective of sustainable growth, with more jobs of a better quality, from a perspective of social cohesion and labour

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affairs and equality between men and women, *Report on Pregnancy, Maternity, Parental and Paternity Rights*, March 2007.

<sup>(7)</sup> The transition toward a knowledge-driven economy, the modernization of the welfare state and the increased competitiveness derived from globalization and liberalization are all challenges to the traditional roles played by employer organizations and trade unions in the economy management. On this point and for further considerations on the importance of the strategies based on human capital see R.D. Putnam, *Bowling Alone: the Collapse and Revival of American Community*, Simon and Schuster, New York, 2000 (the document is available at [www.bollettinoadapt.it](http://www.bollettinoadapt.it), Index A-Z, on item *Capitale sociale*).

productivity <sup>(8)</sup>. In this context, the theme of productivity (which, considered from a strictly economic point of view, is an indicator of the capacity of a country and of a productive system to improve, to innovate, to support organizational change, and to increase the quality of personnel, products, and services) together with workers' wellbeing, has multiple meanings, since it cannot be evaluated only in mere economic terms, but it also implies a full range of social and legal consequences, and is a current problem both of the Italian and of the European economic systems. From a gender perspective, in fact, the organizational wellbeing is tied up to the concept of work-life reconciliation. The *work-life balance* is, therefore, an instrument to achieve general prosperity, which manages to harmonically combine competitiveness and productivity <sup>(9)</sup>, and is at the same time attractive for enterprises since it becomes a competitiveness and productivity leverage in a global market, and it promotes new dynamics and new personnel management techniques aimed at the implementation of an organizational culture centered on those values.

Only by solving the “productivity issue” will Italy be able to share again the living standard of the major European countries, to bring down the government debt to an acceptable level, to accomplish the *Welfare* plan, and initiate a new welfare and social security phase. In that sense, the European Commission White Paper <sup>(10)</sup> on health emphasizes the strong link between health and economic prosperity, underlining the central importance of citizens welfare in all policies provided by the Lisbon Strategy for Growth and Jobs.

Several international studies <sup>(11)</sup> have also pointed out that the development of a human resource valorization system within the enterprise, in a context of highly participated evolution of industrial relations, implies positive consequences

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<sup>(8)</sup> In this regard, see Commissione Europea, “È ora di cambiare marcia”, the 2006 annual progress report of the Commission on growth and employment published January 25, 2006 and available at [http://ec.europa.eu/index\\_it.htm](http://ec.europa.eu/index_it.htm); see in particular page 6 and compare also to the *Relazione Congiunta sull'Occupazione del Consiglio e della Commissione 2005/2006*, 6 e 12-13.

<sup>(9)</sup> In this respect, see D. Pink, *Free Agent Nation: the future of working yourself*, Warner Books, New York, 2001.

<sup>(10)</sup> Commissione delle Comunità Europee, *Libro Bianco - Un impegno comune per la salute: Approccio strategico dell'UE per il periodo 2008-2013*, COM(2007) 630 final, in Index A-Z, on item Health and Safety at Work.

<sup>(11)</sup> Some authors consider the concept of “system of industrial relations” as a heuristic instrument “expedient” to understand the status of industrial relations in a given context, without looking for meanings that go beyond the mere statement of facts, factors and tendencies involved (in this sense, see G. S. Bain e H. A. Clegg, *Strategy for Industrial Relations Research in Great Britain*, in *British Journal of Industrial Relations*, 12, n. 1, 1974). Other authors, as J.T. Dunlop, *Industrial Relations Systems*, New York, Henry Holt and Company, 1958, consider the concept of system of industrial relations as having implications that are even ideological and aim to underline the necessary and “natural” links between workers and employers, with assumptions and consequences that have but little impact on the history of labour relations and on the experience of trade unions.

both on business productivity and on employee satisfaction, and reduces also the absenteeism rate among workers.

## **2. The “productivity issue”: economic aspects and role of collective bargaining for reconciliation policies**

The analysis of the causes that led to the productivity paralysis of Italian economy, which can be explained as an economic phenomenon on the basis of the dynamics observation of the variables discussed in the Sylos Labini’s model <sup>(12)</sup>, is still an open issue with political and social implications, which concerns also the legal aspect. The problem of productivity is even more debated in the present-day situation, as shown on the 2011-2012 Labour Market Data Report issued by Cnel <sup>(13)</sup>, which points out the fact that the Italian productive system has entered a new recession phase, and that, without a turning point, deflationary pressures on wages and internal incomes could prevail, propped up by restrictive fiscal policies.

The challenge, and at the same time the solution, is to be found in the fertile ground of the strengthening of decentralized collective bargaining, which could become a ultimate instrument, not only in the logic of effective salaries, but also in consideration of the organizational benefit linked to the changes of the organizational models and to the flexibility-oriented systems .

In this context, collective bargaining is important, at the enterprise level, for many aspects. On the one hand, in fact, it lends special significance to the prevention of the risk of discrimination by means of specific measures, codes of conduct, guidelines and best practices. Article 5 of legislative Decree 25 January 2010 no. 5, enacting Directive CE 2006/54 CE – referring to the principle of equal

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<sup>(12)</sup> The Sylos Labini model is based essentially on two fundamental economic forces. The first one is the one derived by the “Smith effect”, that is the capacity of the market dimension to economically sustain the division and specialization of labour: two procedures, which can still today be considered a fundamental innovation method, both for processes and products. The second driving force for productivity increase according to the Sylos Labini model is the one derived by the “Ricardo effect”. This is based on the role of the increase of labour relative price as “push factor” for the introduction by enterprises of new machinery, new technologies, and new forms of organization. For Ricardo, productivity increases as a result of a direct saving on labour coefficient, in turn determined by an increase in the relative cost of labour , in other words by the increase of salaries in comparison with the machinery cost. On this point, it can be affirmed that Ricardo provides an important in-depth analysis of Smith’s study on the link between salaries and economic prosperity: the real salaries need to increase, not only because they are the main form of support to the family expenditure, but also because they are the fundamental element to engage enterprises on the ground of technological and organizational innovation. For further analysis, see P. Sylos Labini, *Le forze dello sviluppo e del declino*, Laterza, Roma-Bari, 1984 e P. Sylos Labini, *Torniamo ai classici*, Laterza, Roma-Bari, 2004.

<sup>(13)</sup> The Report is available in *Bollettino Adapt no. 33/2012*.

opportunities and equal treatment of men and women in matters of employment and occupation- in regulating prevention, sanction and compensation for discrimination and harassment, in all aspects related to the access to employment, leaves precisely to collective bargaining the possibility to «enact specific measures, including codes of conduct, guidelines and best practices, to prevent all forms of sex discrimination and, in particular, harassment and sexual harassment at work and in working conditions, as well as in training and professional growth».

On the other hand, the collective self-reliance has a key role even for the management of work-life reconciliation policies, which inherently require a reconciliation of conflicting needs. Collective bargaining may pursue objectives of: personal well-being and productive efficiency, since it stems from the logic of researching a “win-win solution”, and the “respect of equal opportunities”; increase in women employment rate and workforce participation; access and improvement of women career paths; research and introduction of organizational flexibility forms to promote reconciliation between life and work; prevention for the risks of discrimination; improvement of workplace climate and of quality in work.. Investing in second-level bargaining is also a way to connect directly to the productive requirements of enterprises, and further a vision where consultations replace the classical forms of social tensions.

Activating agreements and enterprise measures aimed to work-life reconciliation allows to increase productivity, through an improved business reputation, which enables the enterprise to attract and retain talents, to develop values, and to create a sense of belonging among male and female employees, thus reducing manpower turnover, and bringing down the absenteeism rates.

The second-level bargaining is, therefore, a suitable dimension, since it operates in a shared and acknowledged workability and operability context. On the contrary, reconciliation policies established through a national contract are abstract provisions, with all the relevant limitations in applicability.

Nonetheless, one of the problems of our system of industrial relations is the presence of many national collective agreements- more than six hundred- and the scarce diffusion of second-level collective bargaining <sup>(14)</sup> which, instead, could reconcile wages and productivity starting from the specific characteristics of the enterprises as well as from the needs of the employees, even and foremost, at a

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<sup>(14)</sup> The challenges in promoting the decentralized collective bargaining in an even way on all the national territory and within all the main business sectors were anyway already acknowledged during the Protocol verification started in 1997 with the institution of *Commissione Giugni* which, in its final report, states that «Decentralized collective bargaining (at a business or territorial level) supposed to increase the variability of remuneration, allowing for a greater system flexibility, has been quantitatively and qualitatively insufficient and unsatisfactory [...]». See Commission for Protocol verification of 23 July 1993.



territorial and local level. Decentralized bargaining, in fact, has the recognized advantage to intervene on specific situations, allowing it to have consequences on labour organization in the most suitable and efficient way, since it bears strong relation to reality; through decentralized bargaining, it is possible to allow also for greater operability of practices and funding aimed to sustain the enterprises which further, after prior agreement of the parties, substantial measures to enhance work-life balance.

The low diffusion of second-level bargaining is confirmed by the recent Eurofound Report, “Sectorial Negotiation and Derogation Conditions at business level: Italy” <sup>(15)</sup>, which highlights the lack, in Italy, of systematic data covering this level. Still, projections are available to show a percentage, rather high and above the average of EU-25, of national-sectorial bargaining coverage, estimated around 80% of employees. Nevertheless, the bargaining coverage at the enterprise level is low, and can be estimated around: 0%-45% of industry workers; 35%-40% of service sector workers; 0%-25% of enterprises.

The percentage is higher within the enterprises of larger size, and diminishes along with the reduction in size of the companies; in light of these considerations, second-level bargaining is almost completely missing from small enterprises. Under current projections made accordingly to the more recent data of the report issued by *Banca d'Italia* <sup>(16)</sup>, 54,4% of workers within industrial enterprises having more than 20 employees [see chart no.1 following, in this chapter] are covered by a contract at enterprise level, although there are no similar estimates for employees in service sector enterprises.

Chart 1 – Coverage of collective bargaining at enterprise level within the industry (enterprises with more than 20 employees)

Dimensioni dell'azienda (n. dipendenti)	1990–1999		2000–2008	
	% di aziende che hanno firmato almeno un contratto di secondo livello	Lavoratori (%)	% di aziende che hanno firmato almeno un contratto di secondo livello	Lavoratori (%)
20–49	34,1	35,6	21,1	21,7
50–199	62,3	64,5	46,6	50,8
200–499	82,6	83,2	72,7	73,6
Oltre 500	84,7	89,2	84,3	84,2
<b>Totale</b>	<b>43,3</b>	<b>64,1</b>	<b>30,6</b>	<b>54,4</b>

Source: *Banca d'Italia, Indagine sulle imprese industriali e dei servizi, Supplement to Statistical Bulletin, a. XIX, N. 38, 28 June 2009.*

<sup>(15)</sup> Eurofound, *Report on Sectorial Negotiation and Derogation Conditions at business level: Italy*, 2011.

<sup>(16)</sup> *Banca d'Italia, Indagine sulle imprese industriali e dei servizi, Supplemento al Bollettino Statistico, a. XIX, N. 38, 28 Giugno 2009.*

These data are to be read together with the figures elaborated by Isae which, always in 2009, has conducted an ad hoc study on the diffusion and on the main characteristics of second-level collective bargaining. The study, which has provided an up-to-date and detailed overview on the actual implementation of complementary agreements within the Italian enterprises of the industrial and service sectors, divided by size, geographic location, and specific branch of economic activity <sup>(17)</sup> has confirmed the poor development of decentralized bargaining: at the end of 2008, the enterprises with complementary agreements were little more than a quarter of the interviewed (26,6%), with a consistent difference between the industrial (28,8%) and the service (19,2%) sectors. The data gathered with regard to 3.676 enterprises were referred in particular to four main variables: the existence of a collective agreement at the enterprise or territorial level, the topics of consultation, the link between the bargained payments and the parameters within the enterprise, the relevance of the portion of remuneration bargained at decentralized level compared with the total salary amount received by the worker.

The study confirmed, also, how one of the main obstacles to the development of decentralized bargaining was the average small size of Italian enterprises <sup>(18)</sup>. Based on these assumptions, and in light of the great variety of the small and medium-sized enterprises, but also of the micro-enterprises (1-3 employees) -not only in terms of size, but also in terms of productive sectors and organizational complexity- which are a quantitatively significant number and one of the driving forces of the country, it is important to provide a systemic argumentation on the relevance of flexibility measures that could be implemented by decentralized bargaining with regard to policies and management practices.

### **3. Working flexibility as instrument for the reconciliation and effectiveness of second-level bargaining**

Flexibility, then, is a priority not only of the individual, but has increasingly become a social dimension of the community, acquiring a collective value associated to contractual and business provisions.

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<sup>(17)</sup> For further consideration on the study Isae read A. Guelfi, *La contrattazione integrativa nei dati dell'inchiesta Isae*, in *Quaderni Arel*, febbraio 2009.

<sup>(18)</sup> On this point, several national and international studies identify in the slow growth of salaries a fundamental reason. See C. Dell'Aringa, S. Negrelli, (a cura di), *Le relazioni industriali dopo il 1993*, Franco Angeli, Milano, 2005.

Flexibility and reconciliation are interconnected and intertwined elements, having in common the characteristic of streamlining the labour organization to answer the rapid changes in society, and – in particular – within the labour market; specifically, flexibility is one of the main reconciliation instruments. Overall, we have here a one-to-one relation since, if on the one hand flexibility is one of the main instruments of reconciliation intended as an aggregate of flexible solutions for life-work management, on the other hand it is indeed the reconciliation that allows to harmonize the needs and the flexibility requirement of enterprises in a general context of new organizational management.

In the long term, enterprises that will better manage the evolution of the relationship with workers will gain a greater competitive advantage compared to others. In fact, in order to contain the negative effects arisen from the competition of developing countries, the Italian market needs to focus on productivity, and this involves flexibility [see figure no.1, following, in this chapter] and its role of competitiveness tool. Together with collective bargaining, the binding element and one of the leverages that the enterprise can pull to activate adequate reconciliation policies and create development, employment, social equity, and Welfare integrated systems <sup>(19)</sup>, the issue of work-life balance becomes therefore a really important matter.

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<sup>(19)</sup> On the role of collective bargaining for reconciliation between life and work, see: I. Senatori, *Il ruolo della contrattazione collettiva nella promozione del welfare aziendale*, Quaderni Fondazione Marco Biagi, Saggi n.2/2012, S. Costantini, *Contrattazione collettiva nazionale e conciliazione fra lavoro e vita familiare: un rapporto difficile*, in *Lavoro e diritto*, n. 1 winter 2009, 121-142. See also the monthly insert in *Tempi*, *Conciliazione la strada per la ripresa*, in *Capitale Umano*, 2012, n. 1.

Figure 1 – Flexibility/productivity ratio for work-life balance



Source: ADAPT data-processing, October 2012

The *Avviso comune* “Azioni a sostegno delle politiche di conciliazione tra famiglia e lavoro” of 7 march 2011 <sup>(20)</sup>, signed by the Government and all social partners, fits into this line of intervention. The purpose is to promote, through an integrated vision, social and contractual policies to support reconciliation and implement innovative solutions from a legal and organizational point of view, as to positively affect organization. The synergy of social and contractual policies is particularly interesting due to the widespread recognition of the importance of coordination among the interventions of the public sector (public services, infrastructure, fiscal- and pension-incentive measures, etc.) and those delegated to collective bargaining (flexible working time and hours, good practices for workplace flexibility, etc.). The *Avviso comune* is the start of a technical path designed to introduce, at all bargaining levels, forms of family-friendly flexibilities and of life-work reconciliation, including modulated working hours, part-time, telecommuting, revised parental leaves, and a careful work permit management. Social partners entrust though an additional task to collective bargaining, which could become useful at this regard: the responsibility to generalize, in a *benchmarking* perspective, good practices adopted by means of “bargained” individual agreements.

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<sup>(20)</sup> In this regard, see R. Caragnano, *Nuove linee guida e buone prassi per la conciliazione vita-lavoro*, Bollettino speciale, n. 11/2011.

All of this without forgetting that work-life balance – through the leverages made available by decentralized bargaining – along with workplace flexibility, concur to reduce the productivity loss. There is more. A system of company industrial relations oriented toward organizational flexibility is an integrated system where collective bargaining and well-being measures interact effectively. The scope is an increasingly integrated vision of contractual, social and territorial policies apt to influence the organization positively. Next to collective bargaining and to the role of social partners, the company well-being models, in fact, if implemented harmonically, could entail an egalitarian redistribution, thus incentivizing the productivity within the globalization process. And not only. A system structured this way promotes, in the long term, efficiency and an improved functioning of the economic system. Flexibility, skills, collective bargaining (decentralized and at the enterprise level), personal life and family services are therefore the fundamental drivers in defining the work-life balance and the integrated well-being strategies.

The aspects to be taken into consideration are, in fact, both the requirements of the enterprise and those of the workers in a context characterized by cultural, social and demographic changes. This includes—for instance- the increasing women’s participation in labour market, which demands a different organization (of labour) as to improve the quality of work and the female or male worker’s well-being, thus recognizing the gender differences (for example, the possibility to convert the employment relationship from full- to part-time when necessary to meet the family needs and/or vice versa) <sup>(21)</sup>. The enterprises, for their part, need to become capable to question themselves, even experimenting new labour organizations and innovative instruments devoted to flexibility and *work-life balance*.

This leads to a strong relation between the organizational change and the time dimension linked to the variations in the labour organizational forms; the social perception of time has changed from a “general” measure typical of the fordist model <sup>(22)</sup>, where a qualitatively and quantitatively standard performance corresponded to a given time, to a system where the time dimension has been broken down making space for new organizational models with a variety of working hours schemes.

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<sup>(21)</sup> F. Bergamante, *La modulazione dei tempi di lavoro, Uno strumento di conciliazione*, Osservatorio Isfol, n. 2/2011, 87-88.

<sup>(22)</sup> In this regard, see F. Garibaldi, F. Sbordone, V. Telljohann V., *Forme della divisione del lavoro e i processi di cambiamento del lavoro*, in *Primo Rapporto Annuale dell’Istituto per il Lavoro*, Collana IpL, Milano, Franco Angeli, 2000.

### 3.1. Internal and external labour flexibility

Flexibility and reconciliation within the enterprise, therefore, are to be considered not only as instruments apt to improve the quality of life of male and female workers, but also as means that allow the enterprise to promote an internal reorganizational process, resulting in successful effects in the medium-long term.

Adopting a more flexible approach on employment means being able to adapt the work relationship to the specific production requirements, without jeopardizing employment. The labour market flexibility allows for a twofold purpose: on the one hand it influences the nature of work relationships, through the introduction of contracts of limited duration as to consent a quick variation in the number of workers; on the other hand it promotes flexible working hours, as to manage the quantity of work performed, in terms of hours worked and paid for each worker.

An interesting and at the same time crucial aspect of a productive system is represented by the internal and external labour flexibility ratio.

*Internal flexibility* identifies all forms of flexibility performed by the employer on the worker within the enterprise, but that do not imply a variation in the structure of the employment relationship; *external flexibility*, on the contrary, refers to the interaction between the enterprise and the external labour market (*outsourcing*) and, therefore, to all forms of externalization used by the employers to delegate the management of certain phases of their productive processes to other companies.

The European Commission in its common Report on Employment (the *Joint Employment Report*) deals with the topic of appropriate level of flexibility both for workers and employers. The Commission approach is to envision *flexicurity* in terms of increased mobility in the labour market and in its time organization. At this regard, it seems opportune to refer to the distinction envisaged by J. Atkinson e N. Meager <sup>(23)</sup>, who distinguish between numerical external flexibility (contractual), numerical internal flexibility (working hours), functional flexibility (organizational) and financial flexibility (wages) [*at this regard, see chart no. 2, following, in this chapter*]. In this perspective, flexibility intended in spatial sense is to be added to the traditional concept, that is flexibility related to working time, to contract types, to variable remuneration. The adoption of reconciliation measures as a factor of numerical flexibility allows the employer, even during economic recession, to maintain his profit margin by an automatic reduction of labour costs without reducing the workforce and, altogether, contributes to decrease unemployment.

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<sup>(23)</sup> J. Atkinson, N. Meager, *Changing working patterns: how companies achieves flexibility to meet new needs*, NEDO, London, 1986.

Chart 2 – On types of workplace flexibilities

Flexibility- Category	Internal	External
<b>Numerical</b>	Working time (time perspective) -part time/ leave of absence/ flexible hours  -Overtime/ shift-work/working hours computed on an annual basis	Contractual (employment) -Temporary/fixed-term/employment agencies -Reduction of obligations to hire/dismissal regulation
<b>Functional</b> (labour organization)	-Rotation of duties/team work/rotation of functions -Vocational training/change options	-Externalization - Restructuring
<b>Spatial</b> (work location)	- Telecommuting/homeworking. -External workers/internal transfer within the enterprise	-Transfer - Internationalisation
<b>Financial</b> (wages)	-Variable remuneration (individual/linked to a group). -Profit sharing/option right schemes	-Downsizing -Financial restructuring

Source: Report PEPPER IV, *Benchmarking of Employee Participation in Profits and Enterprise Results in the Member and Candidate Countries of the European Union, 2009*

Therefore, the activation and implementation of instruments as part-time work, telecommuting, job sharing, intermittent work, half-time, flexible or modulated hours work contract types, entry and exit hours flexibility, time savings account are all priority actions for enterprises that are increasingly interested in organizational well-being as positive factor between the organization and its resources. In particular, the initiatives concerning the issue of work-life balance can be divided in four macro- areas:

1) time: instruments which allow a flexible organization of time (part- time, rolling working time, job sharing);

2) space: instruments which promote a different organization of working spaces, allowing the organizations to overcome the physical borders in favour of greater freedom (telecommuting)

3) family services: instruments which support the worker in performing the family roles and responsibilities (services and/or leaves that the enterprise and the laws make available to workers to allow the fulfillment of family obligations);

4) services to the workers: initiatives that the organizations implement to support their workers in problems related to mobility (from and to working location) and the psycho-physical well-being (for instance, support and consulting services offered to the employees for the solution of personal problems of economic, psychological and family nature).

### **3.2. Advantages of flexible working time models and flexible business organization in company policies**

As previously highlighted, the need to adapt the labour organization as to create comfort conditions and contribute to the productivity increase, reinforces the relation between working flexibility and labour market.

The working time flexibility is one of several forms of flexibility, and basically meets two objectives: on the one hand the organization of production and of supply of goods and services allows for a quick adaptation of labour input to the business requirements; from the worker's perspective, it becomes a tool of fundamental importance for its effects on the variation of time distribution between work and leisure. Not only this. For the enterprises, working time flexibility answers the need to influence the production variables, as seasonality, economic circumstances, peak demands, whereas for the worker, the possibility to manage with flexibility his/her working hours may become a factor that improves the distribution of family and work times resources.

At this regard, the European Commission has acknowledged, in several studies (the most recent being the *Organisation of working time: Implications for productivity and working conditions – Overview Report* del 2012) <sup>(24)</sup>, that both – workers and employers – benefit from a flexible labour organization, and that there is an objective triangular relation among working time flexibility, improvement in work-life balance, and motivation and psycho-social conditions strengthening.

Therefore, following the evolution of the production organization on one side, and the increasing attention devoted to the balance between work and personal life on the other, the use of modulated working time has become more and more common, and has been implemented also through *governance measures*.

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<sup>(24)</sup> Eurofound, *Organisation of working time: Implications for productivity and working conditions – Overview Report*, 2011.



### 3.2.1. The flexibility of working time and labour organization

One of the legal tools that allows working time flexibility in order to promote work-life balance is part-time work, regulated by the legislative Decree no. 61 of 28/01/2000 enacting the European Directive no. 97/81/CE.

Part-time work has three different structures: **horizontal**, with working time corresponding to a portion of the standard working week, **vertical**, with full time work for a limited period of the week, month or year; **mixed**, as mix between the first two configurations.

On the basis of ISFOL Report on Istat-Rcfl 2000 and Rcfl 2009 data, between 2000 and 2009 Italy has witnessed an increase in the percentage of workers with a part-time contract as a consequence, undoubtedly, of work-life balance needs. The results of the survey show, also, a trend openness of enterprises to meet the needs of their employees with the awareness that workers' productivity may increase if the worker's requirements are met by the company <sup>(25)</sup>.

Part-time work, in fact, is a flexibility instrument particularly effective for the reconciliation of work and personal life (for example, to take care of children or elderly people), and is particularly used by women since it allows to "physically" occupy the workstation and to enjoy, at the same time, a satisfactory flexibility (and therefore a management of family commitments). Together with national collective bargaining, even decentralized collective bargaining <sup>(26)</sup> acknowledges

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<sup>(25)</sup> For a detailed analysis on the part-time incidence rate among men and women in the banking and insurance industry in Lombardy, see I Quaderni Fiba Cisl Lombardia, *Un futuro al femminile per la contrattazione aziendale. Il rapporto biennale per uno sguardo di genere sulle realtà aziendali*, n. 1/2012; on the topic of workers' and employers' advantages and disadvantages ensuing from part-time employment, cfr: Eurobalance, *Conciliazione Vita Lavoro: una guida per approfondire*, august 2011, 14-18.

<sup>(26)</sup> The Colussi complementary agreement, signed on 31 May 2011, for example, provides for the enterprise commitment to evaluate the demands of temporary transformation of working time from full- to part-time, and this in the percentage of a 5% of the total staff (generally, 3%), with particular regard to workers affected by oncological diseases, who require life-saving treatment with frequent periodicity, to parents until the third year of life of their child and to workers living with a dependent elderly person. The case of Kraft Foods Italia is also interesting: since 2000 Kraft Foods Italia has recorded a significant increase in the number of part-time contracts, especially among women, after maternity leave. If in 2001 Kraft recorded only two part-time contracts, in 2008 they had become 20, with a prevalence of the horizontal type. The number shows an increasing trend and reflects the choice of the company to meet all demands on this subject. Among the part-time contracts, about 30% are employees performing managerial roles. In Cittadini S.p.A. 40 women are present in the company organization, and a percentage of 28,5% work with part-time contracts of 4/5 daily hours, and 30% with customized hours, linked to the hours of operation of daycare, nursery schools or to the working time of their husbands, as to improve child-care or the assistance to an elderly family member. In certain situations, shiftwork also can be agreed. (for example, in the case of a young couple, working in different units, who have requested the same working time). For further detail, see also R. Caragnano, *Le misure di sostegno della genitorialità: congedo obbligatorio di paternità e voucher*, M. Magnani, M. Tiraboschi (a cura di), *La nuova riforma del lavoro*, Giuffrè, Milano, 2012.

part-time as one of the most used and welcomed instrument both by female workers and *management*, since it not only allows to improve business efficiency and effectiveness, reducing the *turnover*, but help also to meet the workers' needs to reconcile work and family commitments.

In addition to part-time, the enterprises – according to their sector and on the basis of their productive and organizational needs – may apply other instruments aimed at granting working time flexibility from a perspective of *work life balance*.

One of these is **rolling working time** which allows the worker to vary the entrance and /or exit time and the break start or end time, guaranteeing the coverage of the number of hours provided for by the contract. It is an instrument widely used for jobs that do not require direct contact with the public and that, therefore, do not impose fixed opening and closing time; the **condensed week** as a variation that consists in condensing the total weekly hours in less than the usual 5 working days, lengthening the total daily working time; the **annual working hours scheme**: it provides for a total of working hours that the worker has to cover through the year without a strict time distribution. From this instrument, the worker derives many advantages, first of all the possibility to optimize his/her working time, and to alternate periods of intense work to others with more freedom; **the time-savings account**, a contractual option that allows the worker to “deposit” on a virtual account the extra hours worked (overtime) and then, throughout the year, to use them to enjoy compensatory leaves in line with the provisions of collective bargaining. The peculiarity of this instrument is the non monetisation of overtime. In particular, these hours go toward a number of special hours (hours credit) to be used if in need of additional leaves or rest days <sup>(27)</sup>. **Job sharing** is instead a special employment relationship where two workers commit to perform together, but at different times, the same job. The characteristic of solidarity allows the workers to manage autonomously and discretionally the distribution of working time and to freely make changes to their schedule. The salary is calculated according to the hours worked by each worker.

Another instrument is **telecommuting**, which allows for a variation of the time-space performance of work and provides for the possibility to work off-site, having available, at the work location chosen by the worker, all equipment necessary to perform his/her activity. Telecommuting is, in fact, defined, in the Framework-Agreement of 2002, as a «form of organization and/or performance of a job which makes use of information technologies with regard to a contract or to an employment relationship, where the working activity, which could also be

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<sup>(27)</sup> For further analysis on integrative collective bargaining practice, with regard to the topic of reconciliation of family and work life, see charts in R. Caragnano, *Le prassi della contrattazione collettiva integrativa in materia di conciliazione vita lavoro*, in R. Caragnano (a cura di), *Nuove linee guida e buone prassi per la conciliazione vita-lavoro*, Bollettino Speciale Adapt, 8 Marzo 2011, n. 11.

carried out on the enterprise premises, is regularly performed outside the company». The classification forms of telecommuting differ on the basis of time and space. From a time perspective, we could distinguish among full-time telecommuting workers, part-time telecommuting workers, telecommuting workers with fixed or flexible working time. From a space perspective, instead, we can distinguish four different working schemes: 1) home-based telecommuting; 2) satellite centers, or satellite offices created away from the head-quarters and near the residence of the majority of workers, with the scope to reduce the costs and the time of the commute; 3) neighborhood tele-centers; 4) mobile telecommuting, suitable to certain type of workers who do not have a fixed working location <sup>(28)</sup>.

An additional instrument available for some companies in Italy (for example the Auchan Group) is the use of “working islands” which allows to reconcile the individual needs and the management of “non-working” time with the requirements of the enterprise. The model, in practical terms, provides for the division of workers in groups (called “islands”) according to a complementarity logic and through a preventive analysis of the individual and family needs (age, household unit, distance from work location, social factors, rigidity/flexibility factors). In compliance with the so-called previsual workload projection of the enterprise, the personnel commits, within the island, to an individual working time (in terms of duration, hours, and sections of time) with a credit/debit system that needs to be brought down to zero in a year period. The advantages for the enterprise are the personnel adjustment to the customers flow and the improvement of the atmosphere with consequent reduction of absenteeism; the advantage for the worker is a better management of his/her time.

The majority of studies conducted by Istat through *ad hoc* experimental sample surveys <sup>(29)</sup> shows that the flexibility requirements are deeply intertwined with the production organizational types and differ on the basis of the sector, size, and standard (or average) working time of the enterprise; the peculiarities of each enterprise, in fact, become evident in the diverse impact of various flexibility forms of working time. Overall, the national statistic system records a higher

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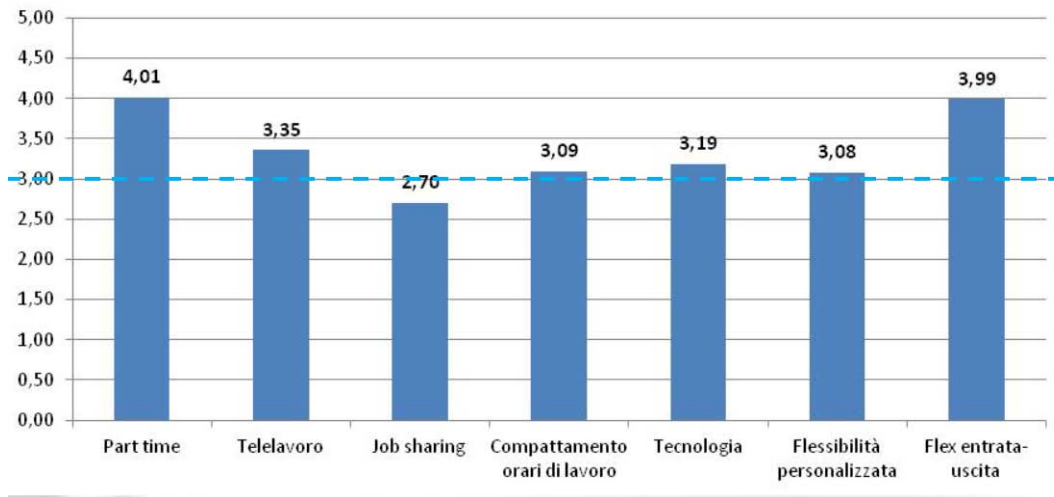
<sup>(28)</sup> For further analysis see Report Fondazione I-CSR, *People First, Le dimensioni del bilanciamento tra vita personale e professionale: le nuove prassi italiane*, Marzo 2011, 57; Eurobalance, *Conciliazione Vita Lavoro: una guida per approfondire*, op. cit., 24-25, showing advantages and disadvantages of telecommuting both for worker and employer; see, also, Eni S.p.a agreement minutes of May 14, 2012. The agreement states that teleworking, seen as a means to foster productivity, will be used also in new organizational processes to improve work-life balance. Enel also has adopted telecommuting policies; in this regard, see C. Cofacci, *Accordo sul telelavoro in Enel*, in *AdaptBulletin LIBRA*, (edited by) R. Caragnano, L. Ricciardi, F. Pace, Issue No. 6/2012.

<sup>(29)</sup> ISTAT, *L'organizzazione dei tempi di lavoro: la diffusione degli orari “atipici”*, publication no. 28- 2004.

contractual flexibility in the Northern-Central regions. In the South, instead, there is a higher percentage of working relationship performed with a number of working hours agreed with the employer but without time obligations.

The adopted contract types are different and range from *flexi-time*, which allows for economies of scale in enterprises with seasonal production peaks- to the telecommuting forms or *homeworking*, which contribute to reconcile family and work commitments, promoting, also, an optimization of enterprise spaces - till the time savings account which allows for an “hours deposit” to draw on according to the individual needs [see chart no.1, following, in this chapter]

Chart 1 – Flexibility policies. Focus on Italian enterprises



Source: Diversity Management Observatory- SDA Bocconi, 2011

In a modern globalized world, the increased working flexibility is therefore a factor allowing for a competitive advantage, that will attract and retain skilled workers and improve individual and company productivity, in view of the achievement of organizational well-being. This identifies, not only the quality of work environment, but also the capacity of an organization to be effective and productive, maintaining an adequate level of physical, psychological, and social well-being of the workers.

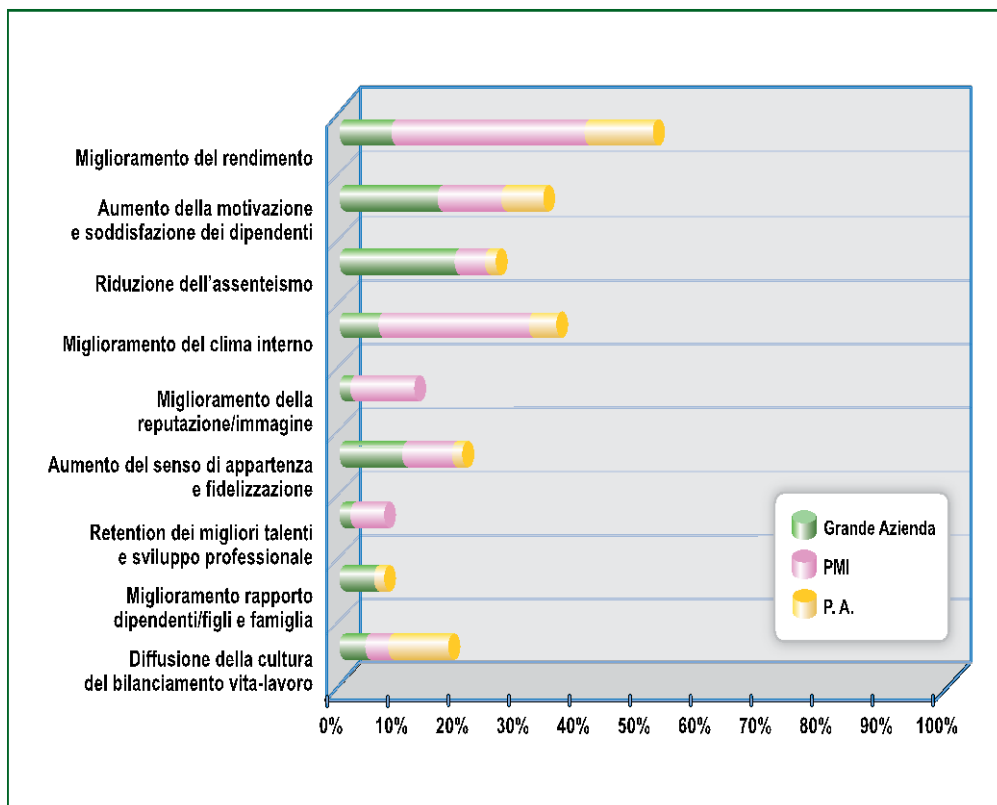
### 3.2.2. Company policies and corporate social responsibility

Developing company policies which focus on the workers’ needs and on their level of satisfaction results in economic and social advantages since work-family

reconciliation is not an obligation for the enterprises, but is linked to organizational planning. Work processes respectful of family requirements, on the one hand expand the organizational structures of the enterprise and, on the other hand, motivate and instill responsibility in the employees.

In the above-mentioned Report of Fondazione I-CSR <sup>(30)</sup> the organizational advantages are highlighted with greater detail, together with the positive economic effects of organization, deriving from an equitable management of work and life balance. This is even more significant within SME. Among the enterprises that have been object of the survey conducted by Fondazione I-CSR, in fact, the research has recorded an increase in satisfaction and motivation of workers (37%), a reduction in absenteeism (29%), and an enhanced sense of belonging and attachment of workers toward the organization (24%) [see chart 2, following, in this chapter].

Chart 2 – Benefits of work-life balance



Source: Data processing of Fondazione I-CSR, *People First, Le dimensioni del bilanciamento tra vita personale e professionale: le nuove prassi italiane*, Marzo 2011

<sup>(30)</sup> See Rapporto Fondazione I-CSR, *People First, Le dimensioni del bilanciamento tra vita personale e professionale: le nuove prassi italiane*, op. cit., 59-63.

The mentioned research shows how the positive effects impact not only the enterprise, but the external society as well, since they can contribute to improve the family bounds of employees (11%) and to disseminate a culture of work-life balance (21%).

A recent study conducted by the *Cattedra di formazione e politiche relative alla gestione delle risorse umane* of the University La Sapienza in Rome, proposes a management and organizational model of employment relationship centered on the intersection between *work-life balance* and *Total Reward System* (a motivation-based remuneration system which adds -to the traditional pay-benefits and WLB programs aimed to assist the employees in the difficult process of reconciliation of work and family time) as common ground between enterprise and workers requirements and apt to create advantages to both parties involves, that is respect of personal life time for the workers, and improved performances for the enterprise <sup>(31)</sup>.

Therefore, the reconciliation policies are the result of mutually interacting subsystems and, in particular, of the social-institutional and organizational subsystems. To develop these policies, an enterprise can act on four dimensions or complementary leverages: labour organization, corporate culture, remuneration system, business services [see figure 2, following, in this chapter].

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<sup>(31)</sup> The Total Reward System model has been object of experimentation. In this regard, see Ballone, R. Belleggia, P. Costa, V. Giorgi, E. Manfreda, P. Moretti, D. Rotondo, *Total Reward System e Work Life Balance: un approccio integrato all'attrazione e retention delle persone nelle organizzazioni*. For further analysis see *Total Reward System* and T. Torre, *Verso logiche di Total Reward*, in *Impresa Progetto*, no. 2/2008.

Figure 2 – Driving forces for reconciliation between work and family life



Source: Guida operativa Regione Lombardia, *La conciliazione famiglia-lavoro. Un'opportunità per imprese e pubbliche amministrazioni*, 2010

Therefore, the topic of reconciliation fits in well within the corporate social responsibility defined by the European Commission as «the intentional integration by the enterprises of the social and environmental concerns within their organization and in their employment relationships with all stakeholders»<sup>(32)</sup>. The Commission particularly emphasizes the socio-economic utility of *corporate social responsibility* and its instrumental nature in comparison to the European development model as defined by the Lisbon summit (i.e. an economy of dynamic and competitive knowledge based on cohesion and on social investment apt to produce also economic benefits).

The adoption of a socially responsible behavior, or the implementation of initiatives suitable to improve society, may result in a competitive advantage for the enterprise in comparisons to others, since it could convince the stakeholders (commercial partners, workers, suppliers, investors, but above all consumers) to prefer it to others<sup>(33)</sup>. This model, which also stems from the evolution of the theory of *Social Responsibility of Business is to Increase Its Profits* written by Edward Friedman, has gained acceptance in the Eighties and has been developed

<sup>(32)</sup> Commissione Europea, *Libro Verde*, e, COM(2001) 366 final.

<sup>(33)</sup> For a general framework see L. Bagnoli, *Responsabilità sociale e modelli di misurazione*, Franco Angeli, Milano, 2010; A. Di Pascale, *La responsabilità sociale dell'impresa nel diritto dell'Unione Europea*, Giuffrè, 2011.

in the field of company studies which glorified the maximization of *shareholder value* as primary objective of the enterprise in a framework characterized, at the same time, by a progressive growth in the autonomy of management and by a pressure increase of financial markets and of institutional investors on the performances of the managers. In parallel, the idea of enterprise as organized working community centered on the shared productive capacity was dying down, and the enterprise started to be considered as an autonomous center of financial planning of the return on investment, with great autonomy in the choice of the productive instruments available on the world market, with decentralized possibilities once unthinkable. On this basis, even the organigram of the enterprise starts to change, going from the pyramidal structure, typical of the Fordist model, toward the concept of network enterprise.

In this context, the ensuing economic issue is that of reputation as competitive factor (and therefore as investment, and not as cost for the enterprises); reputation arising from the spontaneous respect of social norms not legally binding. Whereas with reference to the employment relationships, the issue under consideration are the good practices in *human resource management*.

Against this background of attention to external and internal (i.e. employees) *stakeholders*, the enactment of company policies relying on improved working conditions, on work-life reconciliation, and on increased opportunities to training access is also the very basis of the European social model in a system that goes toward the personal needs of workers, the organizational and technical changes, and the variations of the economic system in general.

Nevertheless, corporate social responsibility is not only of interest for larger enterprises, it also concerns small ones, where – even at an informal and unbeknown level – most of the time choices are made drawing on it <sup>(34)</sup>.

The adoption of socially responsible behaviors creates value and entails a competitive advantage with positive effects at the enterprise level, among the individuals, and within the surrounding social context.

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<sup>(34)</sup> P. Donadi, R. Prandini, *La conciliazione famiglia lavoro nelle piccole e medie imprese, costruire e governare nuove reti*, Franco Angeli, Milano, 2009.



Section C  
THE ITALIAN MODELS OF BEST PRACTICES:  
INSTRUMENTS OF COLLECTIVE AGREEMENTS

*Summary:* 1. The Italian model of best practices in work organization and working time. – 1.1. The use and the diffusion of part-time forecasts of the industry-wide agreement, up to practice in the product sectors of trade and food. – 1.1.1. The tool of part-time in the banking sector. – 1.2. The tool of flexibility in and out: comparing models in the field of trade, banking and chemicals. – 1.2.1. Flexibility in and out (for work-life balance) in the fields of engineering, food, entertainment, and chemistry. – 1.3. Innovative forms of flexibility. – 1.4. The Institute of teleworking: legal and contractual practices. – 1.4.1. The teleworking in the commerce and research sector. – 1.5. The “island of work” for the management of time “not working”: models of the Auchan Group and Coop Adriatica. – 1.6. The Bank of hours and practices in commerce, food, banking and engineering. – 1.7. The services to corporate employees, from the business nests to the integrative sanitary assistance: a review of the practices found in different areas. – 1.8. The Luxottica’s experience.

**1. The Italian model of best practices in work organization and working time**

The first areas involved in the issue of reconciliation are that of working time and organizational structure within the company, especially in terms of contract types.

**1.1. The use and the diffusion of part-time forecasts of the industry-wide agreement, up to practice in the product sectors of trade and food**

Contractual work is a part-time employment relationship characterized by reduced hours than are required by law and the industry – wide agreements (in each case less than 40 hours per week), covers all sectors of activity, and is available both in fixed-terms contract or open-ended contract.

The contract, which is still present as a mode, primarily for female, and of course also applies to men and can be of three types:

- *Horizontal*: when the reduction takes place from daily working time; working all week (morning and afternoon) with short-time working compared to that contract (e.g. 4 hours a day for 5 days a week);
- *Vertical*: when the reduction takes place during the week, month or year; working for a few days in the week with short-time working or straight time (e.g. Monday, Wednesday, Friday, or every Sunday of the month or year or on week-ends);
- *Mixed*: when combining two modes; working (with) time weekly vertical and horizontal, according to the rules of their industry-wide agreement (e.g. 6 hours for 3 days, and 3 hours for 2 days).

The industry-wide agreement may provide for different combinations between the various types of contracts, determining the time of work at short-time working, as well as the possible implications of pay.

The institution of part-time, as is clear from a first reading of the Industry-wide agreement, is an instrument of flexibility particularly useful to the conciliation of life and work, such as care for children or elderly people, and is particularly used by women because it allows you to operate “physically” in the workplace and also to have, at the same time, an elasticity of behavior (and therefore family time management).

A decentralized collective national bargaining is also appreciated both by the workers and the management as it helps improve the effectiveness and efficiency of business process while reducing turnover, and also to meet the needs of workers to reconcile work with loads of care.

The complementary contract of Colussi, concluded on May 31, 2011, for example, provides for the company’s commitment to evaluate requests for temporary transformation of working hours from full-time to part-time to the extent of 5% of the workforce (typically 3%) with special reference to workers affected by oncological, needing life-saving therapies with frequent periodicity, parents workers until the completion of the third year of life of the child and to workers with elder reliant living.

An interesting point is also the case with Kraft Foods. Since 2000 Italy has experienced a considerable increase in the number of part-time contracts in many enterprises especially among women, upon return from maternity leave. This increase in part-time contract is mainly horizontal in its type. For instance, the company had only two part-timers in 2001, but in 2008 its part-time contracts rose

to 20. This number is still on its increasing trend and reflects the company's choice to accommodate all types of contract requests. Among the part-time enabled, the 30% is held by employees in managerial roles.

Complementary contracts analysis shows that trading is greater resource to various forms of part-time work mainly in supermarkets that, with evening openings and festive, work 78 hours a week on average. The highest turnout is in canonical and days and times can be programmed: Friday evening, Monday evening, and Saturday all day. For these organizational reasons the use of this type of contract allows maximizing flexibility in service costs, and provides better organization and management of work-life balance.

Below is a summary table on the use of part-time employees in enterprises surveyed.

Table 1 – Institute of part-time complementary contracts trade sector

<b>Part-time complementary contracts trade product sector</b>	
<b>Company</b>	<b>Tools</b>
<b>PRENATAL</b> of 3.12.2010 (complementary bargaining)	Facilitating the transaction to the new working hours is recognized only to the open-ended contract employees, with a one-off sum not replicable by way of settlement amount varies in relation to the level of the employee (part-time workers a proportional share).
<b>CARREFOUR</b> of 9.02.2011 (complementary bargaining)	Lunch break: 15 minutes to full-time hours with round continued; 10 minutes to full-time hours with broken time; 10 minutes for part-timers with at least four consecutive hours.
<b>CITTADINI Spa</b>	About 40 women placed in business organization in the form of 28.5% work with part-time contracts of 4/5 hours per day and 30% work with custom schedules, schedules attached to nests of kindergartens or the husbands working hours, in order to foster care of children or elderly family members. In some situations, it is also agreed with the turn (for example, the case of a couple of young married couples, engaged in different departments, who have asked to work with the same opening hours).
<b>KRAFT FOODS ITALY</b> ( <i>best practices</i> )	Since 2000, the number of part-time employees in the company has increased considerably and the phenomenon is especially among women, upon return from maternity leave. This is mainly a kind of horizontal contract. For instance, in 2001 Kraft had only 2 part-time workers, but in 2008 about 20 part-timers were recorded, and the number is still in a growing trend and reflects the company's choice to accommodate all requests. Among the part-time enabled, 30% of them are held by employees in managerial roles.

<b>GRUPPO AUTOGRILL</b>	The Autogrill group has launched earlier this year a maternity kit that would set out for the home sale network all the information you need to manage your own maternity period (clear information on the administrative steps to be taken, on the rights, on risk assessment during pregnancy and breast-feeding, etc.). To manage the expectations of new mothers and help return the group is also setting up a tutoring service that accompany in this location. The goal is to keep them, if they so wished, informed of changes occurred during their period of absence and promote gradual re-entry into the company.
<b>EDENRED (ex ACCOR SERVICES ITALY)</b>	Bilancio delle Competenze: 6 individual meetings, aimed at mothers who fall into the company at the end of the maternity leave, which facilitate the management of this delicate moment and redefining their professional role, through an in-depth analysis of their skills and the identification of professional lenses
<b>CODEVINTEX</b>	3 reversible part-times, all replaced.

### 1.1.1. The tool of part-time in the banking sector

The part-time is instead more struggled to take root in industrial companies – outside the productive function – and other businesses service, especially banks and insurance while not lacking interesting practices in these areas, as evidenced by the table 2.

In this context, such as the agreement signed by the Group S.p.A., Cariparma on April 9, 2011, referencing the applicable collective labour agreement signed in 2010, identifies the relationship of part-time work as a functional tool aimed at increasing flexibility of work performance even under the social profile, in order to reconcile the needs of employees with the technical, organizational and corporate production. It, therefore, favored the appeal to all those kinds of contract at half time, modulated and flexible, the incentive to the use of parental leave, the Bank hours and teleworking.

Table 2 – Part-time regulations in some complementary banking agreement

<b>Part-time on banking sector</b>
<b>Trade Unions, Federation of Italian Trade Union Insurance and Credit, Fisac CGIL, Banca Toscana</b>
<b>Company level agreement regarding corporate parenting, life/time balance working time and equal opportunity of June 7, 2006</b>
Art. 9
In the introduction the company declares to measure growth of part-time work that, in the context

<p>of contractual validity, is identified in the minimum of 12% of staff in full-time service in the professional areas. The 1% of that percentage is reserved for part-time claims submitted by employees with children, until the completion of the third year of age (in the case of children adopted within the first three years after the entry of the child into the family unit and until completion of the sixth year of age), which for this purpose shall be entered on the list specified. [...]</p>
<p align="center"><b>Cariparma S.p.a. e Dircredito, Fabi, Fiba, Fisac, Sinfub, Ugl Credito, Uil CA</b> <b>Verbal Agreement relationship of part-time work of April 9, 2011</b></p>
<p align="center">Corporate discipline for the period 2011-2014, Economic.</p> <p align="center">Art.4</p> <p>The minimum duration of part-time work is equal to 1 year, and the maximum is 3 years. Renewals can be made for periods not exceeding 3 years, again according to the criteria described above.</p> <p align="center">Art.5</p> <p>The weekly working time of personnel with part-time contract can be included between 15 and 32 hours and 30 minutes. Any derogation from minimum and maximum weekly working time may be requested by the worker who will be assisted by trade-union representative-designate. Within the limits of the above weekly distribution of working time may be divided into horizontal, vertical form or mixed or cycling on an annual basis (articles limited to certain times of the year where, during the period requested, on all days of the week or just on some).</p>
<p align="center"><b>Banca Popolare di Sulmona and Lanciano and Fabi, Fiba CISL, CGIL Fisac, Uil CA</b> <b>Company level agreement October 9,2007</b></p>
<p align="center">Art. 27</p> <p>Unions advised the company that the return to full-time staff in part-time service to be enumerated in the previous work of the seat concerned, consistent with their organizational techniques and production requirements of the Bank.</p> <p>The semi-annual statement can be made on the implementation and verification of the progress of part-time contracts.</p>
<p align="center"><b>Banca Popolare di Bari, Dircredito FD, Fabi, Fiba Cisl, Fisac Cgil, Sinfub, Uil CA</b> <b>Company level agreement April 6, 2010</b></p>
<p align="center">Art. 20</p> <p>Every six months the trade unions will be able to verify the percentages of part-time grant. Any deviations found from the possibilities provided for in the collective labour agreement shall be the subject of special meetings aimed at seeking the most suitable organizational solutions.</p>
<p align="center"><b>Italian Banca Popolare Soc., Banco Popolare di Verona and Novara Soc. a. R.L. and Dircredito-FD, Fabi, Falcri, Fiba-CISL, Sinfub, Silcea, Ugl-Credit and Uilca</b> <b>Verbal agreement of part-time June 30, 2007</b></p>
<p>With the agreement the parties intend to enhance part-time; tool for reconciling professional commitments with the needs of personal and family sphere of female workers and workers concerned</p> <ul style="list-style-type: none"> <li>• As from the signing of this report and for all the duration of validity of the industrial Plan is extended the agreement of 26.09.2003 – part-time Law</li> </ul>

- On an experimental basis, with effect from January 2008 and for the duration of the period covered by the Plan, requests for transformation of ratio of part-time work (i.e. those renewal) submitted by employees - members of the professional areas and to senior executives

## **1.2. The tool of flexibility in and out: comparing models in the field of trade, banking and chemicals**

Another popular tool in companies is flexibility in and out. The use of forms of flexitime, with a slot that let the edge to accommodate family and personal needs, the time of entry into and out from the workplace, is feasible in all labour relations (where there are no specific contradictions). Daily elasticity (incoming and outgoing) is a measure that finds its reason in deterring reconciliation of the work with personal and family needs and where the benefit for the people increases proportionally to the size of the viewing time of flexibility and time range within which recovery is to be made. The maximum benefit for people is realized when you can establish a fixed personal timetable. In some companies a complete self-management of time is provided (with a monthly summary form) without tag. This type of time implies, however, usually an employee's availability to work typical hours.

Some possible applications are:

- *flexible working hours for staff in turn*: concerns the possibility of slipping up to 1-2 hours the start time shift with the corresponding daily compensation in exit time, except for the last round;
- *personal timetable*: access to a fixed timetable, in the face of documented personal problems;
- *abolition of the clock card*: the management of admissions procedure is via a monthly summary form.

As can be seen from the table below, contracts used in the trade sector are Fair instruments.

Table 3 – Flexibility inbound and outbound complementary agreement trade sector

<b>Flexibility inbound and outbound complementary agreement trade sector</b>	
<b>Company</b>	<b>Tool</b>
<b>PRENATAL</b> complementary agreement of 3.12.2010	<ul style="list-style-type: none"> <li>• flexibility is inbound: among the 08:30 and the 09:15 with proportional compensation in exit and 1 hour lunch break</li> <li>• Working hours:-08:30 - 17.30 with one hour lunch break</li> <li>• On an experimental basis for 2011, for employees who ask, the lunch break can be shortened to 30 minutes, resulting in anticipation of removal</li> <li>• The weekly and daily hours of shops is established on a territorial basis by agreement with unitary union representative body/Plant – level union structure.</li> </ul>
<b>CARREFOUR</b> Complementary agreement of 9.02.2011	Working hours: flexible hourly and/or daily or scheduled weekly
<b>EDENRED</b> (eg. <b>ACCOR SERVICES ITALY</b> )	These measures shall be supplemented to flexibility of working hours (inbound, for lunch and outbound), part-time and unpaid leave for personal needs (care, family-related)
<b>CODEVINTEX</b>	Flexibility inbound and outbound

In the banking sector, the corporate integrative agreement signed by the Federazione Italiana Assicurazioni and Tuscany Bank, for example, pushes important solutions in terms of parenting and promoting policies on work-life balance. The parties have initiated a policy of increased flexibility facilitated by hourly paid permits as integrative contract Banca Popolare di Lanciano and Sulmona, which includes both paid allowances to encourage hourly flexibility, both to promote the use of part-time work. Further, forecast the return from full-time to part-time staff can take place in the previous work of the seat concerned, consistent with their organizational and production needs of the company. In this regard, the representative integrative business contract concluded by Banca Popolare di Bari, in ensuring flexible working hours, aimed at safeguarding the role of the family and of the special needs of female workers and employees, provides that every six months the trade unions will be able to verify the percentages of part-time grant. If you experience negative deviations compared to the possibilities provided for in the national collective agreements, specific meetings are contemplated in order to seek the most suitable organizational solutions.

Table 4 – Flexibility inbound and outbound complementary agreement in banking sector

<b>COLLECTIVE AGREEMENTS</b>
<p><b>Ubi, Banco di Brescia, Dircredito, Fabi, Fiba CISL, CGIL Fisac, March 16, 2010</b>  <b>Minutes of Understanding Agreement on Welfare and Business Mobility</b></p> <p><b>Bank European Regional Falcri</b>  <b>Minutes of Understanding on corporate welfare January 20, 2010</b></p> <p><b>Ubi, Banco di Brescia, Falcri</b>  <b>Minutes of understanding of corporate welfare and mobility of March 16, 2010</b></p>
<b>FLEXIBILITY OF WORKING HOURS</b>
<p>The agreement provides interesting news regarding paid off times  Art.6</p> <p>The bank will grant paid leave of</p> <ul style="list-style-type: none"> <li>• 3 days, once per school cycle (3 days total for nursery; 3 days for inclusion to preschool), divisible in hours compared with the written request to one of the parents for the child at the nursery or at the preschool, if requested by these facilities</li> <li>• 3 days in case of death or documented serious illness of spouse or relative within the 2° degree or partner (as long as the stable cohabitation results from registry certification), Berryman was elected in temporal relationship to the event;</li> <li>• 3 days for birth or adoption of children, was elected in temporal relationship to the event;</li> </ul> <p>• 3 days are also divisible by the hour for the assistance of their household had surgery or 1st degree relatives, brothers and sisters, even if not living together and living together (provided that stable coexistence results from certified family), by including the day of discharge and possibly in those immediately following, provided that the need for post-hospital care result prescribed by the doctor.</p> <ul style="list-style-type: none"> <li>• 1 day at the urgent hospitalization cohabiting relatives, relatives of 1<sup>st</sup> degree and common-law partner (provided the stable cohabitation results from registry certification);</li> <li>• 2 days to one of the parents at the time of hospitalization of a child under the age of 14 years, regardless of the urgency.</li> <li>• 3 days per year even divisible for medical visits, diagnostic tests and treatment/rehabilitation in relation to diseases, documented and maintained at public facilities behind medical certificate specification, with the exception of SPA treatments.</li> </ul>
<b>COLLECTIVE AGREEMENT</b>
<p><b>UBI Factor S.p.a., Fabi, Fiba CISL, CGIL Fisac</b>  <b>Minutes of understanding on Corporate welfare of July21, 2010</b></p>
<b>FLEXIBILITY OF WORKING HOURS</b>
<p style="text-align: center;">Art. 3</p> <p>The company will grant paid for off times:</p> <ul style="list-style-type: none"> <li>• 1 day, once per school cycle (1° for nursery; 1° for inclusion to preschool), divisible in hours compared with the written request to one of the parents for the child at the nursery or at the</li> </ul>



<p>nursery, if requested by these facilities</p> <ul style="list-style-type: none"> <li>• 2 days for birth or adoption of children, Berryman was elected in temporal relationship to the event;</li> <li>• 1 day, even hourly, divisible assistance for surgery by cohabiting relatives or relatives by 1 degree, brothers and sisters even if not living together and living together (as long as the stable cohabitation results from registry certification), by including domiciliary Berryman was elected on the day of discharge and possibly those immediately following, provided that the need for post-hospital care is prescribed by the hospital itself;</li> <li>• 1 day for the death of relatives within the 2° degree.</li> </ul>
<b>COLLECTIVE AGREEMENT</b>
<b>Trade Unions, Federation of Italian Trade Union Insurance and Credit, Fisac CGIL, Banca Toscana</b> <b>Supplementary agreement regarding parenting time reconciling life / working time and equal opportunities of June 7, 2006</b>
<b>FLEXIBILITY OF WORKING HOURS</b>
Art. 13
<p>Each worker will receive annually up to five days of unpaid leave to meet personal needs. [...]</p> <p>Each employee is entitled to receive unpaid allowances for care of sick children under the age of eight years. [...]</p> <p>Paid permits – are recognized [...]:</p> <ol style="list-style-type: none"> <li>1. cases of birth children: two days of permit;</li> <li>2. cases of death in case the event hit spouse children parent or other family members living together: three days for continuous event</li> <li>3. recognized serious personal reasons and postponed: up to two days (even hours).</li> </ol>
<b>COLLECTIVE AGREEMENT</b>
<b>Banca Popolare di Sulmona and Lanciano and Fabi, Fiba CISL, CGIL Fisac, Uil CA</b> <b>Supplementary agreement of October 9, 2007</b>
<b>FLEXIBILITY OF WORKING HOURS /TIME OFF</b>
Art. 28
<p>The company recognizes a paid leave equal to 8 hours per year for each child to daycare or kindergarten.</p> <p>Art. 34</p> <p>Various permits with reference to the provisions of art. 49 of Ccnl 2/12/2005, the company recognizes employees one day of paid leave for the birth of his son. The company declares itself willing to consider, if necessary, the possibility of granting unpaid allowances in addition to the permissions required by current regulations.</p>
<b>COLLECTIVE AGREEMENT</b>
<b>Banca Popolare di Bari, Dircredito FD, Fabi, Fiba CISL, CGIL Fisac, Sinfub, Uil CA</b> <b>Supplementary agreement of April 6, 2010</b>
<p>Art. 10</p> <p>[...] It is in the common interest to safeguard the role of the family and meet the special needs of female workers and employees, the parties, [...] hereby agree as follows:</p>

<p>[...] C) Permits to birth children: Workers, on the occasion of the birth of the children, is granted a paid leave of two days straight (even divisible), to use within five calendar days from the event.</p>
<p><b>COLLECTIVE AGREEMENT</b></p>
<p><b>Federation Veneta BCC, Fabi, Fiba CISL, CGIL Fisac, Uil CA Regional contract tier March 5, 2010</b></p>
<p><b>FLEXIBILITY OF WORKING HOURS /TIME OFF*</b></p>
<p style="text-align: center;">Art. 10</p> <p>[...] paid permits granted in the following cases and measures-for the birth of children, two days -proven specialist visits for which workers themselves or minor children should undergo, the time strictly necessary and, in any case, within the maximum limit of one day; [...]</p> <p>* unpaid allowances</p> <ul style="list-style-type: none"> <li>• need to include, for the first time, the son/equated nursery or kindergarten, unpaid allowances for up to one week; [...]</li> </ul> <p>Art. 11</p> <p>Additional performance made in holidays, Saturday and night hours entitle to compensate for overtime with the premiums provided by art. Ccnl 128 additional work performed in the weekly rest day (usually coinciding with the Sun), entitles, in addition to the abovementioned compensation for overtime, compensatory rest in the other day.</p> <p>In the case of transition to governing framework during the year, any additional benefits not yet recovered, and any remaining time reduction to date of promotion (difference between accrued hours and hours recovered), are settled.</p> <p>Where technical and organizational conditions permit and are consistent with the needs of the service, to be granted any requests for flexible working hours to a maximum of 60 minutes (morning entry time and/or delayed afternoon), recoverable during the same day or on other days, however rough later in the week. At the same time, according to the technical-organizational requirements, the company will consider any move requests of working time.</p>
<p><b>COLLECTIVE AGREEMENT</b></p>
<p><b>Calabrese Federation of BCC and Fabi, Fiba-CISL, CGIL Fisac, Uilca Regional supplementary contract 01,09,2010</b></p>
<p><b>FLEXIBILITY OF WORKING HOURS /TIME OFF</b></p>
<p style="text-align: center;">Art.4</p> <p>[...]Paid permits up to 15 hours per year and additional permits up to 15 unpaid hours per year for children in school or nursery in elementary school.</p>
<p><b>COLLECTIVE AGREEMENT</b></p>
<p><b>Banca Popolare of Puglia and Basilicata and Fabi, Fiba-CISL, CGIL-Fisac Hypothesis Agreement of 22,04,2009</b></p>
<p><b>FLEXIBILITY OF WORKING HOURS /TIME OFF</b></p>
<ul style="list-style-type: none"> <li>• 2 days of paid leave for the birth of children; 15 hours per year of paid leave for women mothers with one child up to 5 years of age, with the addition of 7.5 hours per year for each</li> </ul>

additional child aged less than 5 years; for the first year of life of the child, the number of hours allowed is in relation to the months of work actually done, the effect of permits is 01,06,2009, for the year incurred the ceiling will be considered in 50% share
<b>COLLECTIVE AGREEMENT</b>
<b>Federation of cooperative banks of Lazio, Umbria, Sardinia and Fabi, Fiba CISL, CGIL Fisac, UIL Ca; Sincra Ugl supplementary interregional Collective agreement 27,11,2009</b>
<b>FLEXIBILITY OF WORKING HOURS /TIME OFF</b>
Art 12
In implementation and specifying the provisions of paragraphs 3 and 4 of art. 54 of 21,12,2007, Ccnl are granted the permissions provided for therein for the following reason codes and in the following annual measures. <ul style="list-style-type: none"> <li>• Three days for death of spouse, or those under a State law are assimilated to spouses, relatives and relatives within the second degree inclusive;</li> <li>• 2° for assistance for surgical operations of one's spouse, or those under a State law are assimilated to spouses, relatives and relatives within the second degree inclusive, and the resulting state of residence life partners; the rights referred to this paragraph shall be scheduled by the worker during the week preceding and/or following the same operation;</li> <li>• 2° for the birth of children;</li> <li>• Time necessary for proven specialist consultations which the worker himself must undergo;</li> <li>• For blood donation, on the day of collection.</li> <li>• 2 whole days for specialist consultations or rehabilitation therapy of above 75 years parents or children under the age of 14 years are excluded from the motives for granting of permits under this introductory part General Pediatric visits. For the reasons stated we must submit appropriate documentation.</li> </ul>

### **1.2.1. Flexibility in and out (for work-life balance) in the fields of engineering, food, entertainment and chemistry**

The use of the forms of flexibility in and out also affects other sectors such as engineering where they introduce informal flexibility instruments, such as the holding Brothers Righini based in Ravenna. The official time is 8-12; 13-17, but you can come in with half an hour late and catch up late in the morning. The same flexibility can be taken in the afternoon. In this context, it is possible to detect the availability of employers with respect to the needs of employees and the role of consultation that takes place from time to time, as part of possible, family and individual needs.

In the same area, it is also interesting because it made from Cat projects, company based in Sasso Marconi (Bologna), which manufactures electrical equipment and software. Schedules are agreed with the company, the company trade union representative, organization, and are as follows:

- flexibility in the timetable of entry of 30 minutes;
- part-time: 5 and all granted to women;
- designers' timetable self-defined and agreed with the company (it can also be from 11 to 20);
- mutual agreement on permits, except for July and December, months of delivery.

In the food sector, instead, to the Gourmet Reggio di Bagnolo in Piano (Reggio Emilia), producer of fresh pasta with filling, introduced flexibility in and out informally, that takes into account the specificity of the production. In fact, work schedules take into account two aspects: flexibility in production (because the dough will keep for a short time) and the needs of employees, related primarily to family organization. For this, there is the possibility of exchanges of business hours if problems occur and, above all, time changes. For example, an employee with children in kindergarten is an open all day from 8 to 15 from Monday to Friday and recover 4 hours on Saturday mornings.

In other areas, however, and in other companies it is interesting tool to use. ATER Association, which produces the show services (projects, training, ticket office) and that in accordance with the contract should have a time of 38 hours per week for 5 days per week (Mon-Fri 8.30-13.30, plus 2 afternoons), has in fact, throughout the week, over available and each Office (education, administration, trade, music) manages the timetable according to the needs of the employee and in addition to those of labour. It follows that, for example, an office employee training works on Mondays from 8.30 to 19.00 (with 30 minute break) and from Tuesday to Friday from 8.30 to 16.00 (30 minute break). Excess hours are used as recovery according to your needs, by agreement with the Director of personnel. The employees who have young kids, working two days from 8.30 to 14.30, another two days from 8.30 to 13.00 and 13.30 to 18.30 and a day from 8.30 to 15.30-16.00.

In the field of ceramics, however, the two new industries, based in Fiorano (Mo) are distinguished. Work schedules were agreed between employer and employees, with a trade agreement, and distributed as follows: for day work: from 8 to 16, with a half an hour break, so go as close kindergartens, schools, etc. The agreement has been in place since 1994 and benefited mainly the employees in production and administration as:

- In bound flexible (except for some specific tasks), which it retrieves or day or month; you can also deduct from paycheck, but generally you retrieve;
- Who is a session musician (men) has hard times;
- Availability of employees, during certain periods of strong market demand, to make stunning (especially Saturday) recovered by recovery preference within the month with compensatory rest days when work decreases.

### 1.3. Innovative forms of flexibility

Between the innovative forms of work organization, which compared to traditional part-time and flexible input and output could encourage greater flexibility and professional development for workers involved. There are also telecommuting, the instrument of “islands” and the Bank of hours.

### 1.4. The Institute of teleworking: legal and contractual practices

Telework is a variation of the spatio-temporal mode of execution of the work and provides for the worker the ability to carry out its performance from a remote location, in practice even at your home. The telecommuter has available, the place chosen for work, computers, fax, modem and any other equipment necessary to carry out its activities.

Many are the advantages of teleworking for enterprises and workers:

- increasing the efficiency of production in-house due to the decrease in absenteeism and staff turnover, reduction of a result-oriented and greater organizational flexibility;
- decrease physical shifts of workers for a better reconciliation of work and life, but also life time with city times; This results in lower costs of transport and transfer times home/work and a decrease in city traffic and pollution;
- organization of work according to personal needs and autonomy in managing your work time (flexibility);
- increased leisure time and greater availability for family needs

Different forms of telework:

1. *Teleworking at home*: this mode allows the employee or self-employed person to carry out its activities from home, using tools such as telephone, computer, fax, etc. The downsides are the danger of isolation and the loss of contact with the company; critical issues that can be resolved by ensuring the employee return periods in farm, accompanied by training sessions.

2. *Mobile teleworking*: is a mode that allows the worker to carry out particular tasks of sales and service and you can use a laptop, connected to the corporate information system, so you can have all the information you need in real time.

3. *The satellite office*: this mode is based on the decentralization of some of the business and includes the maintenance of contacts with corporate headquarters through electronic links. The satellite office is a useful solution for workers in case of high traffic congestion.

4. *Telecentre*: this mode is a place equipped with information technologies and telematic near the residence of the employee, in order to carry out its

activities; the telecentre can be owned by the company or a consortium of companies, or of a company that rents the places of operators.

#### **1.4.1. The teleworking in the commerce and research sector**

The teleworking is not very common in Italian companies. However this work life balance's tool has been implemented in the commercial sector where it is used by Poste Italiane. Since 2009 Poste Italiane has implemented teleworking in the call center.

The company has been monitoring 30 call center employees (who respond to switchboard from home) and also assigned to video coding (who correct the wrong Postal Code). The result was an increase in the daily presence of 20%. In this way Poste Italiane has been tried to solve the problems and costs of commuting and the difficulty to ensure the presence for those with family problems. According to the company, the telecommuting workers are faster to process claims and the result is an increase of practices expedited of 30%. In the 2010, Poste Italiane showed an increase in telecommuting full-time staff: 100 workers between May and June and up to 1000 by 2011.

Another example, but in the field of university research, is that of CINECA (Inter University Consortium North East Italian for automatic calculation) of Bologna where employees, who request the telecommuting, may exert their activity through a workstation of organized labor at home and agreeing with the company the day of return to office. The Cineca experienced technologies that allow to work from any location through the development of communications environments that allow virtually recreating instruments and documents used in the office (development and use of a corporate portal). With telecommuting has provided a solution for employees who asked to achieve more flexibility in terms of time and space. The telecommuting's workers propose to add other elements of flexibility, removing the limit of fixed days and to decide the days that they stay at office according to business and family needs. In other sector, telecommuting is not very common especially because there is no a common regulation in the Collective Labor Agreement, as in the engineering sector.

#### **1.5. The “island of work” for the management of time “not working”: models of the Auchan Group and Coop Adriatica**

The “island of work” is another work life balance's tool. This model provides to the subdivision of the workers in groups (islands), through a preventive

analysis of the individual and family needs (age, composition family nucleus, distance place of job, social factors, factors of rigidity, flexibility). In compliance with firm's "curve of load", within its own island, every worker defines own schedule of individual job, in terms of duration, days and daily bands, with a system of credit/debt (such as bank of the hours). A coordinator of the island compares the individual schedules with the schedules of job after the coordinator arranges with the colleagues possible adjustments.

The island is used by Auchan group for the kind of organization of work. In fact in hypermarket the selling is characterized by strong variations of customers. For this reason the firm has the demand to suit for the best to its own resources to this variation. In fact, the island is a tool that helps to face this variability and it is constituted by a group of people that sticks in a voluntary way to a system that foresees hourly flexibility and best management of own time. The advantages for the firm are essentially the adjustment of the presence of the personnel to the flow client and the improvement of the climate of job, with consequent lowering of the absenteeism and improvement of the productivity. The annual market survey conducted among customers of Auchan hypermarkets shows that the rate of general satisfaction on the sector boxes is grown by 35% in three years; the number of times of absence is decreased by 6.5% in 2007; productivity (invoiced / worked times) is improved by 4% in the same year.

Other case is that of Coop Adriatica that has brought a more original solution. The organizational model has been effected inside checkout of some hypermarkets, where the personnel is almost exclusively constituted by women (over 90%), and, therefore, particularly sensitive to the problem of the time listed to be harmonized with the family demands of care.

The traditional logics of the job's schedules are characterized to show some necessities of the enterprise in comparison to those of the workers. In the model experimented by Coop Adriatica the personnel is divided in groups – denominated "islands" – of 15/25 unities with different sociological characteristics.

This heterogeneity is the basis of the groups and that is translated in different demands of life and, therefore, in different choices of schedule, that find an optimal distribution in comparison to her "curve of load" or to the application of presence formulated by the person responsible of the service reducing to the least one the adjustments that allow a perfect correspondence of it.

The system is based on flexibility and modulation agreements. In fact, the worker can always choose different times of duration and distribution. In addition, the employees may use their working hours according to a system of debit / credit card that is used to divide their time working with monthly or yearly basis.

The system is set on a voluntary basis and requires for its operation of a high percentage of adherence to the organizational model (over 80%), but also of

solidarity among members of each island who assume joint and several liability to front of the load curve assigned. The beneficial effects are a better climate in the workplace and a happier family life.

However, the company gets a substantial reduction in turnover; fewer women are forced into having to choose between work and family life drastically; greater adherence to the flows of customers; reducing customer waiting times at checkouts; and finally an overall improved level of service.

### **1.6. The Bank of hours and practices in commerce, food, banking and engineering**

The bank of hours is an operational tool for the management of flexible working time that attempts to combine the work time with the family and personal time and follows partially the logic of the “working island”. This is a contractual institution and has been created to manage the performance of work. It consists of depositing a number of hours worked more than normal time, whose magnitude is determined by bargaining, on an individual account. During the year the worker can draw from that account to enjoy compensatory rest in the manner prescribed by collective bargaining. When the worker works more than the normal mature working day or a credit working day, he matures a credit that achieves the right to the recovery of the greatest effected performance, with the formalities and the criteria of times established by the collective bargaining.

The use of recovery may occur in the following ways:

- a) Must be authorized by the employer;
- b) When there is agreement between employee and employer;
- c) It is right of the worker, who only has the obligation to give reasonable notice to the employer.

In the letter a) the worker cannot determine independently the time for the use of recovery, but must be first authorized by the employer. He cannot refuse permission unless there are technical, organizational or productive problems.

In letter b), being necessary to an agreement, it is not possible for the worker to decide independently neither to use the recovery, nor can it be defined unilaterally by the employer.

Finally, in the letter c), the company cannot generally determine the worker’s choice when to use the recovery, but the worker must know the period required by the applicable collective bargaining.

However, it is believed that there is still a limit to the exercise of rights arising from the need to ensure at least the safety of workers and facilities, continuity of the production and delivery of essential public services.



The instrument of the bank of hours is difficult to enforce rigid organizations, and is perfectly suited to flexible organizational models such as the work island. Inside the island can be tested using the bank of hours, exploiting, for example, timekeeping instruments in the company, may allow workers to experience this new form of organization in an autonomous and responsible way.

The introduction of the bank of hours may have, then, organizational and economic costs especially for businesses that have a rigid structure of production, requiring a redefinition of the organization and the ability to forecast production needs to define the load curve forecast of work, on the basis of which define the business needs of hours of work to be covered through the system to islands. The following table summarizes the use of the institution in some areas.

Table 5 – Bank of hours of additional contracts in the field of trade and food

<b>Bank of hours in supplementary contracts</b>	
<b>Company</b>	<b>Measure implemented</b>
<b>PRENATAL</b> del 3,12,2010 (Industry trade)	<ul style="list-style-type: none"> <li>• Art. 129 of the collective labor agreement on a trial basis with effect from 1 July 2011.</li> <li>• Mode of performance: it gives the opportunity to set aside 50% for overtime, to enjoy at a later time; on a voluntary basis; the hours not taken during the provisional and will be settled within six months with the additional 15 %.</li> </ul>
<b>Metro</b> (Industry trade)	<ul style="list-style-type: none"> <li>• It was established to set aside for overtime of employees, in lieu of compensation for overtime and additional</li> <li>• Workers can choose between the provisions of hours on the individual account, such as free time to spend a day in blocks by the end of the following year, or may request the payment.</li> </ul>
<b>Agnesi Gariboldi</b> (Food)	<ul style="list-style-type: none"> <li>• It has been established the flexibility of weekly hours and the bank of hours.</li> <li>• The company can make use of flexibility of up to a maximum of 64 hours, demanding work performance more than expected in the week. All benefits in flexibility positive result in the maturation of the corresponding right to recover under a bank of hours for an individual</li> </ul>
<b>Mandarina Duck</b>	<ul style="list-style-type: none"> <li>• This medium company to cope with peak production, uses a system of internal flexibility managed by the bank of hours (ROP, regime-time peak, which provides an extra hour in some periods and one hour less in others; introduction of double shifts in some periods, a strategy that is increasingly adopted)</li> <li>• The business benefits are significant for the chance to meet the unpredictability of production. Costs are related to the greater effort involved in managing and coordinating the department managers and office staff, because they amount to situations with time on a personal basis.</li> </ul>

In the engineering sector in Electrolux, the Bank of the Hours has been very successful. The company has introduced, in advance of the contractual provision of the bank of hours, the possibility to convert overtime hours in paid time set aside in a special number of hours on .individual for later use. The timing and number of hours are not limited, this means that if you accumulate a large amount of hours the employee may be absent from work for extended periods, provided the agreed periods of notice.

### **1.7. The services to corporate employees, from the business nests to the integrative sanitary assistance: a review of the practices found in different areas**

Other forms of support operated by companies are services to employees and/or financial inducements, not necessarily monetary. The aims are to retain them, motivate them and to increase productivity by improving the business climate and reducing absences due to family problems.

The services that companies offer – both inter-corporate such as between several companies – can and should be different from the care and assistance to children, to the elderly ones, to the self-insufficient people, to the services of transportation of employees between home and work (such as company car and van), the cafeteria or issuance of food stamps until the service for leisure (such as recreational clubs, conventions with gyms, etc.). If there are certain circumstances, they can be granted with severance pay for family reasons, one-off payments during maternity and paternity.

An analysis of cases shows that the type of organizational service inside the family, such as childcare, is the most widespread one. The nursery allows workers to balance the various demands: to be closer to their children and provide their professional input. Among the elements that allow the implementation of these services are the inter-organizational relations and relations with the institutions of the country. The methods are different: nursery businesses host not only the children of employees, but also other children on waiting lists at public or private kindergartens and/or opening the nursery business to residents in nearby areas.

The most interesting practices to remember here is the nursery of the Group Boehringer Ingelheim, headquartered in Milan, one of the top 20 pharmaceutical companies in the world, which has enabled, during the school year 2003/2004, a nest open to children of employees, the employees outside the company as well as the children of residents in the area. In such context, the collaboration of the Municipality has been important in order to facilitate the inclusion of children on

waiting lists at local nurseries and to encourage the planning of collateral activities, from Projects like Nature, English, music, or activities related to art.

Analogous case is that of Peg Perego that established a kindergarten in 2001 in line with the Municipality of Arcore, which was devoid of that institution. In such a way two demands are reconciled: to make female personnel available to structure the productive complex, such as facilitating the re-entry into firm, and on the other side a possibility is given to citizens who were previously lacking educational opportunities in the area. The feature is the management structure responsible for the social cooperative formed by parents, as well as Wind, which in the years 2007 and 2008, has opened a nursery and a kindergarten in the corporate headquarters of Pozzuoli Arcofelice and Milan Lorenteggio, dedicated to children of employees.

The nursery of Pozzuoli can accommodate up to 32 children, children of Wind employees, between 1 and 3 years, divided into shifts and is managed by the Cooperative Scacco Matto in Naples, specialized in services for children. The structure of Milan can accommodate up to 42 children, between 1 and 3 years, is run by the Doremi Group and is also open to the outside providing a service to the territory. The company, with the realization of these structures, wanted to offer its employees a flexible service in relation to their work pace, able to combine flexibility and quality while respecting the needs of children. Wind participates both to the expenses of management, giving in loan of free use the places to the societies that manage the structures, both to the expenses of the employees, contributing to the monthly straight lines of frequency. Besides they are not anticipated costs of registration. These facilities offer their services for 11 months a year, from September to July, in compliance with the closures in the calendar of national holidays. Other services are well developed in the business realities of health care services, which fall in the additional company and welfare plans that are a valuable support to the needs of employees and families and an additional column to mold public social policies. Here are some interesting examples of company policies such as ATM, Milan, Coopselios, Intesa San Paolo, SACMI, Telecom and Tironi. In the case of ATM (Milan Transport Company), founded in 1931 and now runs public transport in Milan and in 72 municipalities of the Province, the sense of responsibility and ethics has led the company to pay particular attention to the needs of employees through social policies supported by an internal system of social services. In particular, ATM offers services in different areas. There is welfare, which is expressed in free advice on family issues, housing, work, finalized to direct and promote the access to the resources and services offered by organizations, institutions, private and social undertaking.

The employee benefits from a service orientation within a short drive support with the aim of developing capabilities to deal with any problem relating to private and family life, social care and employment. The other branch of intervention is the family, through actions of work-life balance support services to the family roles, parental response to their needs. Important are also measures in the social Housing area for the survey of the partner-housing requirement, directly in phase of selection of the personnel and research opportunities for temporary housing.

The service is aimed at new employees, from central and southern Italy, or to subjects that have already taken the risk of marginalization. Not to be overlooked are the initiatives in health: the promotion of psychological wellbeing, education, awareness, dissemination of healthy lifestyles and proper nutrition. All this is for the prevention of disease and disability work. Again in ATM the business plan provides welfare assistance and human, social, cultural and sporting promotions for employees, retirees and family members of the group, through a special Foundation – a non-profit organization founded in 1999 – which performs a series of activities among which is to mention the signing of agreements with tour operators, and with public or private corporate body in social-health field. Under this agreement, the Foundation will reimburse a series of medical expenses, specialist visits, medicines, diagnostic tests, outpatient surgery, hospitalization and orthopedic devices. Another reality that has a structured system of integrated welfare is the social cooperative Coopeselios of Reggio Emilia, founded in 1984 with the objective to provide for public and private, health, social and educational responses. In accordance with these aims, Coopeselios has expanded and consolidated its experience in human services, constantly increasing number of members, revenues, presence in the area. From a local Coopeselios, the cooperative went on to a presence in multiple regions of Northern and Central Italy, taking a leading position among domestic companies operating in the field of human services.

In fact, the cooperative pursues the general interest of the community to human development and integration through services aimed at public and private institutions. The goal is to find advanced solutions for the needs of social welfare, health and education. In line with these aims, the cooperative offers a variety of services including: design and management of residences (safe houses, shelters, nursing homes), semi-residential facilities, day centers and community services; nuclei specialized for cognitive deficits, planning and crèche management. This is basically formalized in the regulation which was approved by the general meeting of shareholders on June 27th 2008. The regulation represents the frame of reference for the implementation of major initiatives that are inserted and updated annually in corporate welfare plan of the cooperative.

This is a series of activities for the benefit of workers and members of volunteer members and possibly also of their relatives in direct line, as in the case of a 10% discount to be applied to all members whose relatives benefit of fully managed services by Coopselios (Nursery-SCI, facilities for the elderly/disabled, etc.). In the plan of corporate welfare facilities, members are different and include, among others, the purchase and rental of goods and services, equipment and vehicles with the assistance of the services of the cooperative, in favor of working members and volunteer members. It is also important to mention the use of means for transporting people for events that affect the cooperative, making sure that they are always guided by a social worker or by a volunteer member.

The Coopselios involves the application of standards for the granting of loans to non-member workers aimed at a specific expense, with reimbursement through withholding on wages and severance pay to be guaranteed, the forecast of social seniority bonus, paid to employees to witness some of the basic values of the cooperative, such as intergenerational equity and mutuality. In favor of working members, who have completed eight years of service, and are in situations of financial difficulty and have their relevant personal or family needs, there is the possibility to take delivery of their extraordinary severance pay, in addition to the first required by law. Within the plan of corporate welfare Coopselios is possible to identify other forms of security, care and integrative health. Specifically: Cooperlavoro with the conventions, which have as their object forms of supplementary pensions to worker-members, the extension of agreements to all members of the cooperative (from 2009 to the members of the household) with New Mutual Health for reimbursement of some medical expenses and health and care services for new, opening in January 2011; Prontoserenità which translates into a network of family support services, ranging from assistance to elderly and incapacitated, to proposals for leisure, motor activity until you get to residential and home care solutions more complex, including the identification of caregivers . Coopselios has included in its plan corporate welfare entering into other agreements for the user telephone (for Member workers with permanent contracts), leisure addressed to all members (museums, theaters, gyms, public transport). Among the companies in the banking sector to the dissemination and implementation of models of integrated welfare, Intesa San Paolo, on the basis of a supplementary agreement signed in October 2010, provides operation from 1 January 2011 the health Fund supplements the Intesa San Paolo, a fund that, for the size of the audience to whom it is addressed, it is perhaps the first in Europe. In particular, the Fund shall supplement the National Health Service and for the provision of health services to the staff of the numerous companies constituting the Intesa San Paolo, including more than 200,000 units of active members,

employees, retirees and their families. The plan provides for a cost of registration partly borne by the employer and partly by the company. Some of the benefits are the introduction of hedges related to organ donation, the inclusion of coverage for new and highly debilitating diseases and the introduction of the advance in case of hospitalization with surgery at private facilities.

Other services provided include various types of hospital services, guarantees admission to how the company's performance related to the use of dentures, hearing aids remedial ticket refunds. The group SACMI, however, leaders in the fields of machinery for the Ceramics, Beverage & Packaging, Processing and Plastics, and with strong global market position and continuous research of high quality standards and customer service, has formalized a welfare plan "unique", which is characterized by a series of individual benefits granted to employees.

Among the main content of the plan, corporate welfare SACMI, are forms of healthcare plans for each employee for an indefinite period, through the policy of Unisalute, whose cost is fully paid by the company for costs related to institutionalization of care for illness or injury, reimbursement for specialist visits, diagnostic and psychotherapeutic treatments, highly specialized services, physiotherapy and rehabilitation following injury and illness, refunds of state dependence for temporary disability of the injured worker or his family. The customer service call center is linked to Unisalute. Also in the plan of corporate welfare SACMI is provided for employees to take out a life insurance policy, one for occupational accidents and extra, in addition to the life. Health care also applies to retired workers of SACMI, thanks to the provision of tests and visits for health check-up. Workers with 10 years of service and professionalism from medium to high may join the pension fund SACMI. In the telecommunication sector, there are interesting initiatives promoted by Telecom Italy in the context of corporate welfare programs that were implemented by the Group and are characterized by a strong tendency towards complex goals and plans for effective corporate welfare. Telecom Italy has been one of the first groups in Italy to interpret the call for this new way of understanding the company's role in society and industrial relations. The different goals that Telecom Italy has set and continued to consider their prominence are marked by a series of collective bargaining agreements, including but not limited to point out the main contents. In this regard, reference should be made to the agreement already signed on 28<sup>th</sup> March 2000 and inspired by the desire to enhance social policies of the group and to guarantee high quality standards in the services provided. In addition to the purposes mentioned, the agreement provides for the enhancement of the role of ASSILT (Association for the supplementary health care workers employed by companies of the Telecom Italy) by redefining the strategic and management in relation to new legislative and contractual framework and the actual evolution in

the composition even registry of members. Therefore, it is expected within the said Agreement the revision of the structures and their composition.

The agreement relies on a corporate welfare Commission whose task is realizing and “reviewing” projects of the association. The agreement refers also to CRALT (Circle entertainment business workers Telecom) and the need to provide suitable facilities for the functioning of organizational and administrative tasks. Significantly more on corporate welfare, an agreement was made among Telecom Italy and SLC-CGIL, CISL and Uilcom Fistel- on 12<sup>th</sup> November 2004. This agreement is characterized by the indication of a draft «redefinition of the system of corporate welfare», which is interpreted by the parties as an integrated system of works and services of health, welfare, recreational and cultural issues. These aims are pursued through a reallocation of responsibilities and activities, and a revision of the statutes of ASSILT and CRALT, with a view to simplify and rationalize the processes of political and decision-making. The subsequent agreement on 29<sup>th</sup> January 2005 was again among Telecom Italy and SLC-CGIL, CISL and Fistel-Uilcom, confirming the address of enhancement of corporate policies focused on the positive actions of welfare. The purposes mentioned in this statement are those of «safeguarding and developing the welfare of workers». The agreement deepens the theme of the redefinition of the integrated welfare system, through the operation of the various bodies and the distribution of the various functions, including a control function on refunds and the management and control in the field of preventive medicine, attributed to ASSILT. Also in the implementation of rationalization and simplification of certain powers are redefined and CRALT is expected to promote the objectives of enhancing the free time in the fields of sport, tourism, culture and recreation. Other interesting is the agreement signed on 29<sup>th</sup> January 2005- the Code of Ethics of the welfare state, which aims to reaffirm the centrality of respect for “general ethical principles” to be followed by both the recipients of services, both those who are «promoters, sources or parts institutive and those who exercise executive offices, administration and control».

The Code is divided into three parts: the first indicates the general ethical principles inspiring the welfare system desired by the parties, and the second sets out rules of conduct for stakeholders and the third part, finally, defines the functions of implementation and control. The general ethical principles, which the parties always inspire and reaffirm, and believed to be important in achieving the goals of welfare under negotiation, are those of transparency, fairness and cooperation. Interesting point is also the experience of Electromeccanica Tironi Srl, Modena, today a leading manufacturer of transformers and reactors for quality and reliability, designed to meet the diverse needs of power and tension of customers around the world.

Elettromeccanica Tironi Srl, is characterized by 27 million turnovers in 2009 in markets such as Spain, France, Germany, England and Scandinavia, and in 2010, during its 50 years in business, has launched in favor of its employees (about one hundred)-the plan “welfare ETM 2010”. The plan places among the many goals that support their employees, safeguarding the purchasing power and allowing the reconciliation of work and life. The project *welfare ETM 2010* provides employees with a common set of facilities which meet the needs of each individual. Workers have several options of choice: the program of support for motherhood and fatherhood, the socio-medical service, training projects, or those for leisure. Each employee (including his family) will have a partial reimbursement of expenses incurred in the paycheck of the month, when accompanied by relevant receipts or proof of expenditure.

In 2009, Tironi had already signed some agreements with testing laboratories, doctors’ surgeries, opticians and had established a “shopping cart” to allow employees to go to the supermarket with a voucher to spend on food.

### **1.8. The Luxottica’s experience**

In the Italian eyewear industry it is important to remember the agreements signed by Luxottica between 2009 and 2010 (<sup>1</sup>). In particular, these agreements are interesting for two elements: first, they are peculiar and innovative by their nature, and second, about 2 million Euros was invested in 2010 compared to the 800-900 thousand allocated during the previous year, basically for categories that are eligible for benefits, permanent workers and temporary.

Concretely, the company has structured a mechanism that plans various incentives ranging from health, food expenditure, school with an investment of 200 thousand Euros for school textbooks and 20.000 Euros in scholarships for employees’ children. There are also measures for vocational guidance while to the workers burdened with family problems related to disability, addiction or elderly care, will be guaranteed social support.

So much has been made possible by the involvement of trade unions in the process of design and definition of interventions, to achieve an integrated system, in light of what was agreed in the integrative agreement in use, which includes the company’s willingness to consider future initiatives in the social responsibility field.

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(<sup>1</sup>) Luxottica agreement February 11<sup>th</sup> 2009, Protocol of agreement on the system of business welfare for the employees and their families in Italy, Luxottica Agreement December 14<sup>th</sup> 2010, on interventions and resources of the Program Welfare, Luxottica agreement June 24<sup>th</sup> 2010, Record of accord in subject of integrative sanitary assistance.



The idea of Luxottica is to propose a reference model and quality welfare finalized to bind the employee at the company and the latter to the territory. This is possible if the demands of the workers are modulated with the politics and the business strategies directed to the employees in a system able to produce greater motivation, satisfaction, productivity, but also social protection and, therefore, comfort in the firm, with particular attention to the realization of social politics really inspired from the social responsibility of the enterprise. Specifically, it states that the identification of priority areas of action and the precise definition of the benefits to be paid must be agreed by the Executive Board and the Trade Union Coordination Group and managed jointly with the Trade Unions and the representative in the company. On this regard the reference is important to the «governance mechanisms based on the principle of bilateralism and transparency», shared by the parties in order to achieve the identification of priorities for action on the basis of information provided by individuals and by research organizations capable of analysing the needs of employees and territories provided for reference. On this basis, the parties undertook the promotion of positive and behavioural actions such as to create a vicious cycle in order to ensure an improvement in quality as guiding principles for corporate policies and welfare program. The agreement plans, in fact, that the system has to be linked with indicators of quality in production, «additional and innovative compared to what is already in place», with plans to create «the equivalent value of 23,000,000 to 26,000,000 per annum, to be distributed to employees and their families» and that the Commissions organizational Work is doing the promoting initiatives aimed at cost recovery and to improve organizational performance through specific agreements.

The Agreement of February 2009 has been followed by additional two, one on 14th December 2009 and the other on 24th June 2010. The agreement of 2010 provided for the creation of an integrated health care fund for permanent employees, including temporary workers, and their family members (spouse or cohabiting partner and children). This intervention is based on the right to health, which is one of the fundamental human rights and constitutionally guaranteed primary interest of the public Art. 32. In addition, the company covers the cost of dental services, specialist visits, high diagnostic tests and major medical operations. There are also subsidies for health expenditures made in case of maternity and daily payments for hospitalization due to surgery. Everything on the assumption that a welfare model that is structured as a priority goods in the strict sense, welfare, health care, insurance coverage, loans, training, gym, plans to promote balance between work and private life (work-life balance), as the nursery, laundry, errands and teleworking.

The aim is the welfare of workers and the knowledge of senior management of the growing need to integrate the overall level of protection pertaining to the sphere of health care. The legal basis is Art. 1, paragraphs 2 and 3 of Ministerial Decree on March 31<sup>st</sup> 2008 (as amended by art. 1 on October 27, 2009), which defines the areas of intervention agencies, funds and mutual aid societies which have exclusively charitable purposes, of which art. 51, paragraph 2, letter. a) DPR No. 917/1986 (as amended) and states that from 2010 the scope of intervention of the health funds are respected provided that at least 20% of total resources is allocated to the provision of dental care benefits, health and social care paid to the disabled as well as supplies to help restore the health of people temporarily incapacitated by illness or injury. In addition, the collective labour agreement of the 9<sup>th</sup> April 2008 and renovated on the 20<sup>th</sup> February 2010 entrusted the parties the opportunity to provide, within the enterprise bargaining, an early start of welfare, if it is topic of the issue of supplementary health care. The Luxottica health care will be financed by a contribution from the employer to the extent of 175.00 Euros for each worker member for a period of 12 months from 1 September 2010, that amount shall be added together additional charges imposed for the INPS contributions. Finding the most appropriate package of care, within the limits of available resources, to meet the needs of health protection of the recipients similarly lies within the Governance Committee. In this respect, another interesting aspect of the agreement is the scope of health care program designed and programmed for all employees without any distinction between healthy and sick employees. The employee remains in charge of the National Health Service, but for the additional services, s/he can access the services without any payment. To manage the cash, the company has purchased the product from an external broker specializing in health insurance policies.

Another factor to be considered is the special attention given to women in maternity cases: the employees who were to become pregnant can benefit, in addition to the guarantees provided by law and the collective agreement for the protection of motherhood, an additional contribution which amounts to 350,00 Euros. A major achievement in the light of objective data confirming is the presence of female workers in Luxottica just on 60% of the working hour.

Section D  
SOCIAL PARTNERS AND WORK-LIFE BALANCE:  
THE SITUATION IN ITALY<sup>1</sup>

*Summary:* 1. Introduction. – 2. Work-life balance: the situation in different sectors. – 2.1. Textiles and clothing. – 2.2. Electricity, gas. – 2.2.1. Women's project. – 2.2.2. People care in Enel. – 2.2.3. Welfare project in Eni. – 2.3. Food and drink. – 2.4. Transport. – 2.5. Telecommunications. – 2.6. Tourism. – 2.7. Metalworking. – 3. Work-life balance at territorial level. – 3.1. D.A.L.I.A. project. – 3.2. VINCO project. – 4. Work-life balance for the less-protected. – 4.1. Job agency work: Ebitemp services. – 4.2. The home-help sector: the colf fund.

## 1. Introduction

The European Union has always encouraged not only the member States but also the social partners to promote policies and interventions in favour of equal opportunities and the reconciliation of work-life balance, inviting employers, workers and, above all, social partners at national and European level to: intensify efforts to guarantee a better balanced participation of men and women in professional activities and family life, in particular through the organization of working hours and the elimination of conditions that create wage discrimination between men and women; make an effort to find solutions which promote a well-balanced participation of men and women in professional activities <sup>(2)</sup>.

At national level, Istat data <sup>(3)</sup> confirms the strong need to find an adequate work-life balance. In fact, in 2012, approximately 15,182,000 people (38.4% of the total population between the ages of 15 and 64) have declared they regularly

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<sup>(1)</sup> Chapter written by Flavia Pace, researcher at the IAL Nazionale Srl Impresa sociale.

<sup>(2)</sup> See Resolution 2000/C 218/02 of the European parliament responsible for employment and social policies of 29 June 2000, concerning the equilibrium of men and women in professional and family life.

<sup>(3)</sup> Istat, *Year 2010. Work-life balance (Anno 2010. La conciliazione tra lavoro e famiglia)*, 28 December 2011.

take care of children aged 15 or under that live with them. Alternatively they look after other children, sick adults, the disabled or the elderly.

There are more women than men involved in looking after others (42.3% compared to 34.5%). As a result, women are less present in the labour market. In fact, for women aged between 25 and 54, employment levels reach 55.5%, while for men the figure rises to 90.6%.

The Italian social partners have contributed and continue to make efforts in improving the work-life balance of many male and female employees, through bilateral actions or by sustaining and collaborating with institutional bodies in order to realize negotiated initiatives.

Second-level bargaining – in particular, at company level – attempts to strike a balance between the market needs of the enterprise and the flexibility required by male and female workers, and in doing so, it frequently improves the national agreement in force.

This experience – which for the moment only regards agreements in the private sector – has been well documented and is now available on the permanent European Observatory website: *LIBRA Permanent European Observatory* <sup>(4)</sup> in the Italian section. Some of these situations formed the central theme of two Italian workshops, that were held in Rome on 13th June and 2nd October 2012 <sup>(5)</sup>, and organized by the partners of the Adapt project, the IAL Nazionale Srl Impresa sociale <sup>(6)</sup> and the CISL <sup>(7)</sup>. This latter organization intervened in three specific areas: the Labour Market; Policies regarding Immigration, Women, and the Young; Social Policy.

*Social partners and work-life balance* was the central theme discussed in the two events. This balance was defined not so much as a gender issue but more a strategy to improve equal opportunities, employment levels, productivity, promote

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<sup>(4)</sup> The Observatory can be accessed through the project website [www.adapt.it/libra](http://www.adapt.it/libra).

<sup>(5)</sup> The working programmes and all the material accumulated regarding the various experiences that will be quoted are available and can be downloaded from the project website and also in the Adapt Bulletin LIBRA Issue 2/2012 and 6/2012. The initiatives were publicized through *Labor TV*, the work TV station of the CISL, in the 44th episode of *Puzzle* broadcast on 13/6/2012. Furthermore, two articles entitled *Conquiste delle donne* and *Conciliazione nella politica delle parti sociali* were published in *Conquiste del Lavoro*, a newspaper run by the CISL, on 23rd June 2012 and on 4th October 2012.

<sup>(6)</sup> IAL is a National organization involved in vocational training and research, which is supported by the Cisl.

<sup>(7)</sup> The CISL has always sustained the strategic importance of second-level bargaining. In fact, in 2010, thanks to the work of the Department of Industry, together with the Cesos srl Impresa sociale and the IAL Nazionale Srl Impresa sociale, they set up the Observatory of Second-level Bargaining – the OCSEL <http://www.cisl.it/osservatorio-sulla-contrattazione-di-secondo-livello/>.

actions regarding equal opportunities, re-launch the representative role of the social partners and, above all, develop wellbeing and social cohesion <sup>(8)</sup>.

## 2. Work-life balance: the situation in different sectors

Finding a suitable balance between working and private lives requires specific policies and interventions. Very often, only through second-level bargaining is it possible to adapt specific policies to satisfy needs, contexts and territories.

In a variety of entrepreneurial environments, (in particular, in small and medium-sized concerns) a number of interventions have been experimented regarding:

- working hours and time at and away from work (days off, establishment of times, hours banks, etc.)
- health care services and assistance for male and female workers;
- income;
- type of employment contract <sup>(9)</sup>.

Regarding these issues, in the various economic sectors, there have been a number of interesting innovations which in no way should be considered as the perfect solution, but more as processes which aim to have a general positive impact at organizational level.

### 2.1. Textiles and clothing

The sector is characterized by a high percentage of female workers, about 65%, a figure that rises to 90% when considering only clothing. The main production areas are scattered throughout Italy, and there is considerable variation in the age and quantity of workers and also in the organization of work <sup>(10)</sup>. Due to the diversity of these characteristics, there is no “perfect practice” in the sector. In fact, there are many good initiatives created through second-level bargaining to suit the various different realities.

The actors in the sector have identified some guidelines for work-life balance on which to base second-level bargaining:

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<sup>(8)</sup> E. Riva, L. Zanfrini, *Non è un problema delle donne. La conciliazione lavorativa come chiave di volta della qualità della vita sociale*, Franco Angeli, Milano, 2010.

<sup>(9)</sup> Above all, following the law by decree n. 276/2003.

<sup>(10)</sup> Sergio Spiller, National Secretary of the FEMCA CISL, presented this experience of work-life balance in the sector.

- the regulation of time in order to manage the seasonal aspect of production which characterizes the textile enterprises. The idea is to create greater flexibility compared to what is set out in the NCAs, which in order to obtain better economic returns insist on more inflexible working hours. A further idea is to better use hours banks, making it possible to accumulate the number of extra hours worked during peaks in productivity levels (e.g. in the Luxottica Agreement <sup>(11)</sup> of 14 October 2010, it is possible to accumulate up to 120 hours) or to transform the productivity premiums into hours that can be accumulated;
- the use of part-time (which can however be used by the enterprise to the detriment of the worker). In this sense, second-level bargaining can take the needs of the workers into consideration together with company requirements and intervene in matters regarding the organization of work;
  - work differently, e.g. in *job-sharing*;
  - create services within the enterprise such as nurseries (even if many enterprises tend not to consider this possibility due to high costs. In fact, it is only really plausible in big companies) or after-school activities which help parents with older children and which is less costly for enterprises.

## 2.2. Electricity, gas

### 2.2.1. Women's project

In the electricity sector, for improvements in work-life balance, there is direct negotiation between the worker and the employer. The initiative described below has helped eliminate this practice and set up a “right” to work-life balance.

The *Women's Project* <sup>(12)</sup>, which was set up in 2007 financed by the FLAEI CISL, was realized at Enel, ACEA, A2A, SOGIN, GSE and E.On. The initiative started following a needs analysis of work-life balance for male and female workers. The scientific credibility of this study was guaranteed by the participation of the Statistics Department of the University of Rome “La

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<sup>(11)</sup> Luxottica Agreement of 14 October 2010 in present *LIBRA Permanent European Observatory*, [www.adapt.it/libra](http://www.adapt.it/libra).

<sup>(12)</sup> The Initiative was presented by Agnese Panci, who is responsible for the Coordination of Women of the FLAEI CISL Nazionale. On the website of the Federation <http://www.flaei.org/Progetti/Donne/tabid/534/Default.aspx>, the results of the research are available and there is a database containing all the undersigned agreements, together with the recent initiatives concerning equal opportunities.

Sapienza”. The results of the project were published in a volume entitled “Life-work balance” (*Conciliazione tra tempi di vita e tempi di lavoro*)<sup>(13)</sup>.

The initiative aimed to help promote teleworking as system to improve work-life balance. One of the most important results of the project was the 800 people that have benefited from teleworking through the agreements concerning flexibility undersigned at the end of 2011: The Sogin Agreement (19 July 2011) and the Enel Agreement (10 November 2011).

### 2.2.2. People care in Enel

Enel is an integrated operator, which is active in the gas and electricity sectors. It is the biggest electricity company in Italy and the second biggest concern in the gas sector. The Group boasts 81,000 employees who work in 23 different countries. It is present in 40 countries worldwide.

One of the important instruments the company uses to improve work-life balance is teleworking, which is already dealt with in the above-mentioned framework agreement of 10 November 2011 and which was extended to Enel Green Power and Enel.si in the agreement of 28 March 2012.

The agreement, as established in art.18 of the NCA, introduces teleworking into the Group with a variety of different solutions:

- *mobile teleworking* for people who work outside the company premises;
- *hotdesking teleworking* for those who, with the necessary instruments, return to the office at least once a week, and who need a “desk” which can be “shared”;
- *home teleworking*, for people that carry out their work at home;
- *teleworking from remote/satellite locations*, when the working activities are carried out away from the main company premises at remote locations.

Priority for teleworking is given to workers in need and their rights are protected according to the Social Action Protocol present in the current NCA and also to employees according to art. 31 of the NCA (“Protection of maternity/paternity”).

Through the course of 2012, there were 100 requests for teleworking, of which half were activated experimentally. There was an evaluation phase, planned for December 2012, based on productivity objectives and not on the time taken.

The framework agreement follows a general company philosophy in matters regarding the working environment. The initiative, *People Care*<sup>(14)</sup>, concentrates on four main areas:

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<sup>(13)</sup> M. Ferrari Occhionero, L. Cedroni, A. Cinti, D. De Marco, S. Mannelli, *Conciliazione tra tempi di vita e tempi di lavoro*, Rubbettino, Roma, 2011.

- *Wellbeing and Health*: assistance in maintaining a good level of psychological and physical health.
- *Care for the family*: solutions to suit the needs of the family and in particular, their children.
- *Saving time and costs*: instruments to provide services at competitive prices.
- *Mobility Management*: solutions to improve travelling to and from work encouraging the use of environmentally-friendly forms of transport.

Furthermore, in agreement with the trade union organizations, an articulated system of company welfare based on Funds or Associations was set up:

- for supplementary health assistance – the Fisde;
- for supplementary social security – the Fopen;
- for leisure and cultural activities – the Arca.

There is also an initiative entitled *There is a place for you (C'è posto per te)* which foresees a personal parking space within company premises for pregnant employees.

### 2.2.3. Welfare project in Eni

In 1953, thanks to the important work of its founder, Enrico Mattei, Eni was created. Today, it is one of the most important integrated Energy companies. Eni is present in 79 countries, and employs approximately 80,000 people. It is involved in petrol and natural gas, in the generation and commercialization of electricity and petrochemicals, and in engineering and construction.

The close relationship between external competition, the wellbeing and the company loyalty of human resources has always been the basis of welfare policies bargained by Eni and the trade union organizations <sup>(15)</sup>.

Together with flexible working hours, hours banks, part-time and teleworking, there is also the so-called “rucksack” of the employee which is the possibility for workers to organize 5 hours of their work per week autonomously.

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<sup>(14)</sup> The initiatives promoted by Enel were presented by Cristina Cofacci, responsible for industrial relations. More information is available on the website [http://www.enel.it/it-IT/carriere/cresci\\_enel/people\\_care/](http://www.enel.it/it-IT/carriere/cresci_enel/people_care/) Worthy of note, is the Agreement regarding improvements in work-life balance, signed on 27th October 2011.

<sup>(15)</sup> The Welfare Project of Eni was presented by Fabrizio Proietti, the Vice president of Industrial Relations. More information is available on the website [http://www.eni.com/it\\_IT/sostenibilita/persone/benessere-persone/benessere-persone-2010.shtml](http://www.eni.com/it_IT/sostenibilita/persone/benessere-persone/benessere-persone-2010.shtml) and in the latest supplementary Agreement stipulated on 12 May 2011 which expires on 3 December 2012.



In 2007, *Welfare Project* was launched in order to resolve the problems concerning work-life balance. The project was first introduced in the larger companies of the group and later, in 2011, extended to the other smaller concerns.

The project is realized in various phases: a primary investigation through focus groups and questionnaires that are compiled by the employees and an analysis of requests and expectations regarding the implementation of new initiatives.

The welfare activities are principally linked to the “Family”, and also to “Health” and “Time & Money saving”.

In 2011, more services were introduced for the family in the form of company crèches and school camps for older children in cities and holiday locations.

In particular, the second phase of the *Eni Crèche and Infant School Project (Progetto Nido scuola Eni)* was set up which involved the realization of the Eni crèche. This is an excellent service, which can be found at San Donato Milanese, and which caters for 60 children in the crèche and 94 in the infant school.

In order to satisfy the increasing demand for services, the *Eni school holidays (Soggiorni Estivi Eni)* have been reconfirmed with approximately 2000 participants, and a new type of holiday at Grosseto, which centres round the study of the English language and marine ecology. There are 250 places available for this type of holiday.

The *Summer camps in the city (Campus estivi in città)* have also been confirmed and the initiatives have been extended to include not just San Donato Milanese and Rome, but also Sannazzaro de’ Burgondi.

Regarding work-life balance, an event entitled *Eni-together (Eninsieme)* has been organized. This is an initiative which involves employees and their children, who are able to visit the offices of their parents during a typical working day <sup>(16)</sup>.

### 2.3. Food and drink

The Nestlè Italiana SpA is one of the most important companies in the Italian Food and Drink sector. The company employs about 3,500 people in the Headquarters in Milan and the 7 plants located all across Italy.

Today, the Sanpellegrino SpA (which is part of the Nestlè group) represents one of the biggest and most important *beverage* companies in Italy, with 1600 employees in the various offices, commercial networks and production plants.

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<sup>(16)</sup> Of interest, note that annually in differing locations each time, Eni organizes a winter sports competition entitled *Trofeo della Neve*. This sports event is open to all employees and their families that arrive from many societies and different nations.

These two companies are characterized by a high presence of female workers and the seasonal nature of the production. They are very big compared to other enterprises in the sector, whose average number of employees is around 20.

In these two big companies, a number of interesting company-level agreements has been undersigned regarding teleworking and paternity leave <sup>(17)</sup>.

The agreements regarding teleworking foresee that the company will sustain all the costs necessary to set up a suitable working area at home and that there are no legal changes in the employer-employee relationship. The teleworking is accompanied by vocational training for the teleworker, his superior and colleagues. The maintenance of relationships between the teleworker and the group is guaranteed by the presence of the teleworker in the company premises 2-3 times a month.

The teleworkers will also remain in contact with the RSU and are entitled to lunch vouchers in the same way as the other workers in the company.

To date, in the two companies, no request has been refused and, today, there are 100 people in teleworking.

The agreements also foresee other possibilities for workers to find a better work-life balance including:

- flexible working hours for employees, who can choose their daily working hours which can range from a minimum of 5 hours to a maximum of 10 working hours. The number of working hours per week, however, must total 39;
- “summer part-time”, where the horizontal part-time worker can change to vertical during the summer, when the schools are closed and consequently children need more care.
- Social part-time to be used in cases of serious illness.

Regarding paternity, in Sanpellegrino, the number of days of paid leave granted to the working father for the birth of a child, already foreseen in the Food and Drink NCA, has been increased from one day to four. Furthermore, a “company paternity leave” has been set up which can be taken during the first three years of the child. For the working fathers that require parental leave, the company, for a maximum of two weeks, will integrate their salary up to 100% of the standard salary (the indemnity foreseen in the law regarding parental leave is equivalent to 30% of their salary). Finally, there has been an increase to ten days of paid leave for fathers with ill children aged between three and eight years.

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<sup>(17)</sup> Giorgio Galbusera, of the FAI CISL nazionale, who undersigned the agreement, illustrated the characteristics. The Nestlè Agreement (see [www.nestle.it](http://www.nestle.it)) concerning the experimental project of teleworking was signed on 19 January 2012, while the Sanpellegrino Agreement (see [www.sanpellegrino-corporate.it](http://www.sanpellegrino-corporate.it)), regarding two-week paternity leave was signed on 13 March 2012.

Kraft Food Italia Srl also undersigned an interesting company-level agreement on 29 June 2011. The most important points are as follows:

- the possibility to do the shopping on the workplace;
- the possibility to benefit from laundry services;
- a crèche;
- flexible working hours for employees who are not obliged to clock on and off.

## 2.4. Transport

The work in this sector has traditionally been characterized by a “masculine” approach.

Important sectoral changes have been introduced thanks to experiences realized in Trambus SpA, before the enterprise was taken over by Atac SpA (The Public transport company of Rome).

Between 2005 and 2007, an interesting initiative was set up through funding in accordance with art. 9 of Law 53 of 2000 – entitled *Maternity and paternity: a stop and not a terminus* <sup>(18)</sup>.

The project aims to stimulate a cultural change in a predominantly masculine environment which, in recent years, has seen an ever increasing number of female workers (not only in office work but also drivers).

The project set up a system of training and psychological support for 25 employees that returned to work after a period of leave. It was managed by 5 “work-life balance facilitators” that worked on motivation and the development of individual and group competences of the 25 beneficiaries. These people, on their return to work, were involved in actions to better balance their competences and participated in distance learning programmes and group meetings organized to help these workers consider their personal development and how this can help them improve “company life”.

The work-life balance facilitator, who is selected by the members of an equal-opportunities committee and who has similar duties to a worker on leave, assists the worker before, during and after their leave and acts as an interface between the worker and enterprise.

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<sup>(18)</sup> Francesca Di Felice, of the Women’s Coordination (Coordinamento Donne) of the National FIT CISL presented the project.

## 2.5. Telecommunications

Vodafone Omnitel N.V. and Wind Telecomunicazioni SpA were the enterprises chosen to study the contribution of second-level bargaining in the improvements of work-life balance in this sector (<sup>19</sup>).

Vodafone Omnitel N.V., the Italian part of Vodafone Group PLC, has been operating in our country since the early 90s. It is currently the second most important mobile phone company in Italy. The enterprise employs about 8,000 people, half of which are women.

Founded in 1997, WIND Telecomunicazioni SpA is the third most important telecommunications enterprise in Italy. It is one of the few operators in Europe that offers integrated fixed and mobile services, and Internet. The company employs about 6,000 people. More than 50% of these are women.

In both these enterprises, in order to improve productivity, reduce absenteeism and motivate personnel, their management have considered life-work balance as one of the top priorities in bargaining. Innovations include the introduction of:

- *mother shifts*, female customer workers can ask for shifts between 8am and 6pm (for the first 24 months of their babies life in Wind and up to 30 months in Vodafone);
- *crèches*, in Wind, it is possible to have 8 hours paid leave to assist their children while they first start going to a crèche. They are entitled to this benefit until their child reaches the age of three. In Vodafone, there is an internal crèche in their offices in Milan. There are also benefits and financial aid in their offices in Ivrea.

In particular, in Vodafone, the company increases the salary to 100% for four and a half months of the 6 months of voluntary parental leave. Furthermore, if all the parental leave has been used, it is possible to obtain unpaid leave for one up to a maximum of six months. This is possible once per child on condition that the worker has been working for the company for 4 years or more. For personal reasons, it is also possible to obtain unpaid leave for one to six months once only (also in this case, 4 years of work are necessary).

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<sup>(19)</sup> Laura Ferrarese, National secretary of the FISTEL CISL, presented the contents of the agreements undersigned in Wind (<http://www.windgroup.it/>) and Vodafone (<http://www.vodafone.com/> and <http://www.vodafone.it>) regarding maternity and other matters. Agreement in Wind Telecomunicazioni SpA concerning the organizational aspects of their call centres of 6 December 2003 and the agreement for the renewal of the company-level agreement of 5 November 2008. For Vodafone Omnitel N.V. consult the agreement for the renewal of the company-level agreement of 24 November 2003 and 25 September 2008.

Finally, in Vodafone, temporary part-time is 6 hours and can last between 6 and 18 months and can be renewed according to priorities. This modality can be requested in professional areas that are not specifically related to call-centres for a maximum of 3% of the total work force per year. This right is valid for workers up to the 7th professional level. Workers are entitled to part-time in Vodafone for the following reasons: looking after their children up to the age of 8, helping partners or members of the family up to grade 3 with certified pathologies, serious family motives.

In Wind, there are *parent shifts*, which give working mothers and fathers the right to request shift times between 8 am and 18 pm in two cases: if parents are separated, divorced or widowed with children under the age of 8, or alternatively if they are co-parents with children under 8 years of age and that find themselves in any of the situations covered in L. 104/1992.

Furthermore, in Wind, there are special *permits* for ill children (between 3 and 8 years of age). Apart from the other 5 days they are already entitled to, employees have a right to reduce their working hours or to ex-national holidays for 2 events per year for a maximum of 3 days each. Also foreseen is leave for the medical visits of their children under 8 years of age: 3 hours during the working day and 24 in total annually.

Finally, Wind have introduced a form of flexitime whereby workers who arrive between 5 and 15 minutes late can recover the time at the end of their shift. They have the right to do this for a maximum of 11 times per month (excluding people working on the first and last shifts). For part-time workers that are not involved in shift work, flexitime of up to one hour is foreseen (15 before and 45 minutes after official clocking on time).

## 2.6. Tourism

The characteristics and experiences of the sector were analyzed by the FIPE Confcommercio – Federazione Italiana Pubblici Esercizi, which is a leading association in the restoration and entertainment sector. In Italy, in this sector, there are more than 297 thousand enterprises, including bars, restaurants, discos, bathing establishments and canteens <sup>(20)</sup>.

Tourism has always been characterized by the seasonal nature of its work, the fragmentation of its enterprises and, above all, by a high presence of female workers (60% of the total workforce).

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<sup>(20)</sup> Silvio Moretti, Director of Trade Union Services of FIPE [www.fipe.it/](http://www.fipe.it/), presented the initiatives to promote the work-life balance.

Due to these characteristics, there has already been considerable experimentation in NCAs involving many forms of flexible working hours and solutions that are *family friendly* such as the hours bank, flexible daily working hours, flexibility regarding shifts, special permits for time off, *job sharing* etc.

One of the most interesting and well-known experiences in the sector regards the Autogrill Group, which is the world leader in restoration and retail services for travelers. A total of 62% of the people that work in this Group are women <sup>(21)</sup>.

In 2010 Autogrill Italia introduced the *Maternity kit* and the *Maternity Tutor* in order to give support to mothers with newborn children. The former is a useful instrument which contains all the necessary information for female workers during their pregnancy (clear information regarding administrative procedures, rights, risk evaluation during pregnancy and breastfeeding etc.). The *Maternity Tutor*, on the other hand, is a person available to give advice and support to mothers and to facilitate their work re-entry.

Apart from these opportunities, it is also possible for mothers to work part-time for the first the 36 months of their child's life. This right was set out in the company-level agreement of 17 October 2006.

Finally, there are arrangements with some private nurseries located near the company premises. In these cases, the company will pay 50% of the monthly nursery fees.

## 2.7. Metalworking

The sector is characterized by a high presence of male workers and by rigid manufacturing processes <sup>(22)</sup>. However, in this sector, there are enterprises, which, due to their specific characteristics and due to various crises, have experimented various forms of flexible organization. One example is the Italian multinational enterprise Bitron SpA.

This company produces electronic components for the automotive industry and for household electrical appliances. The enterprise, in its two production plants in the province of Cuneo, employs 700 people of which 70% are women.

One of the consequences of the high percentage of female workers in the company is the constant presence of women who are trade union representatives in the company. Therefore, it is natural that there is greater attention paid to issues such as equal opportunities, working hours and life-work balance.

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<sup>(21)</sup> More information regarding company policy is available on <http://www.autogrill.com/people/diversity/women.aspx?iis=1>.

<sup>(22)</sup> Anna Trovò, National Secretary of the FIM-Cisl, presented the agreements in Bitron, <http://www.bitron.net/>.

Industrial relations have become more consolidated through the years as the Group has expanded. Bargaining regarding work-life balance has progressed since the 80s through a series of steps. In this period, following a reduction in orders, the company had to find solutions such as voluntary part-time. At that time, the initiative was regarded purely as an option to avoid redundancies. However, through the agreements undersigned in the 90s <sup>(23)</sup>, part-time became a bargaining objective chosen to improve work-life balance.

In the early years of the new millennium, the agreements undersigned contained new references to flexible working hours which were predominantly included to cater for the needs of female workers. Various types of part-time were introduced, including part-time night work, which can be reversed and temporary (16 or 24 hours during night time only) on a voluntary basis, Saturdays on a shift basis (*a scorrimento*), part-time at week-ends (one works on Saturday and Sunday plus another day during the week and, finally, emergency part-time, which gives workers the right to part-time for a period of 6 months in order to resolve serious family needs and problems (illnesses or other serious situations).

In 2012 in Bitron SpA, 13% of the employees in the production plants in Cuneo and 18% of the women had a part-time contract.

In order to further meet the needs of female workers, it is important to remember that the enterprise was one of the first to introduce hours banks – through company-level bargaining – and the possibility to split parental leave.

Finally, with the agreement of 30 June 2009, the enterprise made an important contribution at territorial level to sustain a local nursery that started up its activities in 2011.

Recently, there has been an increase in similar initiatives by enterprises that take on social responsibility in the territory where they operate.

### **3. Work-life balance at territorial level**

#### **3.1. D.A.L.I.A. project**

In order to favour life-work balance practices, bargaining can take place – as we have seen – at company level in matters regarding the organization of working hours, through flexibility, part-time and teleworking. However, it can also act at territorial level by introducing initiatives regarding, for example, the transport system, nurseries and services for infants and people who are not self-sufficient.

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<sup>(23)</sup> Of note, the company-level Agreements of 29 July 1977, 11 July 2001, 10 March 2005 and 30 June 2009.

“Gender policies create work for women” was the aim and slogan of the D.A.L.I.A. project (Women, Autonomy, Work: Active Integration) <sup>(24)</sup>, which is a territorial initiative financed in the province of Pistoia.

The project had two objectives:

- regarding work, to encourage best practices in matters concerning work-life balance with the involvement of female workers, identifying practices and competences to create a more feminine style of leadership and enterprise;•
- regarding institutions, identify and coordinate all the actors interested in equal opportunities.

The project has realized an updatable operative guide to sustain enterprises and Local Bodies, which can be used in bargaining and concertation. The guide suggests a handbook to verify, for example, work-life balance spending in the budgets of the local institutions (like, for example, the spending foreseen for nurseries).

Furthermore, the project has produced a series of guidelines for equal opportunities and for the Plan of city operating times (*Piano dei tempi della città*) for the Institutions involved in the experiment.

The Dalia project is no longer only a local affair. In fact, these practices are now commonplace in Turkey. Currently, attempts are being made to extend it also to Argentina.

### 3.2. VINCO Project

The VINCO project (*Voucher, INnovazione e COnciliazione*) <sup>(25)</sup> represents another interesting initiative that was promoted in the Frosinone territory.

The project regards a very delicate local reality. Female employment levels in the province of Frosinone are 39.7%, which is the lowest level of all the provinces in the region of Lazio (54.5%) and lower than the national figure (51.1%). Regarding female workers, Frosinone comes 84th out of all the provinces in Italy.

The industrial crisis in Frosinone and the transfer of some production plants abroad where there is a lower cost of labour have had very negative effects on local employment levels and in particular on female occupation levels. Work-life balance in this territory is guaranteed by the main social shock absorber: the family.

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<sup>(24)</sup> Patrizia Pellegatti, general secretary of the Ust di Pistoia presented the territorial experience that has been promoted in the Pistoia area.

<sup>(25)</sup> Alessandra Romano, Provincial Secretary of the CISL Frosinone and responsible for the Coordinamento Donne CISL Frosinone presented the initiative. More information is available on the website <http://www.progettovinco.it/index.aspx>.



The project, which was set up in October 2008 and financed by the FSE, was concluded in August 2012.

The first phase revealed the real work-life balance needs of the territory through a survey in the form of a questionnaire which was also distributed through the help of a strong publicity campaign, a website and a specific freephone number.

The project provided 500,000 Euros for the issuing of vouchers (maximum value of 1,200 Euros each) that can be used to pay for health care services. Each female worker had the right to a voucher, provided they were employed and had a low salary.

At the same time, a list was created for workers containing information regarding reliable service suppliers they could contact.

The project had a strong cultural impact on a territory where family care is still exclusively considered the responsibility of women and, at the same time, it also had a positive impact from an economic point of view through the creation of new jobs thanks to the increase in demand for services. The temporary nature of this project, however, could be a problem in the future because all the new services created could risk closure.

#### **4. Work-life balance for the less-protected**

##### **4.1. Job agency work: Ebitemp services**

The policies and instruments regarding life-work balance in the other sectors cannot be completely transferred to the male and female job-agency workers who operate in the other sectors to varying degrees. More than 50% of the job-agency workers <sup>(26)</sup> operate in the manufacturing industry.

The job-agency workers (more than 500,000, which is 1 % of the entire labour market in Italy) are characterized by a number of important aspects:

- the worker is an employee of the agency but is covered by the clauses of the company where he/she works;
- the mission lasts an average of 45 days;
- these people are covered by the company-level agreement in force where they work for the entire period they are operating in the company.

The trade union organizations and employer associations in the sector – through Ebitemp, the bilateral body set up according to the NCA – intervened in order to introduce some work-life balance initiatives:

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<sup>(26)</sup> Silvia Degl'Innocenti, National Secretary of the FELSA CISL explained the work-life balance initiatives promoted by Ebitemp (<http://ebitemp.it/>).

- a contribution of up to a maximum of 80 Euros per month for a nursery during the first three years of a baby's life for working mothers (for the moment, fathers are excluded from this benefit) who are working for a period of at least 7 days and who have worked for at least three months out of the last 12;
- a contribution, of 1,400 Euros, for pregnant workers who stop working in the first 180 days since the beginning of their mission and who are not entitled to maternity indemnity from the Inps.

Furthermore, the reimbursement of health care costs is foreseen (up to a maximum of 5,000 Euros) for important surgery, hospitalization, and the health and dental costs of each member of the family.

Finally, the trade union organizations and employer associations in the sector foresee other benefits such as income support, and credit access (up to 10,000 Euros).

Nevertheless, many job-agency workers do not know about the support offered by Ebitemp. Therefore, the Equal Opportunities Commission – foreseen in art. 6 of the NCA – is working on a *Ethical manual* that will be distributed round all the job agencies in order to promote services and provide information regarding work-life balance.

#### **4.2. The home-help sector: the colf fund**

Family care responsibilities and the lack of facilities limit the entry of women into the labour market and block the possibility for part-time female workers to change to working full-time. In Italy, home helpers (mostly young immigrant female workers), through their invaluable assistance, help women, men and families to find a satisfactory work-life balance <sup>(27)</sup>.

The colf fund <sup>(28)</sup> represents an bilateral instrument that protects these workers, and that makes it possible to improve work-life balance opportunities for all workers.

The colf fund provides socio-health services for home-help workers and their employers (families).

For the workers, the following is foreseen:

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<sup>(27)</sup> Elena Maria Vanelli of the FISCASCAT CISL Nazionale presented the initiative. More information is available on the website <http://www.cassacolf.it/>.

<sup>(28)</sup> This the instrument, included in the NCA and undersigned by the DOMINA, FIDALDO who represent the employers and the FILCAMS CGIL, FISASCAT CISL, UILTUCS UIL and FEDERCOLF who represent the home-help workers, provides socio-health services for their members. The colf fund is a non-profit organization. The governance is jointly controlled by the signees.

- reimbursement of health costs for important diagnostic services up to a maximum of 300 Euros per year;
- daily reimbursement of 20 Euros in cases of hospitalization that range from a minimum of 2 days to a maximum of 20;
- daily reimbursement of 20 Euros for a maximum of 10 days for the period of convalescence following hospitalization, which must be certified by a doctor or foreseen in the medical records of the patient.

For the employers, the following is foreseen:

- in cases of death or permanent invalidity of the employee due to injury for which a form of compensation from INAIL has been activated, a specific insurance policy has been set up to cover the civil responsibility of the employer with an annual maximum coverage of 50,000 Euros;
- in this annual maximum coverage, legal costs are also included which can be put at the disposal of the client by the insurance company during any dealing with the Institute.



## CHAPTER IV

### BELGIUM

*Summary:* 1. Social dialogue in Belgium. – 1.1. Interprofessional-level bargaining. – 1.1.1. Interprofessional Agreements (IPA) and the «Group of Ten». – 1.1.2. National Labour Council (NLC). – 1.1.3. Higher Council for Prevention and Protection at Work (HCPPW). – 1.1.4. Central Economic Council (CEC). – 1.2. Sectoral-level bargaining. – 1.2.1 Joint Committees. – 1.2.2. Collective Labour Agreement (CLA). – 1.3. Company-level bargaining. – 1.3.1. Trade Union Delegation (TUD). – 1.3.2. Committee for Prevention and Protection at Work (CPPW). – 1.3.3. Works councils. – 2. Maternity protection and parental leaves. – 2.1. Maternity protection. – 2.1.1. Protection against dismissal. – 2.1.2. Prohibition of overtime work. – 2.1.3. Prohibition of night work. – 2.1.4. Prohibition of discrimination. – 2.1.5. Health and safety. – 2.1.6. Time off for antenatal care. – 2.2. Maternity leave. – 2.3. Adoption leave. – 2.4. Paternity leave. – 2.5. “Birth Leave” for co-parents. – 2.6. Parental leave. – 2.7. Time off for breastfeeding. – 2.8. Breastfeeding leave. – 2.9. Direct financial support. – 2.10. Childcare facilities. – 3. Time credit and reduction in working hours. – 3.1. Time credit without cause. – 3.1.1. Full suspension from work. – 3.1.2. Reduction to part-time work. – 3.1.3. Reduction of full-time work by one/fifth. – 3.1.4. Implementation and limits. – 3.2. Time credit with cause. – 3.2.1. Reduction in working hours for over 55. – 3.2.2. Leave to care for family or household members with serious health conditions. – 3.2.3. Palliative care leave. – 4. Working time. – 4.1. The concept of working time. – 4.2. Flexible or variable work arrangements. – 4.2.1. Flextime. – 4.2.2. Variable work arrangements. – 4.3. Part-time work. – 4.3.1. Part-time workers treated as full-time workers. – 4.3.2. Part-time workers maintaining acquired rights. – 4.3.3. Voluntary part-time workers. – 4.3.4. Increase in part-time work. – 5. Telework. – 6. Sectoral-level bargaining. – 6.1. Flexible working arrangements in the transport sector in Brussels. – 6.2. Childcare allowance in the cleaning sector. – 7. Examples of good practices. – 7.1. Knauf-Insulation S.P.R.L. – 7.2. Prayon S.A. – 7.3. Uvelia S.A.

#### **1. Social dialogue in Belgium**

Belgium is internationally recognised for its well-developed social dialogue system, characterised by three negotiation levels: interprofessional, sectoral and enterprise level. Consultation bodies are set up at each level to allow representatives of workers and employers to meet regularly:

<b>Interprofessional Level</b>
Group of Ten
National Labour Council (NLC)
Higher Council for Prevention and Protection at Work (HCPPW)
Central Economic Council (CEC)
<b>Sectoral Level</b>
Joint Committees (JC)
<b>Company Level</b>
Trade Union Delegation (TUD)
Committee for Prevention and Protection at Work (CPPW)
Works Councils (WCs)

Despite the relatively decentralised institutional structure of Belgium and the further devolution of power expected for 2014, labour legislation remains a federal matter, and regions with competences on employment matters still cannot interfere in this area.

Each Region or Community sets up a specific Economic and Social Council made up by social partners' representatives. These councils – that will not be analysed in the present research – have advisory functions and provide consultancy to governments on economic and social issues.

## **1.1. Interprofessional-level bargaining**

### **1.1.1. Interprofessional Agreements (IPA) and the «Group of Ten»**

An interprofessional agreement is a programme or framework agreement that is signed every two years by social partners' representatives in the private sector. This agreement is drawn up within the "Group of Ten" that includes five employers' representatives, five workers' representatives and one representative of farmers. Discussions usually begin in late November of even years. Interprofessional agreements always include a planning of the following two years with a focus on wages, tax reductions, unemployment benefits, workers' training and so on. These agreements must always be converted into collective labour agreements (CLA) or into laws and decrees.

They apply to all workers in all sectors. Negotiations continue then within the various Joint Committees drawing on specific standards contained in the IPA and generally stop at the end of April. Finally, in a number of sectors, an additional agreement is signed at the company level to implement the IPA.

IPAs have been existing since the 60s. However, between 1976 and 1986, no agreement was concluded because of the economic crisis. Afterwards, social partners started signing biennial agreements again, with the exception of 1996, 2004 and 2010, when social partners were not able to reach an agreement. Negotiations for the renewal of the interprofessional agreement for the years 2011-2012 started at the end of 2010. After consultations, two out of three trade union organisations taking part in negotiations did not sign the preliminary agreement laid down in January 2011 within the Group of Ten. The political, economic and social context is more complex now than at the time of the conclusion of the previous IPA. The effects of the recession still affect significantly employment and wages. The limited scope of intervention on the part of the resigning federal government makes it difficult to intervene financially to facilitate the agreement. The OECD, rating agencies and some other countries in the euro area support employers in their request to remove wage indexation mechanisms. Among anti-crisis measures, the harmonisation of workers' and employees' statutes is considered as a top priority, that led – coupled with the issue of labour costs increase – to a deadlock on which have stalled the FGTB and, more surprisingly, the CGSLB (Liberal Union). Government mediation failed to bring social partners together with Government authoritatively implementing the measures laid down in the preliminary agreement as reviewed by the Government itself.

### **1.1.2. National Labour Council (NLC)**

The National Labour Council (NLC) was established by Law of 29 May 1952 (MB 31.05.1952). It is a national and interprofessional joint body with competence in social matters. The NLC has mainly advisory powers. It provides Government or Parliament, either on its own initiative or upon request of other institutions, opinions or proposals concerning social problems affecting employers and workers. It can also act as a Joint Committee when the latter does not succeed in achieving specific objectives.

Since 1968, the Council can also sign national collective agreements at an interprofessional level. These agreements are usually made mandatory by Royal Decree for all companies and all workers.

At a practical level, the Council operates mainly in areas such as social legislation, contracts of employment, accidents at the workplace, wage indexation, minimum wage, overtime work, flexibility, early retirement and early retirement pensions.

### **1.1.3. Higher Council for Prevention and Protection at Work (HCPPW)**

The Council's mission is to provide advice on issues related to the areas described in Law of 4 August 1996 on workers' health and safety. However, the Council may also analyse on its own some relevant issues and give notice. Then, it also provides an opinion on annual reports written by the Directorate General on Welfare at Work or the Directorate General on Humanisation of Work. It also gives an opinion on the reports written by the Government to the European Commission regarding the practical implementation of Directives on workers' welfare and is informed on EU activities in this area.

### **1.1.4. Central Economic Council (CEC)**

Established by Law of 20 September 1948, the Central Economic Council advises and makes proposals either on its own initiative or upon request of a Minister or Parliament.

All stakeholders and the different views must be taken into account at the time of drafting opinions and proposals. The CEC is both a place where employers and unions meet to discuss their positions, develop proposals, and reach agreements with a view to representing the general interest. Its advice is mandatorily required for the development and implementation of many provisions, including, for instance, economic and financial information to be communicated to works councils, as well as at the time of assessing the competitiveness of the Belgian economy.

Moreover, the CEC established a Commission on Competition, charged to provide advice to Government, Ministries or to the Competition Council on issues relating to competition policies and law enforcement on the protection of competition.



## **1.2. Sectoral-level bargaining**

### **1.2.1. Joint Committees**

Joint Committees are set up to negotiate collective labour agreements (CLA) in every sector, with a focus on working conditions, as well as wages and social peace.

Joint Committees are established on the basis of Law of 5 December 1968 on Collective Agreements and Joint Committees.

They are made up of an equal number of representatives of employers' and of trade union representatives. They are set up in every sector with a view to bringing together companies carrying out similar activities to define minimum working conditions applying to all businesses in the same sector.

Their duties include:

- concluding collective labour agreements;
- preventing or resolving social conflicts;
- advising Government, National Labour Council and Central Economic Council;
- carrying out specific tasks as provided by law.

Joint subcommittees are subdivisions of Joint Committees at a local or industry level. They can be independent or not. Collective agreements signed by joint subcommittees do not require the approval of Joint Committees.

On 1 January 2012, there were 101 Joint Committees and 70 Joint Subcommittees. 5468 assignments were taken on by the 171 Joint Committees and Subcommittees. Assignments were carried out by 3,002 people, 2,306 of which were men and 696 women.

Joint Committees and Subcommittees are established by Royal Decree. The name of the Joint Committee, the category of workers it refers to (manual and / or non manual workers), the sector or business activities and the geographical area in which it operates are set out in the Royal Decree establishing the Committee.

- It is very important for employers to know to which Committee they have to refer to. Collective agreements concluded by Joint Committees determine working conditions and remuneration in the companies of a specific sector.

- Depending on the Joint Committee companies refer to, social security contributions are paid to a specific welfare fund, either directly or via the National Social Security Office.

The principles for determining the Joint Committee companies must refer to are the following:

- The legal entity, i.e. the person or entity hiring workers.

- The key criterion for determining the relevant Joint Committee is the activity actually performed by the employer, although there are some exceptions of companies assigned to a specific Joint Committee on the basis of the job or employment contracts provided to workers. Each employer is assigned only to one Joint Committee.
- An employer comes in principle under a single Joint Committee although there are exceptions to this rule.

### 1.2.2. Collective Labour Agreement (CLA)

A collective labour agreement (CLA) is an agreement between one or more unions and one or more employers' organisations or one or more employers, defining the individual and collective employment relationship between employers and workers in specific companies or sectors and regulating the rights and duties of contracting parties.

This definition shows that the CLA:

- is an *agreement* and therefore social partners are free to negotiate. Government and public authorities are not involved in collective bargaining;
- regulates rights and duties of both employers and workers as well as of employers' and workers' organisations.

A CLA is an extremely important source of law within the scope of labour law. It acquired full and complete force of law after the introduction of Law of 5 December 1968 on Collective Labour Agreements and Joint Committees. Although the content of agreements is at the discretion of the contracting parties, provisions contrary to sources of law of higher level (international treaties, laws, decrees) are considered void. There are three types of CLAs:

- Intersectoral agreements concluded within the National Labour Council and signed by all the organisations involved and applying to all sectors throughout the country. Within the NLC, agreements can be concluded for sectors that have no Joint Committee or when the existing Joint Committee is not taking any action. CLAs of the NLC are numbered.
- CLAs concluded at the sectoral level by the organisations represented in Joint Committees.
- CLAs concluded outside Joint Committees, called company agreements, that are concluded by unions and one or more employers or employers' representative.

As for (inter)sectoral agreements, a notice of filing is published in the Belgian official gazette (*Moniteur Belge*), thus implying that, 15 days after publication, the main provisions (e.g. on working conditions and remuneration) are binding for all

employers who belong to the same Joint Committee and as long as their activities fall within the scope of the agreement. Individual exceptions are possible in the case a written agreement is concluded between the employer and the worker.

On the other hand, the National Labour Council, the Joint (Sub-)committee or the represented organisation may require the CLA to be made mandatory. If the Minister agrees to this request, the agreement is published in full in the *Moniteur Belge*, as attached to the Royal Decree. If a collective agreement is made mandatory, it will no longer be possible to derogate from it, neither for an employer nor for a worker (unless, for example, the agreement accepts derogations in favour of workers). Failure to comply with a mandatory collective agreement can be subject to sanctions.

When an employer is bound by a collective agreements, all rights and obligations provided in it must be applied to all workers, including non unionised employees.

### **1.3. Company-level bargaining**

#### **1.3.1. Trade Union Delegation (TUD)**

Role and functions of trade union delegations are set out in a collective labour agreement, i.e. CLA No. 5 of 24 May 1971 of the National Labour Council. It lays down framework provisions but leaves to sectors or individual businesses the task of fixing specific provisions. This is why there are significant differences as regards the status of trade union delegations among sectors.

The request to set up a delegation must come from one or more workers' organisations and must be directed to the business owner. Initiative should always be taken by workers, unlike in the case of works councils and of the Committee for Prevention and Protection at Work, for which it exists a legal obligation on employers to meet basic requirements.

In 2008, as part of the transposition process of the European Directive on information and consultation of workers, trade union delegations in companies with fewer than 50 employees have been given new functions. TUD are now entitled to be informed on economic and financial matters. They also have a right to information and consultation on all decisions that may lead to substantial changes in work organisation or contracts of employment.

### 1.3.2. Committee for Prevention and Protection at Work (CPPW)

Any company or institution with at least 50 workers must set up a Committee for the Prevention and Protection at Work (CPPW). It is composed of an equal number of workers' and employer's representatives. Prevention experts from inside and outside the company may be invited for consultation.

The CPPW is essentially responsible for identifying and proposing tools and methods to actively contribute to promoting workers' welfare at work. The concept of well-being at work covers the following areas:

- safety
- workers' health protection
- work-related stress
- ergonomics
- hygiene at work
- workplace design
- measures taken by the company as regards the working environment in relation to the above mentioned points
- protection of workers against violence and mobbing or sexual harassment at work.

The CPPW's task is to issue opinions and make proposals on workers' welfare at the workplace and on the comprehensive prevention plan and annual action plan. This means, among other things, that the CPPW takes part in the process of identification of risks that may threaten the safety, health and hygiene of workers as well as take action in all the situations where the work is not deemed appropriate for the worker. The CPPW has the right to issue a notice on all projects, measures and means that directly or indirectly, immediately or on the longer run, can affect workers' welfare.

The Royal Decree on health and safety at work requires employers to establish structural and planned prevention policies using a "dynamic system of risk management". This dynamic system of risk management aims at planning and implementing prevention policies. In order to do this, the employer shall provide the CPPW with the following two documents:

- the comprehensive prevention plan indicating the prevention policies to be adopted over a five-year period; the CPPW gives an opinion on this and on each of the changes made to the plan;
- the annual action plan, which consists in the practical realisation on a yearly basis of the comprehensive prevention plan.

In 2008, as part of the transposition process of the EU Directive on information and consultation of workers, CPPWs in companies without works councils have been given new functions. CPPWs are now entitled to be informed on economic and financial matters. They also have a right to information and consultation on all decisions that may lead to substantial changes in work organisation or contracts of employment.

The Committee for the Prevention and Protection at Work (CPPW) meets at least once a month.

### **1.3.3. Works councils**

Any company or institution with at least 100 employees must establish a works council. Councils are joint consultative bodies composed of an equal number of representatives of workers and employers. They have the right to be informed, control and provide advice on economic, financial and social matters.

This general competence covers many fields such as human resources management, work organisation, financial and economic issues of the company, working conditions, new technologies and so on. The council takes also decisions in relation to work regulation, collective days off and working hours.

Works councils should meet at least once a month. In addition to these monthly meetings, there are special meetings for the purpose of informing works councils on economic and financial matters. Workers' representatives may be assisted by an expert.

Functions of works councils can be grouped into seven main areas:

- information organisation: basic financial and economic information, annual outlook, quarterly changes and occasional information during major events;
- economic and financial situation: competitive position of the company, annual accounts, labour costs, investments, organisation;
- employment and training: human resources report, overtime work, part-time work, temporary employment, outplacement, measures to promote employment, early retirement;
- organisation and working conditions: new technologies, work arrangements, telework, stress;
- personnel policy: workers' classification, financial participation, reduction in working time, paid educational leave, gender equality, non-discrimination against migrants;

- relationship between employer and workers: days off, holidays, surveillance cameras, electronic communications control, theft prevention, harassment;
- environmental conditions: water and air discharge, energy consumption, waste products, investment that could impact on the environment, worker mobility.

## **2. Maternity protection and parental leaves**

Nowadays, the idea that family care is an important issue for both women and men has caught on. Work-life balance has increasingly become the way to ensure equal treatment of men and women on the labour market. This process led to a strengthening of maternity protection over the last decade as well as an extension of the adoption leave. Other measures have also been implemented. These include paternity leave, parental leave, career breaks, all opportunities that allow workers expecting children to arrange their working hours according to their needs. Finally, we will also focus on public or publicly subsidised services to take care of very young children to allow parents to go back to work relatively soon.

### **2.1. Maternity protection**

There is no point in making use of leaves or in promoting work-life balance if no job security and safety at work are guaranteed to women who want to have a child. From the time the worker informs her employer that she is pregnant, a number of legal protection mechanisms become effective. These relate to the health and safety of the worker and of the unborn child as well as working conditions.

#### **2.1.1. Protection against dismissal**

From the time the worker informs her employer that she is pregnant special protection against dismissal is provided and the employer cannot take any action aiming at terminating the employment relationship because of the worker's pregnancy. This protection lasts up to a month after the end of the maternity leave (including extensions).

It is no absolute protection against dismissal. The employer may still terminate the employment contract but only for reasons that have nothing to do

with the physical condition resulting from pregnancy or childbirth. The burden of proof rests with the employer.

### **2.1.2. Prohibition of overtime work**

Pregnant or breastfeeding mothers cannot work overtime. There are a number of exceptions to this rule, for example, people with an executive function specifically mentioned in the legislation.

### **2.1.3. Prohibition of night work**

Night work is prohibited during a period of eight weeks before the expected date of childbirth. Upon presentation of a medical certificate, the worker may refuse to work at night also in other periods during pregnancy and in the four weeks immediately following the end of maternity leave.

### **2.1.4. Prohibition of discrimination**

It provides for the commitment on the part of the employer to treat equally both male and female workers. Maternity cannot lead to any form of discrimination whatsoever.

### **2.1.5. Health and safety**

The employer must immediately notify the occupational physician of the worker's pregnancy. If her work is classified as hazardous to her health and safety (evaluation based on a list of factors, processes and working conditions as listed in Annex I of the Royal Decree of 2 May 1995 on maternity protection), the employer must take one of the following preventive measures, proposed by the occupational physician and adapted to the specific condition of the worker:

- a temporary adjustment of working conditions or working hours;
- a change of work activity to a different one that is compatible with the health of the worker;
- if this proves impossible, the employment contract is suspended and the worker is entitled to sickness/disability benefits granted by the Social Security

System. In this case, the worker receives a maternity allowance equal to 60% of the salary, up to a certain ceiling determined by law.

It should be noted that the Committee for the Prevention and Protection at Work (CPPW) or, in its absence, the Trade Union Delegation must have endorsed in advance the comprehensive prevention plan presenting the results of the risk assessment and of the measures to be taken.

#### **2.1.6. Time off for antenatal care**

Pregnant workers are entitled to paid time off to go to medical examinations that cannot take place outside working hours.

### **2.2. Maternity leave**

Expectant mothers are entitled to time off to care for their child. In Belgium, maternity leave is fifteen weeks but may be extended to seventeen weeks in case of multiple births, or even more in case of complications.

Maternity leave consists of a time off taken before or after giving birth. The worker cannot carry out any work activity in the seven days prior to the expected date of birth, and in the following nine weeks. The remaining weeks can be taken before or after giving birth.

During the first 30 days of maternity leave, the allowance is equivalent to 82% of the full remuneration up to a certain ceiling determined by law. Then, compensation is fixed at 75% of the full remuneration, up to a certain ceiling.

### **2.3. Adoption leave**

Future parents are each entitled to adoption leave. This leave can be of maximum six weeks, if the child is under three years of age or four weeks in the other cases. If the child has reached the age of eight, parents are no longer entitled to adoption leave. The period of leave should be of at least one week and cannot be divided into shorter blocks.

The employer cannot take any action aimed at terminating the employment relationship because of the child adoption in the two months prior to the leave until one month after the end of it. As in the case of maternity protection, it does not provide absolute protection against dismissal.



The first three days of adoption leave are fully paid by the employer. For the following days, social security pays an allowance equal to 82% of the workers' gross salary up to a certain ceiling determined by law.

#### **2.4. Paternity leave**

Working fathers are entitled to time off in case of childbirth. The duration of the leave is ten working days. The father must take these days off within four months from the date of birth. These ten days may be taken at once or be divided in shorter blocks. It should be noted that a different regime exists for civil servants and self-employed.

During the first three days of paternity leave the employee retains his full salary paid by the employer. Over the next seven days, the worker does not receive any remuneration but an allowance is paid by social security. The amount of the allowance is 82% of the worker's gross salary.

In case of hospitalisation or death of the mother, the maternity leave that was not taken by the mother can be granted to the father upon request, in order to take care of the child.

Workers who want to exercise their right to paternity leave, can benefit, under certain conditions, of protection against dismissal for a period of three months from the moment the employer is informed. It is no absolute protection against dismissal.

#### **2.5. "Birth Leave" for co-parents**

Since 20 May 2011, a co-parent, that is the worker who has no parent-child relationship with the newborn child of the partner, may also, under certain conditions, be entitled to ten days of leave when the partner gives birth. This is defined as "birth leave" in the legislation, and the explanatory memorandum identifies as target group same-sex partners of biological mother. Two conditions must be met:

- The child must have a legal parent-child relationship with the mother only.
- At the time of birth, the working co-parent should either be married to the mother or have her same place of residence, or have lived with her uninterruptedly for three years prior the childbirth.

The conditions of paternity leave apply also to "birth leaves" including protection against dismissal.

## 2.6. Parental leave

Each worker or civil servant with at least one year of seniority in the company can take parental leave to care for his/her child (also adopted). The worker can choose to enjoy one of the following forms of parental leave:

- complete suspension of the employment contract for a period of four months (for full-time part-time workers);
- switch to part-time work during a period of eight months (for full-time workers);
- switch to a one fifth of full time work for a period of 20 months (for full-time workers).

The transition from one form of parental leave to another is also possible. Each parent is entitled to a parental leave for every child from birth to the age of twelve. There is no age limit for children with disabilities.

During parental leaves, parents receive a fixed monthly allowance and their social security rights are guaranteed. There is also a protection against dismissal. The employer may postpone the parental leave up to six months and for serious reasons.

Parents can also make use of a “time credit” of three years, extendable to four years by collective agreements provided workers have two years of seniority in the company. However, in each company, only 5% of workers at the same time can make use of “time credit” and the threshold cannot be crossed as it aims at ensuring normal workflow and at preventing workload from being shifted to other workers. A number of other rules are also provided (see 3.1.4).

## 2.7. Time off for breastfeeding

A worker can suspend work to breastfeed her baby. This suspension is not paid by the employer. However, the employee is entitled to a social security allowance equal to 82% of her last gross salary up to a ceiling determined by law.

Pauses for breastfeeding can last half an hour and employees working at least four hours a day are entitled to one break a day. Employees working at least 7 hours and a half per day are entitled to two pauses a day.

Breaks may be taken all at once or split into two pauses. One can take time off for breastfeeding up to seven months after the birth of the child. In exceptional circumstances (e.g., premature birth), this period may be extended by two months.

Employees who wish to take time off for breastfeeding should reach an agreement with their employer defining at what time such breaks can be taken. The employer should provide a dedicated room.

Employees who make use of this right are protected against dismissal.

## **2.8. Breastfeeding leave**

Breastfeeding employees whose work presents a risk to her or her child's health and safety, may be granted breastfeeding leaves. In this case, workers are also entitled to an allowance for a maximum period of five months starting on the day of childbirth. The amount of the allowance is equal to 60% of the full wage up to a certain ceiling established by law.

If measures are taken to reduce exposure to certain risks leading to changes in working conditions, working hours or job which imply lower pay as compared to the regular employment, the employee is entitled to a maternity allowance. The allowance is 60% of the full remuneration (only up to a certain pay level) and is reduced on the basis of the income she receives from her new position in terms of working days.

## **2.9. Direct financial support**

Children come at a significant cost for parents. Besides adjustments to working time, social security provides financial assistance to help parents and to increase birth rates.

A childbirth allowance is awarded for the birth of every child. The allowance is granted from the sixth month of pregnancy regardless if the child is viable or not. An adoption allowance is paid in case of adoption of a child.

Monthly family allowances are also granted for each child. The amount of the allowance depends on the position of the child in the family, his/her age, disability and parents' status. These allowances are paid to the mother unless the father is the one who has custody of the child.

## **2.10. Childcare facilities**

The time when mothers used to stay at home to take care of children seems to have passed in Belgium. Nowadays it is common for both parents to work and have career plans, with grandparents who are also still at work and are therefore not available for babysitting. Between the time when both parents go to work again and the time the child reaches 2 and a half years of age and enters therefore

in education, a third person must take care of the child while the parents are working.

Public authorities, through the Office of Birth and Childhood (*Office de la Naissance et de l'Enfance*, ONE) coordinate a range of childcare facilities that can help parents quickly resume their career: nurseries (children from 0 to 3 years), playgroups, childcare organisations (children from 18 to 36 months), child houses (children 0-6 years old), for both children receiving subsidies or not. They can be public and organised by the ASBL as well as private. They should at least be approved by the ONE, which implies the respect of minimum requirements (in terms of staff, premises, health control, childcare and so on).

In principle, all children are welcomed. However, in recent years, demand exceeds supply. This poses problems for many parents who can find no childcare facilities, neither close to home nor near their workplaces. This becomes an obstacle to the resumption of work especially for mothers.

The price for childcare often depends on the parents' monthly net income (according to a specific scale provided by ONE) for children under 3 years. However, in non-subsidised childcare facilities, the fee is left to the choice of manager. The fee paid by parents is tax deductible.

Finally, there are also some other so-called "occasional" childcare facilities. Such facilities provide for original and flexible solutions to meet the specific needs of certain families. They offer temporary accommodation for a few hours during the day.

### **3. Time credit and reduction in working hours**

Time credit allows workers to suspend or reduce their working hours. It aims at achieving a better work-life balance. A fixed monthly allowance during the period of suspension, protection against dismissal and the subsequent resumption of work are guaranteed. In addition, specific social security rights provided to workers on leave are also guaranteed (e.g. time credit periods are considered for the purpose of pension calculation).

At the end of 2001, social partners have developed and implemented this new system by concluding the Collective Labour Agreement (CLA) No. 77bis on time credit. This system replaced the previously existing "career break" in the private sector, as was established in 1985. Since then, the old system of "career breaks" is applied only to the public sector.

The Collective Agreement No. 77bis was developed by organisations representing workers and employers within the National Labour Council (NLC). It does not include any provisions concerning the right to compensation during

time credit periods. Such compensations are granted by another regulation on Social Security Budget.

Since it was established in 2002, the time credit system has had considerable success. At the end of 2011, nearly 130,000 workers had opted for this scheme. However, its cost was deemed excessive by the new Government and significant restrictions were introduced from 1 January 2012.

The time credit scheme is for private sector workers only. Apprentices are automatically excluded. Moreover, sectoral or company-level collective agreements may exclude some other categories of workers, such as, for instance, managers or workers with key responsibilities within the company.

In firms with up to ten employees, workers can make use of time credit schemes only upon employer's authorisation. In all other companies (i.e. with over 10 employees) time credit is a right of the worker and postponements are allowed only for internal or external reasons of absolute relevance. The employer may reduce or not grant time credit for specific reasons indicated by works council or agreed by the employer and the union delegation.

### **3.1. Time credit without cause**

Time credit without cause is restricted to workers who have at least two years of seniority in the company and a career of at least five years. It comes in four forms:

- full suspension from work for one year;
- reduction of working hours to part-time work for two years;
- reduction of full-time work by one/fifth for five years;
- a combination of these solutions equivalent to one year of full-time work.

In all cases, the duration of time credit leaves shall not exceed the equivalent to one full-time year over the entire career. The exercise of these rights is subject to a number of special conditions as well as specific organisational rules (see 3.1.4).

#### **3.1.1. Full suspension from work**

The employee must have been working full-time or part-time during the twelve months prior to giving notice to the employer.

### **3.1.2. Reduction to part-time work**

The employee must have been working at least  $\frac{3}{4}$  of full working time for a period of twelve months prior to giving written notice to the employer.

### **3.1.3. Reduction of full-time work by one/fifth**

The employer must have been working full time for twelve months prior to giving written notice to the employer. The reduction of working time by one/fifth can only be taken in the form of a day or two half days a week, over a period of minimum six months. However, an equivalent system lasting for a period of twelve months may be provided by collective agreements concluded at sectoral or company level, or in the absence of a trade union delegation, by the company regulation.

This form of working time reduction is available for workers over 55. Required seniority is reduced to three years or two years in some cases.

### **3.1.4. Implementation and limits**

Employees willing to make use of time credit must notify their employer 3 to 6 months in advance depending on the number of workers employed by the company. The notice shall contain and describe the time credit plan chosen by the worker. To ensure proper workflow within the company as well as to prevent workload from being shifted to other workers, a number of organisational rules are also defined.

A priority and planning mechanism is implemented in companies where the total number of workers who make use simultaneously of time credit exceeds 5% of the total number of employees under 55 in the company (technical operating unit) or service (freely defined according to the characteristics of the company and its organisation).

The 5% threshold can be reduced or increased through sectoral or company-level collective agreements or by the company regulation in compliance with the provision established by law. The priority and planning mechanism is established by the works council, or if absent, by the employer and the union delegation. In general, priority is given to workers caring for sick relatives, young children and to older workers.

When it comes to workers performing shift work, it is the Joint Committee or the company itself that has to fix via collective agreement the rules on how to make use of time credit.

### **3.2. Time credit with cause**

#### **3.2.1. Reduction in working hours for over 55**

Specific time credit schemes are provided to workers nearing retirement allowing for a reduction in working hours until their retirement. There is neither a maximum duration nor a 5% threshold. However, to be granted this type of time credit a number of conditions must be satisfied.

Workers aged 55 and over are entitled to either:

- a reduction of working time by one/fifth in the case the employee has worked full time over the twelve months period prior to giving notice to the employer;
- a shift to part-time work if the employee has worked three fourth of full time over the twelve months period prior to giving notice to the employer.

Workers must be 55 at the time of submitting their request for time credit. Notwithstanding, age may be reduced to 50 for workers performing heavy work (provided there is a significant shortage of labour for this job) or work in a company facing difficulties or restructuring. Workers who want to make use of time credit must simultaneously fulfil the following conditions:

- have three years of seniority in the company. This period may be reduced by mutual agreement between employer and employee;
- have a 25-year career as an employee (not necessarily in the same company).

#### **3.2.2. Leave to care for family or household members with serious health conditions**

Each worker in the private sector is entitled to a total or partial suspension of his/her employment contract to assist or provide care to a seriously ill household or family member. In these cases, there are two distinct possibilities:

- full suspension from work for a period not exceeding 12 months per patient;
- a one/fifth reduction in working time (only for full-time workers) or a switch to part time during a period of 24 months per patient.

People working in a company with fewer than ten employees are entitled only to the total suspension from work. There is no right to reductions. In companies with fewer than 50 workers, the employer may limit the full suspension from work to six months or to twelve months in the case of a working time reduction.

For single parents with children up to 16 years, the maximum duration of the suspension or reduction may be doubled.

The employer may postpone the leave for internal reasons up to seven days. In principle, the employer may not refuse to grant the leave, except in some very special cases.

The worker may also extend his/her leave suspending or reducing working hours over a three-year period to care for a sick relative or a four-year period in the case of a sick or disabled child. To have access to this type of time credit, two years of seniority in the company are required. The 5% threshold should not be exceeded and the allowance provided is lower than in the first period.

### **3.2.3. Palliative care leave**

In the private sector, all workers have the right to fully suspend their contract of employment or to reduce their working hours to provide palliative care for a person with an incurable disease. This person need not be a family member.

Palliative care includes any form of medical, social, administrative and psychological assistance as well as care given to people suffering from an incurable disease and who are terminally ill.

Palliative care leave may be taken as follows:

- all workers (full-time or part-time employees) may suspend the execution of their employment contract for a month per patient. This period may be extended once up to a month;
- all full-time or part-time employees working at least  $\frac{3}{4}$  of full time can reduce their working hours for a month per patient by one fifth or to part time. This period may be extended once up to a month.

## **4. Working time**

### **4.1. The concept of working time**

Labour regulation establishes limits to working time as well as working and rest periods. It provides therefore a framework for the organisation of labour



within every company. Every business normally applies one or more working patterns.

The definition of working and rest periods is based on the concept of “normal” or at least “common” working pattern. However, there can be exceptions at a sectoral or sometimes individual level to adapt to specific needs of businesses, work activities and workers. “Normal” working patterns are those that do not require the application of any exemption clause and where:

- working time is limited to 8 hours per day and 40 hours per week (38 hours per week on an annual basis);
- the working week runs from Monday to Saturday (at the latest);
- there is no night work (i.e. between 8 pm and 6 am);
- holidays are respected.

Modifications to the labour regulation can only be introduced by the works council. Otherwise, it is necessary to follow a procedure of direct workers’ consultation.

Legal limits are established to define “normal” working time duration. Working activities cannot last less than 3 hours. A working activity is defined as a continuous period of work, optionally interrupted by a short break (lunch, coffee break, and so on). The three-hour minimum can be extended or reduced in the cases provided by Royal Decree of 18 June 1990, for example in cleaning business sector. In cases not covered by this Royal Decree a derogation may be provided by a collective labour agreement concluded at a sectoral or company level, such as for workers employed within the framework of local employment agencies programmes. For night work, the minimum duration is 6 hours. An exception to this minimum limit is possible if provided in collective labour agreements concluded within Joint Committees or at the company level upon approval of the Joint Committee.

Conversely, working hours cannot exceed 8 hours per day or 40 hours per week or a shorter period in the case of working time reduction. Since 2003, the average workweek is reduced to 38 hours. This reduction may take various forms such as a reduction in the daily working hours, the effective reduction of weekly working hours and/or the granting of compensatory rest days. In general, this reduction takes place as a consequence of collective labour agreements, concluded either at the sectoral or at the company level, but it could also be achieved by changing the working regulation or contract of employment.

The law provides for different exceptions to the above-mentioned limits:

- “structural” derogations are allowed in some specific cases where working hours are clearly predetermined and specified in the company regulation. In some cases their implementation requires an authorisation granted by a Royal Decree;

- derogation in case of unpredictable exceptional needs: this falls outside the usual working plan and need not be introduced in the company regulation as regular working time. This is what is usually called “overtime”. Some of these additional hours require prior authorisation (by Royal Decree or by union representatives), others do not (force majeure, such as accidents or unexpected machine breakdowns).

## **4.2. Flexible or variable work arrangements**

Halfway between fixed work arrangements and “overtime” work there are variable and flexible work arrangements.

### **4.2.1. Flexitime**

Article 20bis of the Employment Law of 16 March 1971 gives employers – upon compliance with some formal requirements – the opportunity to modify the work schedule according to business activities and business needs, without having to pay a salary differential. This flexibility is almost entirely in favour of the employer.

Flexible working hours can be introduced by collective agreements (followed by a change in the company regulation) or by means of a simple modification to the company regulation in companies not covered by collective agreements.

An employer who wishes to make use of flexible working arrangements can replace the normal working hours with one of the other alternative work arrangements provided in the company regulation. To this end, the employer must inform workers of the change at least 7 days in advance. This notice must be posted in an accessible place at the company premises.

The law does not provide for the possibility of making up for overtime work by awarding compensatory rest days. However, the employer must ensure that the average working week is respected at the end of the period of reference (which is maximum 12 consecutive months). The application of flexible arrangements and overtime work are not subject to the payment of a salary differential, provided the previously established limits and conditions are respected.

#### **4.2.2. Variable work arrangements**

Variable work arrangements have the same purpose of flextime but are directed to part-time workers. These arrangements do not however allow for extensions to normal working time limits. Variations to normal working hours must be limited to  $\pm 2$  hours as compared to the normal working day and  $\pm 5$  hours with respect to the normal workweek. In addition, the working day should not exceed 9 hours and the working week should not exceed 45 hours.

Working time of part-time workers can vary considerably. In this case, the employment contract only sets the average weekly hours for a period not exceeding one quarter, without specifying in advance the day and/or hours of work. This three-months period may be increased to up to one year by collective agreement or if absent, by the company regulation.

Employees must be informed individually of their daily schedule at least 5 days in advance and, either by posting working time at the company premises or by any other means provided in the collective agreement or working regulation. The 5-days notice may be modified through a CLA concluded within the relevant Joint Committee and made compulsory by Royal Decree.

Increases in working hours upon request of the employer need the worker consent. To limit extra hours, Royal Decree of 25 June 1990 provided that in some cases additional working hours performed by part-time workers are treated as overtime work and therefore subject to extra pay. The Decree is applicable only in the absence of a collective agreement regulating the issue.

#### **4.3. Part-time work**

Part-time work is characterised by a reduction in weekly working hours as compared to the maximum working day duration or when remuneration is different from the remuneration due for a full workweek. The Social Security system has identified three types of part-time workers for the purpose of unemployment benefits.

##### **4.3.1. Part-time workers treated as full-time workers**

As the gross monthly salary exceeds €1,472.40 (in 2011), part-time workers are treated as full-time workers. Although they remain registered as unemployed for the hours needed to reach the normal full-time number of hours, they do not

receive additional unemployment benefits unless their gross remuneration falls below €1,528.84 or in case of temporary unemployment.

At the termination of the employment contract, they can be compensated as full-time workers and receive unemployment benefits for every day of the week except for Sundays and in principle for an indefinite period.

#### **4.3.2. Part-time workers maintaining acquired rights**

If part-time employees work at least one third of a full-time worker and meet all the eligibility requirements to be granted the same benefits of full-time workers as well as remain registered as unemployed for the hours needed to reach the normal full-time number of hours, they may receive the “Income Guarantee Allowance”.

At the termination of the employment contract, they can be compensated as full-time workers and receive unemployment benefits for every day of the week except for Sundays and in principle for an indefinite period.

#### **4.3.3. Voluntary part-time workers**

These are part-time workers who do not meet neither the requirements to be treated as full-time workers nor the conditions to maintain acquired rights.

In principle, they do not receive unemployment benefits while working under a contract of employment. At the termination of the contract, they receive unemployment benefits commensurate with the number of hours worked.

#### **4.3.4. Increase in part-time work**

Both in Belgium as well as in many other European countries, part-time work seems to increase significantly. According to Eurostat surveys, between 2000 and 2010, the percentage of part-time workers with respect to total employment grew from 15.6% to 20.4% in the Euro zone <sup>(1)</sup>. In a group of countries <sup>(2)</sup>, including Belgium, part-time employees are 25% of the total workforce, or one in four workers. South European countries are still at lower levels with trends on the

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<sup>(1)</sup> Total employment includes employees in the private sector, civil servants and self-employed.

<sup>(2)</sup> 2010: Germany (26,2%), Austria (25,2%), Belgium (24%), Denmark (26,5%), Ireland (22,4%), the UK (26,9%), Sweden (26,4%).

increase. Only in new Member States there seems to be no increase, but for how long? In 1992, part-time workers in Belgium accounted for 12% of the total workforce. Over the following 20 years, rates have doubled and the example of the Netherlands (with 48.9% of part-time workers in 2010) shows that part-time work can increase even further.

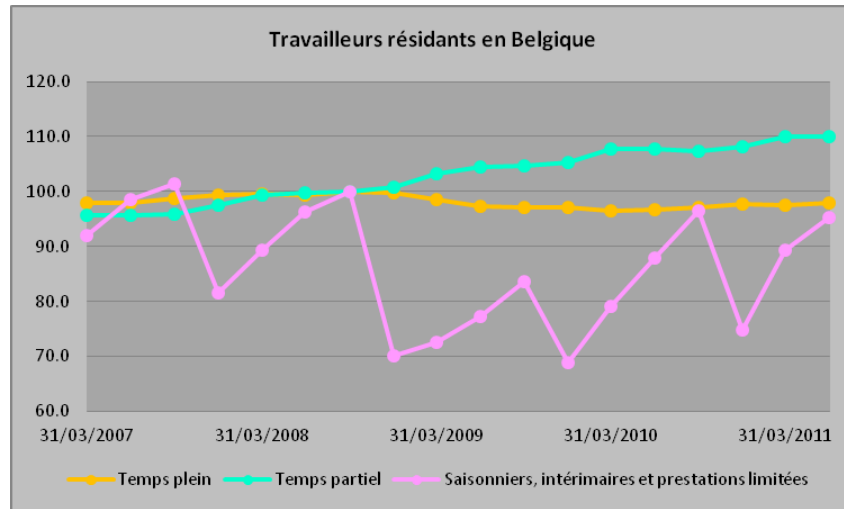
In Belgium, data from the National Security System provide a clear picture of part-time work by focusing on the number of employees. However, data are limited to those workers who are registered to the National Social Security System. Persons employed by local governments and seafarers of the Merchant Navy are not included in the calculation. Also, if workers have more than one contract of employment over a quarter period, they are counted only once in relation to their main employer and type of activity.

On 30 June 2011, the National Social Security accounted for 3,437,367 employees in Belgium, of which over 77,000 are non-resident. The remaining 3,360,254 workers are distributed as follows:

	Distribution of employees in Belgium		Evolution of employees distribution after the crisis	
	at 30/06/2001		30/09/2008-30/06/2011	
	units	%	units	%
Full-time	2.202.212	65,5%	-45.922	-2,0%
Part-time	1.044.480	31,1%	94.480	9,9%
Seasonal, temporary	113.562	3,4%	-5.658	-4,7%
<b>Total</b>	<b>3.360.254</b>		<b>42.900</b>	<b>1,3%</b>

Belgium counts therefore more than 1 million part-time workers. This is nearly one out of three employees who worked part-time in the first half of 2011! Does it mean, however, that part-time work has become the norm although nearly two thirds of employees are still working full time? In the view of recent developments, we would confirm that.

The following chart shows the slight decline in full-time work and the growth of part-time work. Part-time work steadily increased during the crisis as compared to full-time work that has not yet returned to its pre-crisis level. This has been an ongoing trend since the mid-90s. However, the 2008-2009 crisis has accelerated the process. Variations in the number of workers by type of work arrangements are provided below with reference to the third quarter of 2008, i.e. when economies began sliding into recession (30/09/2008 = 100).



Since the crisis, 42,900 jobs were created in Belgium. However, full-time employment fell by nearly 46,000 units while part-time work has risen by almost 94,500 units. A closer look shows that the form of part-time work where working hours exceeds 75% of full-time work has increased the most. More than half of the increase in part-time work took place in this category. Given the conditions to be granted the “Income Guarantee Allowance” (*Allocation de Garantie de Revenu*) one can reasonably assume that this category of part-time workers receives no allowance. Furthermore, particularly interesting is the constant rise in the number of workers on time credit until the recent reform. Now, only a little less than one fifth of these new part-time employees may receive additional time credit.

Frequently, part-time work is considered as enabling a better work-life balance. This is one of the major reasons that explains its success among working women. Various studies show however that the situation is often different. Part-time work is generally imposed on workers rather than chosen by them. It is often characterised by variable work arrangements, with workers who are informed of their working time with only a week’s notice. This flexibility of working time to the benefit of the employer leads to increased unpredictability for the employee who can no longer accept other part-time jobs to fill his/her schedule. It becomes a trap towards precarious employment.

## 5. Telework

In the nineties, teleworking was expected to develop significantly in the following years. Despite that, this form of work has not been particularly

successful. It is only in recent years that telework has slowly become increasingly widespread, although full-time telework is not very common in Belgium. Contrary to the expectations, telework has not developed in a form of work that is performed at home on a permanent basis, but as an occasional event or in alternation with work at the company premises. The preference for an alternation system derives from concerns shared by the social partners to preserve the collective dimension of work as well as prevent social isolation of workers.

There are four main types of telework:

- Alternating telework seems to be the most widespread form, at least in the presence of a collective agreement. This presupposes a certain regularity in working patterns: either in the form of fixed days in the week, or as a percentage of the weekly working time.
- Occasional telework has by definition no regularity. This form often coincides with extra work undertaken by managers (and experts) who can organise their work relatively autonomously. However, some companies have taken special steps to formalise these forms of occasional telework.
- Decentralised telework is performed in offices or plants that are closer to the worker's home.
- Mobile telework is the fourth form. There are various situations where work is carried out during business trips, and therefore outside of company premises.

Collective Labour Agreement (CLA) No. 85 was signed in November 2005, pursuant to the European framework agreement on telework in 2002. The agreement, entered into force in 2006 and defines the general rules regulating telework in the Belgian private sector. It contributed to removing the uncertainty caused by the informal development of telework.

The Collective Agreement defines telework as “a form of organising and/or performing work, using information technology within the framework of an employment contract, in which a working activity, which could also be carried out at the employer's premises, is performed outside those premises on a regular basis and not occasionally”. It does regulate neither mobile nor decentralised telework, although these are generally used by companies. Businesses that have signed collective labour agreements in this field have expressed their preference for an adaptation of the individual employment contract, with the addition of an amendment in accordance with the provisions of the collective agreement.

Collective Agreement No. 85 aims to establish the basic principles regulating telework. These basic principles may be specified by collective agreements concluded at sectoral or enterprise level. The agreement focuses on the following points:

- Telework is voluntarily agreed by the employer and the worker. This underlies that it does not constitute a right of workers and the authorisation of the Human Resources Director or the supervisor is required. Telework may be limited to certain phases of the work, services or functions. It can be evaluated within the framework of an experimental project. Working time dedicated to telework may be very limited. Occasional teleworking can be limited to one day a month, and one day a week in the case of alternating telework.

- Teleworking must be mentioned specifically in the employment contract, that shall state when and how often telework is performed, when the worker must be available or may contact the technical support of the company, compensation rules and the conditions to resume work at the employer's premises.

- Teleworkers have the same rights in terms working conditions than comparable employees working at the employer's premises.

- Teleworkers can have the same working time of on-site workers or be granted greater flexibility. The workload must be comparable to that of workers employed at the employer's premises.

- The employer must take appropriate measures to prevent teleworkers from being isolated.

- The employer must provide the necessary equipment and technical support according to the rules on costs management.

- The employer and the teleworker must ensure data protection.

- The employer must inform teleworkers of the measures taken to protect health and safety at work. Inspectors can have access to the place where telework is performed to verify the correct application of laws in this area. If telework is performed in an accommodation space, the authorisation of the worker is required.

- Teleworkers have the same rights in terms of training and career opportunities. They must receive appropriate training.

- Teleworkers have the same collective and trade union rights. Workers' representatives must be informed and consulted on the introduction of telework.

The introduction of telework can be taken into account if both the employer and employees see it as a potential advantage. This include

- less time commuting from home to work (which reduces stress and fatigue);

- better work-life balance (same effect on stress and fatigue, and also reduces absenteeism);

- increased motivation through increased reliance on the worker and a change in working environment;

- improved performance when a job that requires creativity and concentration can be accomplished in solitude;



- an acceleration of work processes if specific work activities can take place remotely;
- a simplification of work processes when teleworking involves changes in methods by making use of IT.

All this should contribute to an increase in employment quality and productivity. However, it is still too early to draw conclusions. Telework can also lead to serious problems in the work organisation and processes.

Before introducing telework in the company, workers' representatives must be informed and consulted about the social consequences of telework, including the consequences in terms of employment and work organisation (CLAs 9 and 39)

The introduction of telework does not necessarily require the conclusion of a collective agreement at the company level, but such an agreement may still be useful. When telework is based on a mutual agreement, it meets the needs of both workers and employers and this will contribute to improving the results of teleworking, not only quantitatively but also qualitatively.

## **6. Sectoral-level bargaining**

Only a few collective labour agreements (CLA) have not been made compulsory by Royal Decree. They form part of the Belgian law and have been presented in previous chapters.

### **6.1. Flexible working arrangements in the transport sector in Brussels**

Brussels is a large European city thus leading to major difficulties in terms of mobility. Thousands of commuters working in Brussels are thus faced with a lengthening of the workday due to congestion at peak times.

To help workers of the urban transport sector in Brussels, social partners have concluded a collective labour agreement to allow greater flexibility in working hours enabling workers to avoid peak hours, thus improving family life by saving valuable time.

Working day is made up of two time slots: a flexible and a fixed time slot. In fixed slots workers are obliged to be at work. In flexible slots workers must not – but can – be at work.

Slots are divided as follows:

	Beginning of the working day	Midday Break	End of the working day	
			Monday to Thursday	Friday
Flexible Slot	7h15 - 9h15	11Hh30-14h00 (min ½ hour, max 2 hours)	16h00-18h30	15h00- 18h30
Fixed Slot	9h15-11h30		14h00-16h00	14h00-15h00

Workers have three flexible time slots a day: early morning, midday and evening. They can therefore better adapt their working day according to their personal or family needs.

The number of hours worked is verified every month. The collective agreement provides for the possibility to exceed the monthly number of hours by fifteen hours, that must be made up the following month. It also gives workers the possibility to work up to ten hours less than expected, provided these hours are made up over the year.

## 6.2. Childcare allowance in the cleaning sector

Workers in this sector often work either early in the morning or late at night in order not to interfere with the business activities of the company that makes use of the cleaning service. Workers (mostly female) struggle to reconcile family life with their working time. Moreover, the sociological evolution of our society led to an increase in single parent families. Social partners in the cleaning sector have concluded a collective agreement which establishes a compensation provided by the employer when a worker must resort to a baby-sitter or other care facilities when the child is sick.

The employer contributes to child care expenses for sick children to the age of 12 up to a maximum of €0.75 per hour upon presentation of a certificate from a recognised body.

Workers requiring reimbursement must be going to work when the child is sick. Reimbursement requests can be submitted only once per sickness.

## 7. Examples of good practices

### 7.1. Knauf-Insulation S.P.R.L.

Knauf Insulation Belux is part of the Knauf Group. It has been, for years, a well-known producer and distributor of various products including glass wool, extruded polystyrene (XPS) and wood wool. Glass wool is manufactured in the plant of Visé in Belgium.

Telecommuting is allowed in the plant of Visé. However, since this is a production site with round-the-clock-operations, it requires the continued presence of workers. These workers cannot therefore perform telework. Only white-collar employees and executives can use it. For executives, there is a form of occasional telecommuting. These are the only employees who have the IT-tools making it possible.

To other white-collar employees, telework has been granted on numerous occasions at the request of female workers who wished to extend their maternity leave. Only in one case, telecommuting has been required by an employee to provide palliative care to a family member. The recourse to telework by employees is also increasingly considered a way to take care of children or of a family member with health problems.

With a view to reconciling professional life with childcare responsibilities, employees can breastfeed their children at work in appropriate conditions according to collective agreement No. 80. They must be provided a dedicated area. As regards parental leaves, the majority of blue-collar workers make use of part-time work in the form of 4/5 or ½ of working time.

In 2011, part-time workers accounted for 6.08% of all full-time workers in the company. In 2011, out of a male population of full-time workers of 264.2, they accounted for 4.16%, whereas out of the female population of full-time workers of 48.3, they accounted for 16.56%.

For any other serious reason, employees have the opportunity to take 10 additional days of unpaid leave.

Working time arrangements changed many times in the past. In 2009, the company management imposed a change from shift work without weekends to full-time work 24/7, and to meet the demands of workers in terms of working hours, a consultation was organised. Thanks to the introduction of a working time scheme that changes every two days, workers have, over a six-day period, two days with regular schedule from 8 am to 4 pm.

The implementation of this working time scheme was analysed by an occupational health physician, who suggested a change in terms of days of recovery to improve the life quality of workers. The company management

accepted these suggestions and modified working time by adding a day off between a night shift and the following day shifts.

All these possibilities to better reconcile private and professional life were introduced through social dialogue. They have been implemented by the company management in consultation with the trade union delegation of the company. Such arrangements, however, are not included in any collective agreement.

In theory, all workers have the opportunity to change working time scheme. In practice, less than 6% of workers have done that so far. What is remarkable is that also men have started making use of part-time work to take care of their children. This task is no longer exclusively a prerogative of women. A slow change of mindset is taking place. Also, women increasingly earn more than their male counterparts, which also explains a certain pragmatism in deciding “Who will stay at home?”.

## **7.2. Prayon S.A.**

Prayon is a world leader in the phosphate sector. The group provides a wide range of phosphate and fluoride products used in the food industry, manufacturing, in the production of fertilizer as well as in the pharmaceutical sector. The plant of Engis is the first production site of the group.

Workers have the opportunity to adapt their working time to take children to school, upon agreement with the head of their department.

As for parental leaves and palliative care leaves, for time credit of 4/5 or 1/2 of working time, as well as for unpaid leaves, the previous consent of the human resources department is required.

These possibilities are not laid down in any collective agreement. They are implemented by the company management upon agreement with trade union representatives.

## **7.3. Uvelia S.A.**

Uvelia uses household waste and other similar waste to produce energy. The principle of energy recovery is that of producing electricity from the steam coming from the combustion of waste in an oven/boiler. Approximately 320,000 tons of waste are processed each year. This allows the production of 180 tons/h of steam at 400° and 240 million kWh of electricity per year.

Workers have the opportunity to adapt their working time to take children to school, upon agreement with the head of their department.

BELGIUM

As for parental leaves and palliative care leaves, the previous consent of the human resources department is required.

These possibilities are not laid down in any collective agreement. They are implemented by the company management upon agreement with trade union representatives.



## CHAPTER V ROMANIA

### Section A THE NATIONAL LEGAL FRAMEWORK

*Summary:* 1. Legal framework: legislation, collective bargaining (national and local) and agreement. – 1.1. Recent ample labour and social protection laws reforms. – 1.2. General tendencies and challenges that ask the improving of the balance of work and family life. – 2. National system of industrial relations. – 2.1. Bargaining in multinationals companies – MNCs. – 3. Social dialogue. – 3.1. Tripartite social dialogue. – 3.1.1. The National Tripartite Council. – 3.2. The social dialogue at the level of the central public administration and at territorial level. – 4. Pregnant workers and systems of parental leaves. – 4.1. Maternity leave. – 4.2. Parental leave and the monthly allowance for raising a child. – 4.3. Leave for care of sick child. – 4.4. Paternity leave. – 4.5. Maternal risk leave. – 5. Relations of work regime resulted from the professional responsibilities conciliation with family responsibilities of the parents. – 5.1. Security provisions induced in the situation of pregnancy and parenthood for the employed person. – 5.2. Contractual flexibility options induced in the situation of pregnancy and parenthood for the employed person. – 5.2.1. The individual employment contract of limited duration. – 5.2.2. The temporary employment contract. – 5.2.3. The individual part-time employment contract. – 5.2.4. The home working contract-Workplace flexibility: working at home or teleworking. – 6. Changes of paradigm regarding the working time flexibility induced by the imperative to strengthen productivity and competitiveness. – 6.1. General aspects regarding the working time flexibility. – 6.2. The working time flexibility and productivity. – 6.3. Different cycles of the transformation process in the new Member States global value chains impacts. – 6.4. Changes in work organisation with impact on the productivity models. – 6.4.1. Work organisations classes given by the adopted production type. – 6.4.2. Work organisation based on *Discretionary learning forms* ‘*Scandinavian socio-technical*’ model. – 6.4.3. Work organisation based on *Lean production forms* (Toyota form). – 6.4.4. Work organisation based on Taylorist forms. – 6.4.5. Work organisation based on traditional and simple structure forms. – 6.5. Distribution of the work organisation types above the EU-27 avera. – 6.6. Present debate on working time.

#### **1. Legal framework: legislation, collective bargaining (national and local) and agreement**

Romania assumed for the coming decade the Europe’s 2020 objectives and initiatives. In view to develop a smart, sustainable and inclusive economy, Romania continues the efforts to implement the growth and structural reforms.

The recent development for work and life times balance in a smart, sustainable and inclusive economy' context demands a complex and integrated approach.

Among the reconciliation in view to facilitating employment there are policies that directly support the combination of professional, private and family life aiming in assist the maintaining of work-life balance. «As such, they can be divided into those affecting labour relations and working time arrangements, and those more directly involving public intervention, such as the provision of childcare services, leave facilities, and child benefits» (<sup>1</sup>).

The multi dimensions of work and life times balances permits diverse approaches but our attention is focused on its presence in the collective bargaining, working relations and agreements, on the background of the new ample recent reforms mainstayed on flexibilisation, wished-for to deliver high levels of employment, productivity and social cohesion in Romania. The cristalisation of this perspective is strongly connected with the Europa's strategic vision and offers an opportunity to enrich the work and life times balance Romania's national vision in literature and in practices.

### **1.1. Recent ample labour and social protection laws reforms**

As a consequence of the severe imbalances induced by the crises, Romania developed an anti-crisis program, with the supported of the International Monetary Fund (IMF), the European Union (EU), and the World Bank (WB) (cfr. IMF Romania, *Letter of Intent, and Technical Memorandum of Understanding*, March 10, 2011). In view to eliminate barriers to growth in the same time with increasing the investment and job creation in a competitive manner, Romanian Authorities initiated ample structural reforms during 2011 (IMF Romania, *Seventh Review under the Stand-By Arrangement, Cancellation of the Current Stand-By Arrangement, and Request for a New Stand-By Arrangement*, IMF Country Report No. 11/80, April 2011) The coordinated reform of both labour market and social assistance were materialised through «legislative changes to increase the flexibility of the labour market, improve the efficiency of collective bargaining (while protecting the rights of workers and employers), increasing labour force participation» (IMF-Romania, *Letter of Intent, and Technical Memorandum of Understanding*, March 10, 2011) sustained by increasing an «efficient social protection» (IMF-Romania, *Letter of Intent, Memorandum of Economic and*

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(<sup>1</sup>) J. Reingarde, I. Borza, I. Burkevica, M. Paats, G. Kyriacou, *Review of the Implementation of the Beijing Platform for Action in the area F: Women and the Economy. Reconciliation of Work and Family Life as a Condition of Equal Participation in the Labour Market, Report*, European Institute for Gender Equalit, 2011.



*Financial Policies, and Technical Memorandum of Understanding*, December 2, 2011). The main legislative changes were fixed on Labour Code, The Social Dialogue Code, The Social Assistance Law and the New Pension Law.

The new Labour Code (Law No. 53 from 24 January 2003, republished on 18<sup>th</sup> of May 2011 and entered into force on 21 of May 2011) «aims to improve labour market flexibility by promoting fixed-term and temporary employment, extending probation periods, and increasing the flexibility of working hours» (IMF-Romania, *Letter of Intent and Technical Memorandum of Understanding*, June 9, 2011). The area of working time/arrangements concern the introduction of short-term working schemes, as in Poland where, in particular, companies experiencing temporary financial difficulties are able – for a maximum of six months – to reduce working time or even to put their workers on (lower paid) ‘inactivity leave’ because of lack of work, as an alternative to collective redundancies.

The Social Dialogue Code (Law No. 62 from 10<sup>th</sup> of May 2011, entered into force on 13 of May 2011) aims to «consolidate the laws on trade unions, labour conflict resolution, employer association, collective labour contract, and Economic and Social Council <sup>(2)</sup> and modifies profoundly the collective bargaining and other labour relations. Key elements of the social dialogue reform include raising the representativity thresholds for both trade unions and employers’ associations, abolishing the collective bargaining at national level, and elimination of the automatic *erga-omnes* extension at sectoral level» (IMF-Romania, *Letter of Intent and Technical Memorandum of Understanding*, June 9, 2011); «The implementation of the Social Dialogue Code stalled due to prolongation of the consultation process with social partners on sector definition in a collective bargaining» (IMF-Romania, *Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding*, December 2, 2011); «The new Social Dialogue Code has comes into force with an agreement now reached among social partners regarding the sectoral definitions for collective contracts under the new framework» (IMF-Romania, *Fourth Review Under the Stand-By Arrangement and Request for Modification of Performance Criteria – Staff Report*, IMF Country Report No. 12/73, April 2012).

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<sup>(2)</sup> The new Social Dialogue Law No. 62/2011 abolish some essential laws that define the organisation and functioning of the labor market in Romania: Law No. 54 of 24/01/2003, on the trade unions (“Legea sindicatelor”), Law No. 168 of 12/11/1999, on the settling of work conflicts, Law No. 356 of 10/07/2001, on business and trade associations (“Legea patronatelor”), Law No. 130 of 16/10/1996, on the Collective Labor Contracts, republished with up-to-date modifications, Law No. 109/1997 on organization and functioning of Economic and Social Council, Law No. 168/1999, concerning the settlement of labor disputes, Decision No. 369/2009, on the establishment and functioning of social dialogue in public administration at central and local level.

In view to complete the general context of the labour market we mention the Social Assistance Law (Law No. 292 from 20 December 2011, entered into force on 23<sup>rd</sup> December 2011), which aims to streamline social benefits and improve the efficiency of social protection (IMF-Romania, *Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding*, December 2, 2011) and the New Pension Law (Law No. 263 from 16<sup>th</sup> December 2010, with the last actualisation in 22 February 2012) which aims and «realised to dramatically reduced the number of early retirements and misuse of disability pensions» (IMF-Romania, *Fourth Review Under the Stand-By Arrangement and Request for Modification of Performance Criteria—Staff Report*, cit.).

The Romanian Authorities assumes the ample process of reforming the new legislation with the commitment to continue the consultations and observes EU directives and core ILO (ILO, *Memorandum of Technical Comments on the draft Labour Code and the Draft Law on Social Dialogue of Romania*, Geneva, 17 January 2011 – ILO (2011a)) and EU conventions. Unions signalled in November 2011 that in «Romania is no trade union federation representative at level sector economic activity as government offered by the New Social Dialogue Code obtained representation in court abolished all the old law unions» (SNTT, *Sindicatelor punct și de la capăt*, Sindicatul Național Tehnic Tarom -SNTT, Brussels Noiembrie, 2011) and ILO's analysis (ILO, *Memorandum of Technical Comments on the draft Labour Code and the Draft Law on Social Dialogue of Romania*, cit.) points that the new Labour Code contravenes with ILO conventions ratified by Romania «Conventions No. 87, 135 and 143, mainly related to the abolishment of the regulation that protected the work places of union leaders (Article 223), and to the diminishing the role of the trade union (Article 224, 225, 226) etc.»<sup>(3)</sup>. Following the initial version of the New Social Dialogue Code with the new structure of the Social and Economic Council without the presence of the Government and with nomination of representatives of civil society instead, the union and employers confederations signed together a National Agreement, which pushed the Government to create the National Tripartite Council.

Both the recognized trade unions and employers' associations criticized the proposals regarding the reform of the labour market. Trade unions have expressed their common view on these changes saying that by the way the laws are being applied; they are dismantling the tripartite social dialogue, blocking the collective agreements, and preventing the social partners to acquire their representativeness.

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<sup>(3)</sup> S. Bărbuceanu, *Annual Review 2011 on Labour Relations and Social Dialogue in South East Europe: Romania*, Friedrich-Ebert-Stiftung, Regional Project for Labour Relations and Social Dialogue in South East Europe Tadeusa Kosciuska 8/5, 11000 Belgrade, Serbia, The text is available online: [www.fessoe.de](http://www.fessoe.de), January 2012.

The solution sustained by the social partners, that assure the success of the new framework implementation and democracy consolidation, could be represented by the promotion and stimulation of the effective social dialogue based on procedures concerning consultations.

In Romania the preferences for enterprise-level collective bargaining, raises the risk of accentuate the decline of security in the flexible arrangements cases. The Romanian social dialogue is poor (relatively recent reloaded in 1990, after a difficult emergence, followed by extensive development and with the accession of Romania in EU was centred on enhancing the quality <sup>(4)</sup> and wakened by the crises, the lack of participation of main labour market actors – employers and syndicates structures of representativeness, reflects the worrisome trend, like in others countries, from the democracy perspective, of using emergency procedures, bypassing next to social partners the Parliament.

The excess of flexibilisation, especially through the working time and atypical employment development, as response to economic and financial crisis, overpass the temporary/short term initial framework and becomes permanent, with dangerous effects on labour market. Under this perspective, is increasing the risk of losing competitiveness and impinged the growth with continuous and accentuated erosion of the labour market efficiency that «undermine the protective role of both individual and collective labour law, thus putting workers in a more precarious and unprotected situation both in general and in the workplace» <sup>(5)</sup> and not in the last affects the role and efficiency of social dialogue and collective bargaining. Recently «the combination of social dialogue instruments and state intervention in many countries during the period 2008-2010 helped to accelerate recovery (ILO, *The global crises. Causes, responses and challenges*, Geneve, 2011)». The positive spill-over of social dialogue effective integration could enhance constructive effect on labour market of the labour and social protection laws reforms in Romania.

## **1.2. General tendencies and challenges that ask the improving of the balance of work and family life**

The ample recent reforms aim to deliver high levels of employment, productivity and social cohesion. The success of these reforms must cope with the accelerate tendency of decreasing the total number of population as a consequence

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<sup>(4)</sup> R. Radu, *Social dialogue perspectives in Romanian road transports, sectoral activities program*, working paper, WP 258, ILO, Geneva, 2008

<sup>(5)</sup> S. Clauwaert, I. Schömann, *The crisis and national labour law reforms: a mapping exercise*, Working Paper 2012, n. 4

of ageing and migration (especially the mobility for work in EU) on one side and of decreasing the employment on the other side. Among this recent development we point out as critical the decreasing of total fertility rate and the employment rate.

The total fertility rate expressed as the replacement level fertility rate decreases from 1.83% in 1990 to 1.38 in 2009 (still under the EU27 mean of 1.59%) considering that 2.1% as normal replacement level number of children per woman (Eurostat, Total fertility rate, 2011). Another tendency is the increase of the average age of women at birth in Romania (from 25.49 years in 1990 to 26.94 years in 2009, but still under the EU27 mean of 29.73 years in 2008).

The decreasing tendency of the employment in general but more accentuated for the women. Total employment rate for the 15-64 years decreased from 67.2% in 1997 to 58.5% in 2011. For the same group of age the employment rate for women decreased from 61.1% in 1997 to 52% in 2011. Focused on 25-49 years group of age the total employment rate decreased from 83.1% in 1997 to 75.5% in 2011 and for women is maintained the trend, the employment rate for women decreased from 76.8% in 1997 to 69.1% in 2011. (in 2010 the difference between the employment rates for men and women was of 7.7% in Romania, comparing with 4.4% the EU mean), accompanied with high level of unemployment (especially for the young 15-24 years with the unemployment rate more then three times then the unemployment rate for the persons in age of 15-64 years) due of the lack of jobs and with high levels of inactivity. Women entered on the labor market harder and get out faster, indicating a precarious employment, unsustainable and exposed to increased risks for women, accentuated by the crises.

Even then in the last decade there were some progress in the growth of productivity, there is still an important gap between Romania and EU 27 regarding the productivity performance. The level of productivity per person employed, in Euro at PPS for Romania represents 23.4% from the EU 27 mean level of productivity per person employed in 1999 and was 48.9% in 2010 (Eurostat, tsieb030).

Under these tendencies becomes a strategic priority the improving of the balance of work and family life Romania in a smart, sustainable and inclusive economy. Considering the recent developments and future perspectives of the working life-balance in Romania, the objectives of this project effectively contribute to identify and implement the best and new model to worker representatives on professional and private life balance, diversified management, increasing equal opportunities and solving the problems of flexibility in order to enhance the skills of workers' representatives in collective bargaining process and

improve industrial relations and social dialogue, as a active contributor to growth and employment in a global competitive environment.

## 2. National system of industrial relations

The Social Dialogue Law No. 62/2011 <sup>(6)</sup> establish the new regulatory framework of social dialogue in Romania. In consequence, since 13 of May 2011 there is no collective labor agreement at national level, Romania joining the main European trend of the sector practice contracts. The concept of a national collective bargaining agreement was abolished and the collective agreements must be conducted at a sector level, not at a branch economic level. Therefore, all the economic branch collective agreements that are now in force will remain valid until they are set to expire <sup>(7)</sup>. Under the new representativeness criteria for organization and functioning of the trade unions there is now initiated the process of reshaping the new structures for patronates and syndicates at level of industry (instead of branch), sector (by NACE rev. 2), local and unit level. The establishment of collective labor agreements signed at sectoral level creates the possibility of creating wages differentiations between sectors and excludes the expansion effects by applying collective labor agreements *erga omnes*. So, if before 2011 the collective agreement at national level was used to set the main terms of reference on minimum rights and obligations to all employees (such as national minimum wage, working time and conditions) even if they were not covered by other collective agreements, under the new model the collective agreement is applied only «to the companies which are members of employer organisations signatories to the agreement» (S. Bărbuceanu, cit., 2012).

The collective labour agreement concluded at sector level are conditioned from the moment of initiation of negotiations parties by the representative quality proved in justice of the parties and then this agreements are mandatory for all units that are included in *Practices*. In the case when these units are deployed throughout the country then the collective labour agreement concluded at sector level is applied as mandatory at national level. «For sector-wide negotiations is mandatory to negotiate a Federation which has a final and irrevocable court

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<sup>(6)</sup> Published in M. Of. 322/2011, the Social Dialogue Law 62/2011 abrogates, with effect from 13.05.2011, the following documents: Law No. 130/1996 on collective labor contract; Law No. 109/1997 on organization and functioning of Economic and Social Council; Law No. 168/1999 concerning the settlement of labor disputes; Law on employers. No. 356/2001; Law Unions. No. 54/2003; Decision No. 369/2009 on the establishment and functioning of social dialogue in public administration at central and local level.

<sup>(7)</sup> S. Bărbuceanu, *Annual Review 2011 on Labour Relations and Social Dialogue in South East Europe: Romania*, cit.

representativeness decision for the respective sector» (Balmus T., 2012). The collective agreement is concluded on a determined period, no less than 12 months and no more than 24 months duration with only once possible extension with maximum 12 months, without any restrictions in the case of the units' without collective agreement for the parts to start negotiations at any moment (Article 141). The new conditions to achieve representativeness are stipulated by the presented law (in Article 29, Article 51) establishing the procedure for transmission of representativeness in court and also removing the affiliation as a criterion for obtaining the representativeness. There are new conditions for: acquiring legal personality of trade union structure, according with (Article 14, (paragraph 1,2,3), Article 17 (paragraph 1), Article 18, Article 46), association criteria of trade unions in various structures – the main criterion of association remained the main economic activities according to NACE code, is excluded the profession criterion of association (Article 41), delegation of representatives to assist trade unions and employee representation (Article 31), initiation and proposal of legislation of interest to the union (Article 29), etc.

Collective labor contracts can be negotiated at the units, unit groups and sectors and collective bargaining is compulsory only at the unit level, unless the unit has less than 21 employees. Also the new minimum conditions and criteria of establishment/dissolution of trade union structures is changed by Article 3, (paragraph 2) . To form a union is required by at least 15 employees in the same unit instead *at least 15 people in the same industry or profession, even if operating at different employers*, Article 40 – dissolution condition of the trade union in condition of minimum setting conditions stoppage. Under this new condition, considering that «89,2 % of Romanians companies have less than 10 employees (TEMPO INS, 2008) becomes an challenge the progress of the collective bargaining in Romania especially at micro SMM's enterprises. In November 2011, in Romania there was no trade union federation representative at level sector economic activity as government by law Social Dialogue obtained representation in court abolished all the old law unions» (SNTT, cit, 2011). As a reaction Trade Unions affirms in an official letter addressed to ILO that «the new Labour Code contravenes with ILO conventions No. 87, 98, 135 and 143, mainly related to the diminishing the role of the trade union (Article 224, 225, 226) and to the abolishment of the regulation that protected the work places of union leaders (Article 223). Also, the two major international trade unions, ITUC and ETUC, support Romania's trade unions in their approach to the new proposed laws» (S. Bărbuceanu, cit., 2012).

Regarding the quality of the syndicates activities was found that the union density in Romania stood at 33.7% in 2007, calculated as the net union

membership as a proportion of salary workers <sup>(8)</sup>. Single-employer bargaining represents the predominant level of bargaining and «the arrangements for workers' representation at workplace level are governed by legislation in the labour code». From the same study is emphasised that «currently, there are 13 nationally representative employers' organizations in Romania. The official statistics do not provide data regarding the number of companies and employees for each employer representative organization» (S. Bărbuceanu cit, 2012). Collective bargaining coverage is generally far lower in Central and Eastern European states than in Western European ones – the cited study indicates 60% of workers covered by any collective agreement at all in total number of workers for the Romania's Collective bargaining coverage in 2005. The low coverage in these countries is due to the decentralised structure of collective bargaining and, in addition, the low level of organisation of both employees and employers. Usually this is explained by a strong legal intervention of the state, an absence of social partners as well as by the single employer bargaining <sup>(9)</sup>.

Also, «the arrangements for workers' representation at workplace level are governed by legislation in the labour code» with the observation that «the new Labour Code contravenes with ILO conventions No. 87, 135 and 143, mainly related to the abolishment of the regulation that protected the work places of union leaders (Article 223) and with the estimated effect of diminishing the role of the trade union (Article 224, 225, 226)» (S. Bărbuceanu, 2012).

The main syndical Confederations in The Economic and Social Council CES are (with covering and representation data before the of New Dialogue Code entrance in action) are: C.N.S.L.R. – Confederația Nationala a Sindicatelor Libere din Romania – Fratia (founded in 1991), with full territorial covering, 40 Professional confederations; B.N.S. – Blocul National Sindical (founded in 1991), with full territorial covering, 40 Professional confederations; C.N.S.C.A – National Trade Union Confederation “Cartel ALFA”/ Confederația Naționala Sindicala Cartel Alfa (founded in 1990), covering 40 territorial counties and 38 Professional confederations; C.S.N. – Meridian – Confederația Sindicala Nationala Meridian (founded in 1994), with full territorial covering, 29 Professional confederations, member of CES C.S.D.R. – Confederația

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<sup>(8)</sup> W. Eichhorst, M. J. Kendzia, B. Vandeweghe, *Cross-Border Collective Bargaining and Transnational Social Dialogue*, IZA Research Report No. 38, July 2011, 30.

<sup>(9)</sup> A. Trif A., *Collective bargaining practices in Eastern Europe: Case study evidence from Romania*, MPIfG Working Paper 05/9., cited in W. Eichhorst, M. J. Kendzia, B. Vandeweghe, *Cross-Border Collective Bargaining and Transnational Social Dialogue*, IZA Research Report No. 38, July 2011,30; Based on a study conducted for the European Parliament under contract IP/A/EMPL/FWC/2008-002/C1/SC7 Copyright remains with the European Parliament, 2005, 29.

Sindicatelor Democratice (founded 1994) from Romania; covering 40 territorial counties and 20 Professional confederations.

Employer's organizations density is presented «in September 2011, four employers organizations: Conpirom, Patronatul Roman, Uniunea Nationala a Patronatului Roman (UNPR) and UGIR-1903, have formed a new structure e Independent Employers Union from Romania PatroRom (Uniunea Confederatiilor Patronale Independente din Romania) aiming to represent Romania's business people in discussion with the authorities and the foreign financial institutions. According to the four organizations, the PatroRom unites 62% of all the active labour force in Romania and the turnover of the member company's count for 65% of GDP» (S. Bărbuceanu cit., 2012).

Before 2011 the National Collective Bargaining Systems in Romania was characterised by a Multi-level bargaining system with dominance of tripartite intersectoral bargaining and complementary bargaining at sectoral and company level. A large proportion of employees were covered only by intersectoral bargaining. The relationship between intersectoral/sectoral and company bargaining is described by a «strict hierarchy of bargaining levels, with no 'opt-out' options for lower-level bargaining». Another relatively recent new topic of bargaining in Romania is the introduction of the variable payment schemes (performance-related pay and profit-related bonuses) on the bargaining agenda in the operations of some MNCs (EIRO, 2005). It was found by (P. Marginson *et al.*, 2006 cited by EIRO, 2009) that the «predominant private sector collective bargaining arrangement, for Romania is multi-employer bargaining for manufacturing and single-employer bargaining for Services». The presence of multinationals in Europe as well in NMS, including Romania was characterised in the one report of the European Foundation for the Improvement of Living and Working Conditions as «have been a major source of pressure for decentralisation of bargaining arrangements by introducing greater scope for company negotiation within sector and inter-sector agreements» (European Foundation, 2009). «Thus, social partnership and collective bargaining at the sectoral level are still fragile in Romania, as they are in most CEECs [...] A central problem is the weakness of the employers' associations in Romania; trade unions are faced with a social partner incapable of deciding on what kind of relationships they wish to engage in. Collective bargaining at sectoral level provides an opportunity for the trade unions to bargain collectively, but conflicts, particularly in the public sector, have decreased due to the poor economic performance of Romania and the decline of union membership. Research findings show that strategic choice at this level, by the central actors in the trade unions, has been changing from over strikes towards co-operation with employers» (A. Trif, K. Koch, cit., 2005).



### 2.1. Bargaining in multinationals companies – MNCs

Multinationals companies – MNCs represents a major source of pressure for decentralisation of bargaining arrangements by introducing greater scope for company negotiation within sector and inter-sector agreements is concluded in the study <sup>(10)</sup>. In MNCs are driven by performance objective and this value is reflected by the variable payment schemes introduction in some countries. The performance-related pay and profit-related bonuses were introduced through company negotiations in Bulgaria and the Czech Republic, in Romania, were placed on the bargaining agenda in the operations of some MNCs. The future of collective bargaining could be strongly influenced by MCNs, considering that «especially in internationalised product markets, the tensions between the international scope of MNCs' business operations and management decisions and the capacity of national collective bargaining arrangements to regulate them highlight the need – if collective bargaining is to remain a prominent form of labour market regulation – for developing the still embryonic transnational mechanisms of coordination and negotiation» (P. Marginson, cit., 2009). In literature is proved that «in the Mediterranean countries – that is, Greece, Italy, Portugal and Spain – as well as in the NMS countries Bulgaria, Romania and Slovakia with regard to multi-employer bargaining, MNCs display a noticeably higher incidence of second-tier or company negotiations compared with locally-based firms: while respecting the sectoral structure of collective bargaining, these companies reduce its impact by increasing the scope for decentralised arrangements» (Eurofound, *Multinational companies and collective bargaining, This report is available in electronic format only*, 2009).

### 3. Social dialogue

In Romania the institutionalised social dialogue has two main components: the tripartite social dialogue (Government, trade unions, employers' representatives) and bipartite social dialogue (trade unions, employers' representatives) (MMSSF, *Condiții de Muncă / Working Conditions, Third Quarter 2011, Statistical Bulletin of MMSSF, 2011, QIII* ). The Romanian social

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<sup>(10)</sup> P. Marginson, G. Meardi, *EU enlargement and the FDI channel of industrial relations transfer*, *Industrial Relations Journal*, 37:2, 2006, pp. 92-110., cited in European Foundation for the Improvement of Living and Working Conditions, 2009, 29.

dialogue is characterised as poor <sup>(11)</sup>. After changing its system of economy in 1989, the social dialogue was reloaded in 1990 and in 1992 Romania has ratified the main ILO standards concerning social dialogue, namely the Tripartite Consultation. After more than 42 years of centralised market relationships the emergence was difficult, followed by extensive development between and with the accession of Romania in EU in 2007, was centered on enhancing the quality. Following 2008 it was found that social dialogue is weakened by the crises (S. Bărbuceanu, cit., 2012), the lack of participation of main labour market actors – employers and syndicates structures of representativeness, reflects the worrisome trend, like in others countries, from the democracy perspective, of using emergency procedures, bypassing next to social partners the Parliament.

National statistics provides no information on the number of trade union members and the representativeness of trade union organisations (S. Bărbuceanu, cit., 2012).

### **3.1. Tripartite social dialogue**

Following the initial version of the New Social Dialogue Code with the new structure of the Economic and Social Council (CES) without the presence of the Government and with nomination of representatives of civil society instead, the union and employers confederations signed together a National Agreement, which pushed the Government to create the National Tripartite Council (CNT).

CES is an autonomous tripartite public institution of national interest, set up for the purpose of achieving the tripartite social dialogue between employers, trade unions and the Government (Article 82, Law No. 62/2011) aiming to build a climate of stability and social peace. The Constitution of Romania (revised in 2003) defines the Economic and Social Council (CES) as a consultative body of the Parliament and the Government in areas established by its own law of founding, organization and functioning. The Economic and Social Council has an advisory function in working out strategies and economic and social policies, and it plays a mediator role at industry and national levels in case of disputes between its social partners. The Council helps to achieve, promote and develop social dialogue and social solidarity. CES assures «the fulfillment of the that arise from the ILO Convention No. 144/1976 regarding the tripartite consultations for the international labour norms promotion, adopted at Geneva on 2 of June 1976, ratified by Romania through the No. Law 96/1992» (Article 86, letter d, Law No. 62/2011). In its structures according with the (Article 108, (paragraph 1), Law No.

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<sup>(11)</sup> R. Radu, *Social dialogue perspectives in Romanian road transports, sectoral activities program*, working paper, WP 258, ILO, Geneva, 2008.

62/2011) are included specialized permanent or temporary commissions. Among specialized commissions there is the Commission for economic development, competitive and business environment.

### **3.1.1. The National Tripartite Council**

«As a response to the National Agreement signed by the trade unions on 17<sup>th</sup> of October, on the 27<sup>th</sup> of October the National Tripartite Council was constituted and on the 1<sup>st</sup> of November 2011 the first meeting was held» (S. Bărbuceanu, 2012).

Under the new Social Dialogue Law No. 62/2011, Article 75 was created the National Tripartite Council, consultative body at national level of the social partners, aims to promote the best practices in the social dialogue field at the highest level. Among its attributions there are stipulated in the Article 78 letters:

- a) the assurance of the consulting frame for the framework for establishing the guaranteed national minimum wage;
- e) the negotiation and closing agreements and social pacts, as well as other understandings at national level including the monitoring of their implementation;
- f) the analysis and, if the case request the collective contracts extension solicitation approval for all the units from the respective activity sector; etc.

The National Tripartite Council is chaired by the Prime Minister (or his deputy the Labour Minister – MMSPS) (Article 77, Law No. 62/2011) and includes the presidents of the national representative confederations of patronates and syndicates, the government representatives designated through the Prime Minister decision, at least at the level of state secretary, from each minister as well as from other state structures, according with the understanding between social partners and the National Bank of Romania BNR, the president of CES – Economic and Social Council and other members agreed with the social partners (Article 76, Law No. 62/2011).

### **3.2. The social dialogue at the level of the central public administration and at territorial level**

Local collective bargaining is possible at territorial level for federation and confederation structures association and is no more an option of association for

units according with The Social Dialogue Law No. 62/2011, article 41 (paragraph 4) with references in (Article 43, Article 46, Article 52).

For the Ministries and other public institutions listed in the (Law No. 62/2011) as well as at the county level (NUTS 3 level) and Bucharest Municipality are created and will function social dialogue commissions, constituted from representative of the central public administration or local, patronal/employer and syndicate organisations representative at national level.

According with the (Article 122, Law No. 62/2011):

(1) from the social dialogue commissions organised at ministry level and of the public institutions presented in the Annex 1 of the before mentioned Law, are included: a) the ministry or public institutions representative, nominated by Ministry Order, respectively of the public institution manager; b) nominated representative of the national representatives employer's confederations; c) nominated representative of the national representatives syndicate's confederations

(2) from the social dialogue commissions organised at territorial level are included: a) the prefect, as well as the prefect's representatives and decentralised public services representatives of the ministries and of all others specialised organs of the central public administration, nominated through the Prefect's Order; b) president of the county council or the general mayor of the Bucharest; c) one representative for each employers' confederation representative at national level; d) one representative for each syndicate's confederation representative at national level;

(3) the presidents of the employer's and syndicate's confederations representative at national level are members of jure of the social dialogue commissions organised at central and local public administration.

Based on article 51, Letter A, Law No. 62/2011 the national representativeness is conditioned by the stipulation of including territorial structures at least in ½ counties including Bucharest Municipality (42 counties :2=minimum 21 territorial structures). The cumulated member's number represents at least 5% from the total employed people in national economy.

#### **4. Pregnant workers and systems of parental leaves**

Under the execution of the individual employment contract is included also the «professional responsibilities conciliation with family responsibilities of the

parents»<sup>(12)</sup>). The effect of the pregnancy and parenthood on the relations of work regime is the individual employment contract suspension automatic by the law action or at initiative of the employee according with the Labour Code No. 53/2003 republished 2011. Consequently of the 2011 ample reforms, we present in this section the most recent typology covered by the Romanian legislation. There are the case of Maternity leave (Pregnancy leave and Nursing leave) where the employment contract is suspended *de jure* and the cases of Parental leave (Parental leave for children under 2 years of age, Parental leave for disabled child up to the age of 3 years and parental leave without allowance after first 3 births with 4 months duration). Leave for care of sick child (Leave for care of sick child under the age of 7 years and the Leave for care of sick child in the case of a disabled child, for diseases, up to the age of 18 years), Paternity leave and Maternal risk leave where the employment contract is suspended at the initiative of employee.

In view to point out the actual level and the recent progress (where is the case) we present this typology as is described in recent legislation (latest actualisation on March 2012).

#### **4.1. Maternity leave**

Maternity leave is a medical leave and is accorded, usually by the specialist. The bearer of the maternity leave is only the pregnant or nursing women. This leave is granted only for the women with at least 1 month of contribution or assimilated stage in the last 12 months before the month of granting the pregnant/nursing maternal leave in accordance with the Article 23, Emergency Ordinance 17 November 2005, No. 158 (concerning leaves and social health insurance allowances). In the same document are specified the conditions for the maternity leave and allowance in the considered situation. In the article 1, Ordinance, No. 158/2005 are specified the eligibility criteria of the health insurance allowances. One important category is represented by the activity developed on the individual employment basis or on the job relations. Consequently the assured women could be beneficiaries for the cumulated 126 calendar's days reflecting the pregnancy leave and nursing leave total period.

*Pregnancy leave* is given in accordance with the (Article 24, (paragraph 1) Ordinance No. 158/2005) and fixates at 63 duration calendar's day the pregnancy leave.

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<sup>(12)</sup> R.R. Popescu, C. Jura, coordinator department: L. Voinea, *The EU Directive Transposing in Romanian Labour Legislation. The Labour Market, between the Romanian chaos and European equilibrium*, Bucharest, 2011

*Nursing leave* is given in accordance with the (Article 24, (paragraph 1) Ordinance No. 158/2005) and fixates at 63 duration calendar's day the nursery leave, from which 42 days period are minimum mandatory to be realised – the compulsory 42-day post-natal leave as a part of the 126-day maternity leave – consequently there is accepted to be compensated in between with mentioned exception. In these conditions the minimum period of time acceptable for the mother to come back to work is 42 days after the child birth.

In Article 25, (paragraph 1) Ordinance No. 158/2005 is specified that the monthly level of the maternity leave is 85% from the last 6 months from the 12 months that represents the subscription stage conform with the Article 10 (paragraph 1) Ordinance No. 158/2005. The maternity allowance is entirely supported from the Unique National Fund for the Social Health Assurances (see Article 25, paragraph 2, Ordinance No. 158/2005).

The maternity (pregnancy and nursing) allowance is an social assistance benefit supported with the objective to sustain the child and family. According with the (Article 129, paragraph 1, Law 20 December 2011, No. 292) «the social assistance benefits are financed from the state budget and/or local budgets». In consequence, starting with the year 2012, the (Ordonanță de urgență 27 December 2011, No. 124) condition the child state and rise allowances payments with the legal obligations payment to the local budget (taxes payments) for the goods holds in property the solicitants (according with the Law No. 571/2003). The eligible citizens for the allowances or benefits have to pay the afferent taxes for the last year until the 31 of January of each year – otherwise the rights are suspended for 5 months period, starting with the February.

#### **4.2. Parental leave and the monthly allowance for raising a child**

Parental leave and the monthly allowance for raising a child (Emergency Ordinance/Ordonanță de urgență, 8 December 2010, No. 111) in Romania considers 2 cases (by choice): parental leave for children under 1 year, as well as an monthly allowance (Article 2, letter *a*) or parental leave for children under 2 years as well as an monthly allowance (Article 2, letter *b*). This act was applicable for the children born after 1 January 2011 and for the children born before 31 December 2011 was applied the Ordinance No. 148/2005 approved with completion and modifications through Law No. 7/2007. Both, Ordinance No. 111/2010 and Ordinance No. 148/2005, were modified by Ordinance No. 124/ 27 December 2011, and harmonised.

According with the (Article IV. (paragraph 1), (paragraph 2), (paragraph 3)/ Ordinance No. 124/ 2011) (for amending and supplementing certain legal norms

governing the granting of social assistance benefits) the level of allowance is reported to ISR (<sup>13</sup>) beginning with 1 January 2012. There are two cases:

1. Parental leave for children under 1 year, and respectively 3 years in the case of disabled child as well as an monthly allowance (Article 2, letter a)) included in the interval (minimum 1.2 ISR-maximum 6.8 ISR) and calculated as 75% from the mean of the last 12 month net income, before the birth of the baby. In this case, if the parent is coming back to work, before the baby makes 1 year the parent receive an insertion stimulant representing 0.2\*ISR;

2. Parental leave for children under 2 years as well as an monthly allowance (Article 2, letter b, included in the interval minimum 1.2 ISR-maximum 2.4 ISR) and calculated as 75% from the mean of the last 12 month net income, before the birth of the baby.

The parental leave without allowance after first 3 births with 4 months duration.

The parental allowance is a social assistance benefit supported with the objective to sustain the child and family according with the (Article 129 (1), Law 20 December 2011, No. 292) «the social assistance benefits are financed from the state budget and/or local budgets». In consequence, starting with the year 2012, the [Emergency Ordinance 27 December 2011, No. 124] condition the child state and rise allowances payments with the legal obligations payment to the local budget (taxes payments) for the goods holds in property by the solicitants (according with the Law No. 571/2003). The eligible citizens for the allowances or benefits have to pay the afferent taxes for the last year until the 31 of January of each year – otherwise the rights are suspended for 5 months period, starting with the February.

«The problem of the “professional responsibilities conciliation with family responsibilities of the parents” represents the object for settlement for the Directive No. 93/34/CEE regarding the parental leave. According the communitarian settlements, the beneficiaries of the parental leave could be the workers with a contract or working relation, with the occasion of the birth or adoption of a child, in view to be able to raise and care him/her, at least for 3 month until the age of 8 years» (R.R. Popescu, cit., 2011).

Through Ordonance No. 57/2012 (<sup>14</sup>) are transposed the dispositions of the second clause of the revised Framework Agreement concluded by the European

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(<sup>13</sup>) In the Article 14 [Law 20 December 2011, n. 292 (of social assistance)] starting with 2012 the levels, respectively the quantum of the social assistance benefits are fixed in report with Social Indicator for Reference ISR through applying of an social insertion indices.

(<sup>14</sup>) Hotărâre nr. 57 din 30/01/2012, Publicat in Monitorul Oficial, Partea I nr. 82 din 01/02/2012, Intrare in vigoare: 01/02/2012, amending and supplementing the Rules for the

social partners on 18 June 2009. Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (Text with EEA relevance) <sup>(15)</sup>.

Workers are entitled to parental leave on the birth or adoption of a child. Such leave may be taken until the child has reached an age determined by national law and/or collective agreements, but before the age of eight.

This Directive applies equally to all workers, men and women, irrespective of their type of employment contract (open-ended, fixed-term, part-time or temporary).

Parental leave shall be granted for at least a period of four months. In principle, workers should be able to take all of their leave. It should therefore not be transferable from one parent to the other. However, such transfers may be authorized on condition that each parent retains at least one of the four months of leave.

#### Taking of leave

The conditions of access to leave and adaptability of leave shall be defined by national law and/or collective agreements. For example, European Union (EU) States and/or social partners may:

- adapt leave to the needs of parents and employers, by granting leave on a full-time or part-time basis, in a piecemeal way or in the form of a time-credit system;
- authorize the postponement of leave by the employer, for justifiable reasons related to the organization;
- authorize special arrangements to ensure the proper operation of small undertakings.

Workers wishing to take parental leave must give notice to the employer. The period of notice shall be specified in each EU country taking into account the interests of workers and of employers.

Each EU country shall also be encouraged to define additional measures and/or the specific conditions for the taking of leave by adoptive parents and parents of children with a disability or a long-term illness.

#### Return to work and non-discrimination

After taking parental leave, workers shall have the right to return to the same job. If that is not possible, the employer must offer them an equivalent or similar job consistent with their employment contract or employment relationship.

In addition, rights acquired or in the process of being acquired by the worker on the date on which parental leave starts:

- shall be maintained as they stand until the end of the leave;

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enforcement of Law No. 416/2001 on the guaranteed minimum income approved by Government Decision No. 50/2011, the Rules for the enforcement of the provisions regulated by the Government Emergency Ordinance No. 111/2010 on parental leave and the monthly allowance for raising a child, and the Rules for the enforcement of the provisions regulated by the Law No. 277/2010 on family assistance allowance approved by Government Decision No. 38/2011.

<sup>(15)</sup> [http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/equality\\_between\\_men\\_and\\_women/em0031\\_en.htm](http://europa.eu/legislation_summaries/employment_and_social_policy/equality_between_men_and_women/em0031_en.htm).



- shall apply at the end of the leave, as shall all changes arising from national law, collective agreements and/or practice.

Similarly, workers shall be protected against less favorable treatment or dismissal on the grounds of an application for, or the taking of, parental leave.

All matters regarding social security and income in relation to parental leave are for determination by EU States and/or national social partners. The Agreement does not therefore contain any stipulations concerning the payment of salary or compensation during parental leave.

Finally, on their return from leave, workers must be able to request changes to their working hours and/or patterns for a set period of time. Employers shall consider and respond to such requests, taking into account both employers' and workers' needs.

Leave on grounds of force majeure

Workers may also request leave on grounds of force majeure for family reasons. Such leave may be requested in particular in cases of sickness or accident making the immediate presence of the worker within the family indispensable.

We emphasize the progress in view to support work and life time balance starting with 1 March 2012, for each parent is mandatory to spend with his/her baby child at least 1 month stipulated by (Decision No. 57/2012). The consequence of this decision is that from the one parental leave of 1 year or 2 years (in the case of children with disability is 3 years) one month is for the other parent and is not transferable. During the parental leave the (father) will receive the allowance for raise the children (calculated as 75% from the mean of the last 12 month net income, before the birth of the baby, but no less than 600 RON and no more than 3400 RON (calculated as 1.2-6.8 ISR <sup>(16)</sup> The Social Reference Indicator – Indicator Social de Referinta. When the father stays at home and mother is going to work the family benefits of one allowance – in this case under the father's name.

### **4.3. Leave for care of sick child**

This leave is presented in the Ordonanță de urgență 17 November 2005, No. 158/ OU No. 158/2005, concerning leaves and social health insurance allowances and is a medical leave. This scheme's model is an assurance type – contributively one from the health assurance system. The assured persons (employed or unemployed persons) could benefit of medical leaves and allowances during the period of time when they have domicile or residence in Romania.

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<sup>(16)</sup> In the [Article 14 Law 20 December 2011, n. 292 (of social assistance)] starting with 2012 the levels, respectively the quantum of the social assistance benefits are fixed in report with Social Indicator for Reference ISR through applying of an social insertion indices.

Parents/tutors assured could beneficiate according to article 26, (1) OU No. 158/2005 of an *Leave for care of sick child under the age of 7 years or according to article 24, (1) OU No. 158/2005 of an Leave for care of sick child in the case of a disabled child, for intercurrent diseases, up to the age of 18 years*. In article 30, (1) OU No. 158/2005 is specified that the monthly level of the maternity allowance is 85% from the last 6 months from the 12 months that represents the subscription stage conform with the article 10, (1) OU No. 158/2005. The Leave for care of sick child is a medical leave and is entirely supported from the Unique National Fund for the Social Health Assurances (see. Article 25, (2) OU No. 158/2005). The maximum period of time for which is granted the allowance for *Leave for care for a sick child* is 45 days/year with exception of the cases where the doctor considers otherwise. The Law No. 399/2006 (Law 30 October 2006, n. 399 – for the approval of the Government Emergency Ordinance No. 158/2005 on leaves and social health insurance allowances) modifies the Article 29 at point 13, demanding that in the case of exceeding the 90 days of the leave for the sick child is requested the approval of the expert medicine of the social assurance system.

#### **4.4. Paternity leave**

Paternity leave is defined by the Law No. 210/1999 (Lege 31 December 1999, No. 210): «After the 42 days of the mandatory post natal leave, father could demand the minimum parental leave of 1 month from the entire optioned period of time (1 or 2 years), at any period of time of the parental leave. In the father's case is cumulative span application of the paternity leave of 5 days or 15 days in the case of puericulture/child care courses graduation with the parental leave». This regulation is excepted to be applied when: neither of the parents didn't realised incomes from work in the last 12 months before the baby birth, mono-parental family, parents are not legally married.

#### **4.5. Maternal risk leave**

According with the Article 31 Ordinance No. 158/2005 is defined the maternal risk leave as an non contributively <sup>(17)</sup> and medical leave type, according with the conditions described in Ordinance 14 October 2003 No. 96, on maternity protection in the workplace and in the Law 5 March 2004 No. 25, for the approval

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<sup>(17)</sup> The employee is not required to pay social charges on this compensation.

of the Government Emergency Ordinance No. 96/2003 on maternity protection in the workplace.

In conformity with the article 1, letters *c* to *e* Ordinance No. 96/2003 for the protected salaried «pregnant employees and employees who have just given birth or are breastfeeding» are paid a number of free hours – maximum 16 hours/month by employers to the salaried women, during the normal working program, in view to make the medical examination and consultancy following the family medicine or specialist recommendations. Also for the protected salaried could beneficiate from the maternal risk leave if the employer, from justified reasons fails to modify the working conditions, working program or the place of working according with the occupational medicine specialist's recommendations. Employees may benefit from maternal risk leave either prior to actual maternity leave or after the compulsory post-natal leave (42 days). The maximum spell of this leave is 120 day (continuous or divided) only at the medicine recommendation but not in the same time with other leaves supported from the Unique National Fund for the Social Health Assurances. The maternal risk [compensation] allowance is 75% “from the mean of the last successive 10 month's (before the demand) income (Article 11 Ordinance No. 96/2003). The maternal risk allowance is a social assistance benefit supported with the objective to sustain the child and family according with the (Article 129 (1), Law 20 December 2011 No. 292) «the social assistance benefits are financed from the state budget and/or local budgets». In consequence, starting with the year 2012, the (Ordinance No. 124/ 2011) condition the child state and rise allowances payments with the legal obligations payment to the local budget (taxes payments) for the goods holds in property of the applicants (according with the Law No. 571/2003). The eligible citizens for the allowances or benefits have to pay the afferent taxes for the last year until the 31 of January of each year – otherwise the rights are suspended for 5 months period, starting with the February.

##### **5. Relations of work regime resulted from the professional responsibilities conciliation with family responsibilities of the parents**

In Romania, in the situation of pregnancy and parenthood the individual employment contract provides automatic or voluntary options for security and/or flexibility of its transformation. As security provisions are: the changing of the status of the individual employment contract from active to suspension *de jure* or at the initiative of employee, prohibition of temporary dismissal cases and pension rights' protection. As the contractual flexibility options are: the individual

employment contract of limited duration, the temporary employment contract, the individual part-time employment contract and the home working contract

### **5.1. Security provisions induced in the situation of pregnancy and parenthood for the employed person**

- *In the situation of pregnancy and parenthood.*

The individual employment contract changes its status from active to suspension in:

a) the case maternity leave of the individual labour contract” – article 50, letter a, Labour Code No. 53/2003 republished 2011 situation that implies de jure suspension of the individual employment contract or

b) in any of the cases: a) parental leave for children under two years of age or, in the case of a disabled child, up to the age of three years; b) leave for care of sick child under the age of seven years or, in the case of a disabled child, for diseases, up to the age of eighteen years; c) paternity leave, situations that implies suspension on the initiative of the employee of the individual employment contract, stipulated in Labour Code No. 53/2003 republished 2011 – article 51.

Prohibition of temporary dismissal is stipulated in «Labour Code 53/2003 republished 2011 – article 60 (c-f), for any of the cases: during the pregnancy of the employee, insofar as the employer took knowledge of it prior to issuing the dismissal decision; during the maternity leave; during the parental leave for children under two years of age or, in the case of a disabled child, up to the age of three years; during the parental leave for children under seven years of age or in the case of a disabled child, for diseases, up to the age of eighteen years». From the before presented situation are exception the situation when the employer is judiciary reorganised or is declared his bankruptcy, under the law’s conditions. Another law next to the Labour Code is Ordinance No 111/2010 (Article 25) with the stipulation of employer’s mandatory to approve the leaves for rise the child and parental leaves execution, with the obligation to maintain the job after the suspension working contract is ceased. According with article 25 (3) of Emergency Ordinance No. 111/2010, the labour contract closing is forbidden during the first 6 months after the mothers are coming back to work, period of time when could beneficiate of the «reinsertion back to work incentive». Also, in the Government Emergency Ordinance No. 96/14 October 2003, Article 21 – maternity protection in the workplace is specifically stipulated the categories of female employees who cannot be dismissed for reasons related to their condition, still in concordance with the article 60 of the Labour Code, mentioned above. These categories are as follows: pregnant employees and employees who have

just given birth or are breastfeeding; employees on maternal risk leave; employees on maternity leave; employees on special leave to raise a child of up to 2 years of age (or up to 3 years of age in the case of a disabled child); and employees on special leave for nursing a sick child of up to 7 years of age (or up to 18 years of age in the case of a disabled child). According to Law No. 25/05 March 2004, for the approval of the Government Emergency Ordinance No. 96/2003, is modified the article 21 in the sense that the prohibition against dismissal is reduced for the cases of layoffs generated by bankruptcy or the reorganization of the company's activities. «The 1996 European Directive on parental leave requires that a job guarantee be offered, that is the right to return to the same or an equivalent job [...]. Finally, in Romania, only women taking parental leave are legally protected against dismissal but not men [...]. In sum, in most countries, parental leave cannot impact on future employment and pensions» (Eurostat, *Reconciliation between work, private and family life in the European Union*, European Commission, Statistical Books, 2009).

- *Pension rights' protection in the cases of pregnancy and parenthood leaves.*

«In terms of pensions, in most countries, leaves are regarded as active services and thus pension rights continue to accumulate. Leave time is taken into account for the purposes of promotions and pensions (Prechal et al., 2007)» (Eurostat, *Reconciliation between work, private and family life in the European Union*, cit, 2009).

## **5.2. Contractual flexibility options induced in the situation of pregnancy and parenthood for the employed person**

### **5.2.1. The individual employment contract of limited duration**

Under the perspective of labour market flexibilisation, the employment contract of limited duration is an instrument with high potential to implement this desiderate. The recent Labour Code modification define this contract under its main characteristics, like:

- Successive Contract characteristics. This issue is stipulated in *Labour Code 53/2003 republished 2011* – article 82 (4-5): (4) «The same parties may successively conclude at most 3 individual employment contracts of limited duration and (5) The individual employment contracts of limited duration, concluded within three months from the cessation of an employment contract of limited duration, shall be considered successive contracts and will not exceed 12 month each».

- **Contract duration characteristics.** This issue is stipulated in *Labour Code 53/2003 republished 2011* – article 84. – (1) An individual employment contract of limited duration may not exceed 36 months. (2) If the individual employment contract of limited duration has been concluded for the replacement of an employee whose individual employment contract has been suspended, the contract shall end when the reasons determining the suspension of the individual employment contract of the tenured employee have ceased to exist.

- **Contract probationary periods characteristic.** This issue is stipulated in *Labour Code 53/2003 republished 2011* – article 85. An employee with an individual employment contract of limited duration may be subject to a probationary period, which shall not exceed:

Table 1 – Length of the individual employment contract of limited duration: probationary period

Probationary period [Nr. of working days]	Length of the individual employment contract of limited duration
5	< 3 months
15	[3;6] months
30	> 6 months
45	> 6 months for the employees in a management position

### 5.2.2. The temporary employment contract

- **The activity Contract characteristics.** This issue is stipulated in *Labour Code No. 53/2003 republished 2011* – Article 88 (legal definition: work, employee, agency, user undertaking)

(1) The employment by temporary employment agency, hereinafter called temporary employment, is an activity performed by a temporary employee who, at the direction of the temporary employment agency, carries out an activity for the benefit of a user undertaking. (2) A temporary employee is a person working for an employer as temporary employment agency, and made available to a user undertaking for the duration necessary to perform certain precise and temporary tasks. (3) A temporary employment agency is a company authorized by the Ministry of Labour and Social Solidarity that temporarily provides the user undertaking with skilled and/or unskilled personnel employed and paid for this purpose. The conditions for the establishment and operation and the authorization procedure of the temporary employment agencies shall be established by Government Decision. (4) A user undertaking is an employer

whom the temporary employment agency provides a temporary employee for the performance of precise and temporary tasks (see also the Hotărâre/Decision No. 1256 from 21/12/2011).

- *Contract duration characteristic.* This issue is stipulated in the *Labour Code No. 53/2003 republished 2011* – «Article 90. – (1) A temporary employment mission shall be established for a period that may not exceed 24 months. (2) The duration of the temporary employment mission may be extended only once for a period that, added to the original duration of the mission, may not exceed 36 months».

- *Contract probationary periods characteristic.* This issue is stipulated in the *Labour Code No. 53/2003 republished 2011* – article 97 (probationary period for the temporary employee)

A probationary period for the accomplishment of the mission may be established in the temporary employment contract, whose duration is set according to the demand of the user undertaking, but which may not exceed:

Table 2 – Length of the individual temporary employment contract of duration: probationary period

Probationary period [Nr. of working days]	Length of the individual temporary employment contract of duration
2	≤ 1 month
5	[1;3] months
15	[3;6] months
20	> 6 months
30	> 6 months for the employees in a management position

Even this contract type is a useful instrument to increase the labour market flexibility «in Romania, at company level, the temporary employment scheme is less used. This leads us to the idea that temporary employment is regarded more as a lack of employment alternative for an indefinite period rather than as an opportunity. The majority of temporary workers are working in the private sector, they are operative workers in services, trade, they are unskilled workers and they are young workers, aged 15-34 years, with no significant difference between men and women temporary workers, contrary to the statistics EU level. The vast majority of workers have chosen this form of work because they have not found a permanent job. Those who do not want a permanent job are

numerically insignificant. The employees have an increased availability for working long hours, whatever they are keeping or not the same occupation»<sup>(18)</sup>.

### 5.2.3. The individual part-time employment contract

- *Concept of part-time employee.* This issue is stipulated in the *Labour Code 53/2003 republished 2011* – article 103. A part-time employee is an employee whose number of normal working hours, calculated weekly or as a monthly average, is lower than the number of normal working hours of a similar full-time employee.

- *Definition of part-time individual employment contract.* This issue is stipulated in the *Labour Code 53/2003 republished 2011* – article 104. (1) An employer may hire part-time employees with individual employment contracts of an unlimited duration or limited duration, called part-time individual employment contracts. (2) An individual part-time employment contract shall be concluded only in writing. (3) A similar employee is a full-time employee in the same organization, having the same type of individual employment contract, performing the same or a similar activity as the employee hired under a part-time individual employment contract, with due regard to other issues too, such as the length of service and the qualification/professional skills. (4) When there is no similar employee in the same establishment, the provisions in the applicable collective labour agreement shall be taken into account. When there is no applicable collective labour agreement, the provisions of the legislation in force or the collective labour agreement concluded at national level shall be taken into account.

Even this contract type is a useful instrument to increase the labour market flexibility «Part-time work is poorly represented; most part-time workers are self-employed or unpaid family workers, mostly in rural areas. Part-time work is thus only a poor alternative in the absence of a full-time employment. In particular, women are facing this risk because of assumed family obligations and the lack of necessary available care for children, elderly and other dependents» (I. Stegăroiu, cit., 2010).

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<sup>(18)</sup> I. Stegăroiu, M.Velciu, *Using diverse workforce in Romania*, in the perspective of flexible working, *Analele Universitatii din Craiova, seria Stiinte Economice*, 2010.



#### 5.2.4. The home working contract-Workplace flexibility: working at home or teleworking

- *The legal definition and special features.* This issue is stipulated in the *Labour Code 53/2003 republished 2011* – article 108.

(1) The employees performing, at their domicile, the specific tasks of their position shall be considered home workers.

(2) For the accomplishment of the assigned tasks, the home workers shall establish their own work schedule.

(3) An employer shall have the right to check the activity of the home worker, under the terms laid down in the individual employment contract.

- *home working contract.* This issue is stipulated in the *Labour Code 53/2003 republished 2011* – article 109. An individual home working contract shall only be concluded in writing and shall include, besides the elements provided for in article 17 (3), the following: a) an explicit notice stating that the employee works from home; b) the schedule according to which the employer has the right to control the activity of the employee and the actual method of control; c) the obligation of the employer to ensure the transport to and from the domicile of the employee, as appropriate, of the raw materials and consumables used in the activity, and of the finished goods he/she produces.

In its «analysis of the main atypical contracts of employment» (R. Dimitriu, 2008) points that as consequence of the crises these types of contracts were the most vulnerable. So, between 31 October 2011 and 31 January 2012 decreased with more than 300 thousands the number of active employee the number of the active contracts decreases with more than 900 thousands.

Table 3 – Number of active employees and number of active contracts in Romania in October 2011 and January 2012

Romania	31 October 2011	31 January 2012
The number of active employee	5.258.668	4.912.018
The number of active contracts	6.276.448	5.317.397

Source: MMSSF, 2012. [www.mmuncii.ro/pub/imagemanager/images/file/Statistica/Statistici%20lunare/Nr\\_sal\\_act\\_contracte\\_active.pdf](http://www.mmuncii.ro/pub/imagemanager/images/file/Statistica/Statistici%20lunare/Nr_sal_act_contracte_active.pdf)

## 6. Changes of paradigm regarding the working time flexibility induced by the imperative to strengthen productivity and competitiveness

Under the globalisation and technical progress become more and more visible the changes inside the work itself. In these conditions is generate a new paradigm of production based on the idea “that outcomes are more important than input of hours in the workplace” <sup>(19)</sup>. So the flexibility of work reflects the production systems and their generation (i.e. Fordist, Toyota, Nokia systems etc.) providing in consequence permanent flexible working arrangements in different degrees.

### 6.1. General aspects regarding the working time flexibility

Allowing for the idea that

«in today’s around-the-clock economies, flexibility of working time is not new and is a broad term. It usually refers to working patterns that deviate from the 9 to 5 rhythm on an average weekday. Traditional forms of extending the working week were once regulated (such as working overtime, in the evening, at night, on weekends and during holidays), but have been eased by regulatory intervention or collective agreements. Their incidence is further influenced by structural differences (and notably the relative importance of the services sector) and varies considerably between European countries. Despite national discrepancies with regard to labour market institutions and performance, national policy choices tend to converge in two areas: the organisation of working time and the liberalisation of employment contracts. Considering the former, which is this section’s main area of interest, government actions and/or collective agreements have primarily aimed to introduce flexibility into working time arrangements in order to better respond to business needs and employee demands. Businesses are mostly interested in adapting working hours to variations in workload, whilst employee demands are associated with the wish for an improved work–life balance» (Eurostat, *Reconciliation between work, private and family life in the European Union*, cit., 2009).

Working time flexibilities covers various aspects of working time issues as illustrated by <sup>(20)</sup>:

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<sup>(19)</sup> S. Lewis, Ian Roper, *Flexible working arrangements: from work –life to gender equity policies*, Cartwright et al / *The Oxford Handbook of Personnel Psychology* 17-Cartwright and Cooper-chap. 17, 2008, 423.

<sup>(20)</sup> C. Makó, M. Illéssy P. Csizmadia, *New Member States, The transformation of work?*, WP 15 – A quantitative evaluation of changes in work in the New Member States, CIT3-CT-2005-006193, ISB, March, 2008, 19.

- working time arrangements
  - *the ability to start or leave work earlier or later,*
  - *the ability to take whole days off without using holidays or special leaves, and*
  - *teleworking* (Eurostat)
- unusual working hours/ non-standard working hours, atypical work (evening, night, weekends, on holydays) [Eurostat],
  - overtime and
  - part-time work among others.

Another typology is used by Eurostat and considers as a major factor in the definition of working time arrangements is the status of the jobholder as employee or self-employed. For employees, working time arrangements can generally take the following forms:

- part-time work;
- reduced hours, which allow people to trade income for time off;
- term-time contracts, which allows employees to remain on a permanent contract as either full – or part-time employees, but gives them the right to unpaid leave during school holidays;
  - compressed working week, where weekly hours are compressed into fewer days than normal, for example a 4-day week, giving employee's longer weekends;
  - flexitime, which allows employees to vary their working hours within specified limits (core hours) from day to day;
  - shift swapping, which allows employees to rearrange shifts among themselves to suit their needs; or self-rostering where employees schedule their own working day to meet the requirements of service delivery or production (often as a team with a mix of skills, accommodating individual preferences as much as possible);
  - staggered hours, where employees have different start, finish and break times (often in large workplaces to cover longer working days) (Statistical Books, cit., 2009).

## **6.2. The working time flexibility and productivity**

Recently, is observed that

«in countries where national and sectoral collective bargaining is important in the regulation of working conditions, employers are increasingly calling for the decentralisation of bargaining to company level or for the possibility of opening or opt-out clauses from higher-level agreements, to allow for company-specific working time policies and solutions. They have received ample support in their

cause from neo-liberal economists and politicians, as well as from international organisations like the OECD and the World Bank. In their view, increased working time flexibility would increase the employer's control over labour and allow employers to modernise work organisation and to utilise labour when most convenient. Again, this is claimed to be imperative to strengthen productivity and competitiveness, while it is expected to improve growth and employment creation. Also, the European Commission stresses the need for increased working time flexibility to strengthen enterprise adaptability, although it also calls for worker-friendly types of flexibility to improve the work/life balance (for example, parental leave) or to allow particular groups (for example, older workers) to participate in the labour market» (European Commission 2005).

Also, the Commission is calling for increased flexibility to be accompanied by increased security for workers, even if it remains rather vague on what such security should entail (European Commission 2004b, 2003) (cited by M. Keune, 2007). In the same study, it is argued that in today's economy, in contrast to the Fordist, male-breadwinner model of some decades ago, workers have much more heterogeneous working time needs and preferences, and 'positive' types of working time flexibility may allow them to better combine work and non-work activities, and facilitate female labour market participation or the participation of older workers <sup>(21)</sup> Tendencies that sustain the changes of paradigm regarding the working time flexibility induced by the imperative to strengthen productivity and competitiveness in the Romania are emphasized by studies like <sup>(22)</sup>.

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<sup>(21)</sup> M. Keune, *Collective bargaining on working time: recent European experiences*, European Trade Union Institute for Research, Education and Health and Safety (ETUI-REHS), Brussels 2007, 15.

<sup>(22)</sup> V. Ciucă (coord), D. Pașnicu (coord), *Flexibilitate și securitate pe piața românească a muncii*, studiu realizat în cadrul proiectului PNCDI-II-PARTENERIATE, Nr contract : 91-038/2007 «Mecanisme de promovare a politicii de flexibilitate și securitate (flexicurity) și de reducere a segmentării pieței muncii», INCSMPS, Editura Agora, ISBN 978-973-8295-86-5, 2009; V. Ciucă, D. Pașnicu (coord.), *Definirea flexisecurității din perspectiva strategică a Uniunii Europene și armonizarea cu punctele de vedere ale partenerilor sociali*”, broșură elaborată pe proiectul. *Mecanisme de promovare a politicii de flexibilitate și securitate (flexicurity) și de reducere a segmentării pieței muncii*”, finanțat pe PNCDI-II-Parteneriate în domeniul prioritar, Editura Agora, Cod CNCSIS 286, ISBN 978-973-8295-63-6, Tipografia Mediaprint-Calarasi, 2008, 91; V. Ciuca, D. Pașnicu, L. Son, C. Sipos, M. Iordan, „*The Romanian Flexicurity – A Response to the European Labour Market Needs*”, publicat în *Romanian Journal of Economic Forecasting*, publicație a Institutului de Prognoză Economică (IPE), 2009, vol.10, trimestru 2, 161-183

### 6.3. Different cycles of the transformation process in the new Member States global value chains impacts

New Member States have in common a recent history – as Post Socialist Countries and also a spatial vicinity as Central and Eastern Europe Countries. Those countries were in a good measure comparable especially in so-called ‘first-generation’ reform or various ‘cycles’ of the transformation process. The differentiations become visible after the ‘second generation’ reform or various ‘cycles’ of the transformation process. So, «comparing the impacts of the Global Value Chains restructuring in the New Member States (NMS), we have to be aware, that these post-socialist economies are representing different level of social-economic performance or success according to the various cycle of the transformation process» (C. Makó, M. Illéssy P. Csizmadia, *New Member States, The transformation of work?, 2008*). Where the mentioned processes are defined by the cited authors as:

- the first-generation’ transformation reform refers to the shift from the state-socialist political-economic regime into the market-capitalist one;

- the second generation reform characterises a policy package having the following key components (see table 4).

1. steep tax cuts for business, simplification of the tax code, and a preference for flat-tax systems;

2. generous incentives to foreign investors, including long tax holidays and land grants;

3. loosening labour regulations with little consultation from organised labour;

4. funding tax cuts and incentives through a reduction in the state’s commitment to the social welfare system.” (C. Makó *et al.*, cit., 2008)

In the table 4 is visible the variety of instruments applied. The reform in Romania had a radical character being followed by the reduction of the State’s Welfare Commitments and also of the Power of Organised Labour.

Table 4 – Comparison of Second-Generation Reforms in Selected Post-Socialist Countries

Country	Tax cut	Flat Tax	Investment incentives	Reduction in State's Welfare Commitments	Reduction in Power of Organised Labour	Overall Character of 2G Reforms
Estonia	Radical	Yes	Extensive	Yes	Yes	Radical
Slovakia	Radical	Yes	Extensive	Yes	Extensive	Radical
Hungary	Moderate	No	Neutral	No	Not much	Weak
Czech Republic	Moderate	No	Neutral	No	Not much	Weak
Romania	Radical	Yes	Yes*	Yes*	Yes*	Yes*
Bulgaria						

Source: O'Dwyer-Kovalcik, 2007: 11

#### 6.4. Changes in work organisation with impact on the productivity models

Working time flexibility is, according to some authors the national distribution of indicators that characterises the work organisations (e.g. work complexity, independence in time allocation, work intensity and working conditions) are rather inconsistent at the European level. Their results show that in two Scandinavian countries (Denmark and Sweden) and in the Netherlands work tasks are complex, provide a good environment for learning and the quality of working conditions are high compared to the European average. In the Mediterranean area (Greece, Portugal and Spain), however, the working conditions are rather poor and the job complexity is weak. In analysing the changes in work organisation in the New Member States we used the data from the European Working Conditions Survey (EWCS) that provides a unique source of information for characterising work organisation in Europe (A. Arundel, E. Lorenz, B-A. Lundvall, A. Valeyre, *How Europe's economies learn: a comparison of work organization and innovation mode for the EU-15*, Industrial and Corporate Change, 16, (6) 2007). The EWCS focuses on the non – agricultural market sector establishments of the EU-27 employing ten or more persons. The total sample studied consists of 9,240 salaried employees” cited from (C. Makó, *et al.*, 2008).

### 6.4.1. Work organisations classes given by the adopted production type

Considering as main work organisations classes given by the adopted production type (C. Makó, *et al.*, 2008) as main models the: Discretionary learning forms, Lean production forms, Taylorist forms and Traditional and simple structure for the new member states as well as for the new member states in 2006 for all EU27 (see below table 5).

Table 5 – Work organisation classes by production type

	Work organisation classes				Total
	Discretionary Learning	Lean Production	Taylorist	Traditional or simple	
Czech Republic	28.0	26.7	22.5	22.9	100.0
Estonia	40.7	33.4	11.2	14.7	100.0
Cyprus	26.4	27.0	21.2	25.4	100.0
Latvia	33.4	34.5	17.1	15.0	100.0
Lithuania	23.5	31.1	22.0	23.4	100.0
Hungary	38.3	18.2	23.4	20.1	100.0
Malta	45.6	34.2	12.1	8.2	100.0
Poland	33.3	32.6	18.9	15.2	100.0
Slovenia	34.9	32.1	16.7	16.3	100.0
Slovakia	27.2	21.0	33.8	18.1	100.0
Bulgaria	20.6	27.2	32.7	19.5	100.0
Romania	24.	33.4	27.6	14.9	100.0
EU-27	38.	25.7	19.5	16.4	100.0

Source: EWCS, 2006, cited by (Makó C. *et al.*, 2008)

There are wide differences in the importance of the four forms of work organisation across European countries, as shown in table 5 which gives the percentage of employees in each country grouped in each of the four classes of work organisation forms, and could be shortly characterised as follows:

### 6.4.2. Work organisation based on *Discretionary learning forms* ‘Scandinavian socio-technical’ model

The first class (38% of the employees for UE 27 and 24% for Romania) is characterised by the overrepresentation of the variables measuring autonomy in work, learning and problem-solving, task complexity, and self assessment of quality of work and, to a lesser extent, autonomous teamwork. The variables reflecting monotony, repetitiveness and work pace constraints are under-represented. This class, which we refer as the discretionary learning form of work organisation, would appear to correspond to the ‘learning organisation’ or the

‘operating adhocracy’ models and has many of the features of the ‘Scandinavian socio-technical’ model, notably a relative emphasis on autonomous team organisation for those employees involved in teamwork (see also B.J. Krings, *et al.*, 2009).

#### **6.4.3. Work organisation based on *Lean production forms* (Toyota form)**

The second class (25.7% of the employees for UE 27 and 33.4% for Romania) is mainly defined by an overrepresentation of teamwork (autonomous or not) and job rotation (particularly multi-skilling), the quality management variables (self assessment of quality of work and quality norms), the indirect variable of just-in-time (measured by demand-driven constraints on work pace without or almost without direct customer dealings) and the various factors constraining work pace. This class, like the first, displays strong learning dynamics and relies on employees’ contribution to problem-solving. One easily recognises here the classic attributes of the ‘lean production’ model. However, autonomy in work is only a little higher than in average and bracketed by the importance of work pace constraints linked to the collective nature of the work and to the requirement of respecting strict quantitative production norms. Thus, this class has much in common with what is described as a ‘controlled autonomy’ in work, reflecting employers’ concern to balance the needs of exercising control over employees and encouraging their creativity (T. Coutrot, *L’entreprise néo-libérale, nouvelle utopie capitaliste ?*. *Enquête sur les modes d’organisation du travail*, Paris, La Découverte « TAP/Economie», 1998; P. Edwards, J. Geary & K. Sisson, *New forms of work organization in the workplace*, in G. Murray et al (eds.), *Work and Employment Relations in the High Performance Workplace*, London: Continuum. 72-119, 2002).

#### **6.4.4. Work organisation based on Taylorist forms**

The third class (19.5 % of the employees for UE 27 and 27.6% for Romania) corresponds in most respects to a classic characterisation of Taylorist or of ‘mechanistic bureaucratic’ forms of work organisation. The work situation is for the most part the opposite of that found in the discretionary learning class, with very low autonomy in work, particularly in the methods of work, low learning dynamics, low complexity and low assistance from colleagues or hierarchy, and an overrepresentation of the variables measuring constraints on the pace of work, repetitiveness and monotony of tasks, and quality norms. Interestingly, teamwork



and job rotation are nearly at an average level in this class, confirming the importance of what some authors refer to as ‘flexible Taylorism’ (R. Boyer, J. P. Durand, *fordisme*, Paris, Syros, 1993). However, team working is developed with a low level of self-organisation (on the division of tasks and the choice of the team leader) and, in the same way, workers rotating tasks do not choose often on the division of tasks and practice more multitasking and less multi-skilling than in the learning and the lean production forms.

#### **6.4.5. Work organisation based on traditional and simple structure forms**

The fourth class (16.4% of the employees for UE 27 and 14.9% for Romania) is poorly described by the variables of work organisation which are all underrepresented. This class presumably groups traditional forms of work organisation where methods are for the most part informal and no codified. This class would also appear to correspond to a certain extent to Mintzberg’s (1979) notion of ‘simple organisational structure’ (Makó C., *et al. cit*, 2008).

#### **6.5. Distribution of the work organisation types above the EU-27 average**

«• Comparing the differences in each form of work organisation across European countries, important national specializations can be identified. Five contrasting groups of countries can be distinguished according to their main forms of work organisation: the Scandinavian countries (Sweden and Denmark) and the Netherlands where the discretionary learning forms of work organisation predominate;

- the UK, Ireland, some Eastern European countries (Poland, Latvia, Estonia and Slovenia) and Finland, Luxembourg and Malta, which are characterised by a relatively high development of the lean production forms of work organisation;
- Portugal and Romania with an overrepresentation of the lean production and Taylorist work organisation forms;
- Bulgaria and Slovakia where the Taylorist forms of work organisation are quite widely diffused;
- and some southern European countries (Greece, Cyprus, Spain) and eastern European countries (Lithuania and Czech Republic) with an overrepresentation of the Taylorist and traditional or simple structure forms of work organisation» (Makó C. *et al.*, 2008).

Table 6 – Distribution of the work organisation types above the EU-27 average

Work organisation form	New Members States	Old Members States
Discretionary learning form	Estonia, Hungary, Malta, Slovenia	Belgium, Denmark, Germany, France, Ireland, Luxembourg, Netherlands, Austria, Finland, Sweden
Lean production	Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Poland, Bulgaria, Romania	Denmark, Greece, Luxembourg, Ireland, Portugal, Finland, UK
Taylorist form	Czech Republic, Cyprus, Lithuania, Hungary, Slovakia, Bulgaria, Romania	Spain, Italy, Portugal
Traditional or simple structure	Czech Republic, Cyprus, Lithuania, Hungary, Slovakia, Bulgaria	Germany, Greece, Spain, Ireland, UK

Source: EWCS, 2006, cited by (Makó C. et al., 2008)

The discretionary learning forms of work organisation are most developed in the Scandinavian countries (Sweden and Denmark) and the Netherlands, and to a lesser extent in the continental European countries (France, Austria, Germany, Belgium and Luxembourg), Finland and Malta, while they are little diffused in southern European countries (Spain, Portugal, Greece, Cyprus) and some eastern European countries (Bulgaria, Lithuania, Romania, Slovakia and Czech Republic).

## 6.6. Present debate on working time

Changes of paradigm regarding the working time flexibility induced by the imperative to strengthen productivity and competitiveness is bringing into line

«the present debate on working time addresses three major issues:

- (i) the length of the working week (or year),
- (ii) various types of working time flexibility and non-standard employment contracts). The flexible scheduling of working time according to the changing needs of the enterprise or organisation;
  - the use of time banks; permitted hours of overtime and overtime compensation;
  - various types of leave;
  - weekend work; and the use of non-standard employment contracts.
- (iii) Pension regulations concerning the length of working life (that is, the pension age) and early retirement regulations» (M. Keune, 2007).

Flexible working time schedules: working time allocation and work life balance <sup>(23)</sup> – by the “causes” – solutions adopted in view to improve the equilibrium between the professional life and personal life:

- a. family and Personnel responsibilities;
- b. the increasing lifelong learning necessity (vocational formation, educational breaks);
- c. the income and job security increasing as result of adopting non-standard working time schedules:
  - c1. *working over program*;
  - c2. *shift working*;
  - c3. *night working*.

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<sup>(23)</sup> L. Voinea, N. Mardari, V. Voineagu, V. Duma, L. Simionescu, P. Jifcu, N. Hrebenciuc Caragea, L. Sinigaglia, D. telloni, G. Florani, F. Bettio, P. Villa, C. Solera, G. Damioli, collaborator, S. Pisica, *Condiții de muncă, satisfacție și performanță la locul de muncă*, Proiect cofinanțat din fondul Social European prin Programul Operațional Sectorial de Dezvoltare a Resurselor Umane 2007-2013, FONDUL SOCIAL EUROPEAN . Investește în oameni! Blocul Național Sindical, 2010.



## Section B

### BEST PRACTICES AND NATIONAL PROJECTS

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#### **1. Analysis of national best practices**

The aim is to pick out management practices associated with good ‘people management’ (for example such as fostering talent, rewarding and retaining well performing staff and providing consistent training opportunities) and analyzes likely to work in conjunction with good work-life balance practices – family-friendly policies, flexible working, shorter hours, more holidays, childcare subsidies, etc.

In this context, we analyse as a Good Practice Model for Romania: the Centre for Partnership and Equality – CPE as a multifaceted promoter of the policies and

measures for flexible working practices and reconcile professional life with personal life (work-life balance) in the companies on the Bucharest-Ilfov area, Romania through the project “Be family friendly! Formation and consultancy for the Bucharest and Ilfov companies”.

Rationale for proposing the Good Practice Model: CPE (Practice No. 1) as a multifaceted promoter of the policies and measures for flexible working practices and reconcile professional life with personal life in the companies on the Bucharest-Ilfov area, Romania is augmented.

### **1.1. CPE – Promoter of the civil dialogue**

This model is harmonised with the new regulation system provided by the reform of labour market from Romania in 2011:

- in Romania the preferences for enterprise-level collective bargaining is increasing as a consequence of the decentralisation of bargaining to company level and is accompanied with the increasing tendency of co-operation between employers and employees;

- working time flexibility is claimed to be imperative to strengthen productivity and competitiveness, creation both from employer and employee sides;

- has an high potential to provide substitution effect for the decline of security in the flexible arrangement cases, in conditions of still fragile social partnership and collective bargaining in Romania on a persistent crises background;

- provides a complementary mechanism to compensate the lack of national collective bargaining in issues of common interest – CPE is promoting universal rights that are not conditioning by its representativeness (like the syndicates organisations);

- offer instruments and guide the company management in view to develop personalised innovative solutions to shape the labour relations type in the context of information & knowledge economy production systems functioning – with high degree of variation and heterogeneous diversity. This new model is comparable but highly differentiated with the labour relations type in the context of to industrial economy production systems.

The coordinated reform of both labour market and social assistance were materialised through “legislative changes to increase the flexibility of the labour market, improve the efficiency of collective bargaining (while protecting the rights of workers and employers), increasing labour force participation” (IMF-Romania, *Letter of Intent, and Technical Memorandum of Understanding*, March

10, 2011) sustained by increasing an “efficient social protection”(IMF-Romania, *Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding*, December 2, 2011). The main legislative changes were fixed on Labour Code, The Social Dialogue Code, The Social Assistance Law and the New Pension Law.

The Social Dialogue Law No. 62/2011 establishes the new regulatory framework of social dialogue in Romania. In consequence, since 13 of May 2011 there is no collective labour agreement at national level, Romania joining the main European trend of the sector practice contracts. The concept of a national collective bargaining agreement was abolished and the collective agreements must be conducted at a sector level, not at a branch economic level (Bărbuceanu S., 2012). Under the new representativeness criteria for organization and functioning of the trade unions there is now initiated the process of reshaping the new structures for patronates and syndicates at level of industry (instead of branch), sector (by NACE rev. 2), local and unit level.

In Romania the preferences for enterprise-level collective bargaining, raises the risk of accentuate the decline of security in the flexible arrangements cases. The Romanian social dialogue is poor (relatively recent reloaded in 1990, after a difficult emergence, followed by extensive development and with the accession of Romania in EU was centered on enhancing the quality, cfr. R. Radu, *Social dialogue perspectives in Romanian road transports, sectoral activities program*, cit.) and wakened by the crises, the lack of participation of main labour market actors – employers and syndicates structures of representativeness, reflects the worrisome trend, like in others countries, from the democracy perspective, of using emergency procedures, bypassing next to social partners the Parliament.

So the flexibility of work reflects the production systems and their generation (i.e. Fordist, Toyota, Nokia systems etc.) providing in consequence permanent flexible working arrangements in different degrees.

Recently, is observed that

«in countries where national and sectoral collective bargaining is important in the regulation of working conditions, employers are increasingly calling for the decentralisation of bargaining to company level or for the possibility of opening or opt-out clauses from higher-level agreements, to allow for company-specific working time policies and solutions. They have received ample support in their cause from neo-liberal economists and politicians, as well as from international organisations like the OECD and the World Bank. In their view, increased working time flexibility would increase the employer’s control over labour and allow employers to modernise work organisation and to utilise labour when most convenient. Again, this is claimed to be imperative to strengthen productivity and competitiveness, creation. Also, the European Commission

stresses the need for increased working time flexibility to strengthen enterprise adaptability, although it also calls for worker-friendly types of flexibility to improve the work/life balance (for example, parental leave) or to allow particular groups (for example, older workers) to participate in the labour market (European Commission 2005). Also, the Commission is calling for increased flexibility to be accompanied by increased security for workers, even if it remains rather vague on what such security should entail (European Commission 2004b, 2003)» (cited by M. Keune, *Flexicurity: a Contested Concept at the Core of the European Labour Market Debate*, 2007).

In the same study, it is argued that in today's economy, in contrast to the Fordist, male-breadwinner model of some decades ago, workers have much more heterogeneous working time needs and preferences, and 'positive' types of working time flexibility may allow them to better combine work and non-work activities, and facilitate female labour market participation or the participation of older workers (cfr. the contributions in Messenger 2004) (cited by M. Keune, *cit.* 2007).

CPE is a Nongovernmental Organization member of organization of Soros Open Network and in many other international networks represents an engine that provides:

- the «changing and reforming the Romanian civil society and society at large and [...] promotes the integration of the equality of chance principles for men and women in public policies and in associated practices, as a part of democracy and open society, in view to redefining the state and to improve the women condition in Romania».

- Considering that «civil society is the arena outside of the family, the state, and the market where people associate to advance common interests» <sup>(1)</sup> then the CPE represents the modern concentrator and mediator for the new “global dialogue”;

- CPE advocates for the following rights: «Non-discrimination against women; The right to education; The right to be free from violence; Equal opportunities for women and men; Reproductive and sexual rights; A gender – inclusive approach to development Economic rights for women; Women's active involvement in public life» as an active promoter of the culture of equality in Romania (see Practice No. 2, paragraph 2.2).

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<sup>(1)</sup> CIVICUS Civil Society Index Methodology – [www.civicus.org/new/media/CSIMethodology\\_and\\_conceptualframework.pdf](http://www.civicus.org/new/media/CSIMethodology_and_conceptualframework.pdf), cited from [http://en.wikipedia.org/wiki/Civil\\_society#cite\\_ref-0](http://en.wikipedia.org/wiki/Civil_society#cite_ref-0).



### **1.2. The project *Be family friendly! Formation and consultancy for the Bucharest and Ilfov companies***

This project was realised through CPE – Partnership for Equality Center *developed in partnership with* Fundacion Mujeres – Spania, project cofinanced from European Social Fund through the Sectoral Operational Programme for Human resources development 2007-2013 (see Practice No. 3, paragraph 2.3).

This project is important to be emphasised by its special work-life balance approaches and results in the context of increasing the productivity, like:

- exchanging information and best practices with transnational partner organizations in aspects concerning labor flexibilisation and the reconciliation of professional and personal life employees in Romania;
- it is dedicated directly to managers and employees, in an adequate manner with the specific conditions from Romania, in view to facilitate the introduction of domestic policies and measures on flexible working hours and reconciliation between work and family life at the company level;
- the project aims to increase awareness of the target group managers to develop skills in the labour flexibilization and reconciliation, to develop a framework for exchange of best practices and to reward companies have developed and implemented at internal level, programs/policies/measures of flexibility and reconciliation between work and family life;
- arguments supporting the need for balance between work and private life:
  - a) arguments concerning gender equality and equal treatment between women and men;
  - b) arguments about organizational management and human resources processes;
  - c) statistical arguments to show data on problems caused by the conflict between work and personal life;
  - d) mental health reasons (related to workplace stress and its effects).

### **1.3. Special event: *Gala Work-life balance Award***

This event is been first Romanian Competition in field of the programs of work and life balance employee personal (see Practice No. 4, paragraph 2.4), organised by CPE, as part of the *Be family friendly! Training and consulting for companies in Bucharest and Ilfov* project.

The philosophy of competition is been «adopting and applying work-life balance programs and measures, businesses support employee (he or she), so that they can manages harmonious work-life requirements of privacy needs. At the same time, work-life balance is a business strategy designed to produce positive

effects on loyalty and performance of the employee, all of which affect the quality of services offered by the company and over its market competitiveness».

Objective for long term of the competition is to promote the work-life balance concept and encourage companies that have already tested measures and demonstrates commitment to maintain and develop them. Prises recognize what is particularly each company in the work-life balance program developed.

The selection and hierarchy criteria's were established focused on management's evaluation perspective over the work-life balance (Importance provided by the company and commitment of the management; Identification of needs; Company's measures to inform employees; Implementing programs and measures; Innovation and creativity).

Other objectives were been presentation of the main benefits for organizations/employers implementing work-life balance policies and programs and presentation of the main benefits of work-life balance for employees.

In the competition were included the following categories of measures: «financial aid for surgery and serious medical situations, access to gym, sports competitions: football, cross, skating, basketball, swimming etc. flexible hours, the program part-time or working from home or providing transportation reimbursement; events for employees and their families, information and education» and their distribution by different criteria for the companies that join the competition.

The competition has been scored six companies in Bucharest and Ilfov, with a number of employees between 60 and 400 people from these areas of activity: production of varnishes and paints, food import and distribution, accounting and auditing, installation and maintenance services filling stations, IT distribution, manufacturing and pharmaceutical distribution. The companies were presented by the specific typology of the work-life balance measures applied.

The typology of prizes was focused to emphasis the distinction of every company instead of realising a benchmark! So, there were awarded prizes for: *The best program work-life balance* (Great award); *Stimulate employees and female employees for networking and creativity*; *Care for employees and employees are/is in difficult situations*; *The foundation of a program tailored to the needs of employees and workers' work-life balance*; *Encourage employees and female employees for healthy living*; *Support employees and female employees to relax in nature*.

Managers experiences and appreciations following the experience of work-life balance competition programme.

#### **1.4. CPE acts as “a knowledge vector” that provides work-life balance culture**

CPE acts as “a knowledge vector” that provides work-life balance culture (Practice No. 5) through providing:

- definitions of the concept “work-life balance”; An Glossary with specific terminology; Myths about work-life balance, Studies, surveys, reports, guides, brochures; Useful Blogs and Sites; articles focused on work-life balance – covering Europe, USA, Canada, New Zealand etc.;
- arguments supporting the need for balance between work and private life:
  - a) arguments concerning gender equality and equal treatment between women and men;
  - b) arguments about organizational management and human resources processes;
  - c) statistical arguments to show data on problems caused by the conflict between work and personal life;
  - d) mental health reasons (related to workplace stress and its effects).

#### **1.5. Conclusions on Good practice work-life balance model**

Based on the analysis of Good Practice work-life balance Model: CPE, we could affirm some new characteristics that could indicate the new stage in which Romania stepped in – trying to adapt, as well as other economies, to the requirements imposed by the knowledge economy, explaining its “new” labour market functioning and organising attempts.

In Romania the preferences for enterprise-level collective bargaining is increasing as a consequence of the decentralisation of bargaining to company level and is accompanied with the increasing tendency of co-operation between employers and employees (Practice No. 7, paragraph 2.8) and working time flexibility is claimed to be imperative to strengthen productivity and competitiveness, creation both from employer and employee sides (Practice No. 6, paragraph 2.7).

Then the action of civil society through its representatives becomes an active actor on labour market that exceeds its “traditional perception”: has a high potential to provide a substitution effect for the decline of security in flexible arrangement cases, in conditions of still fragile social partnership and collective bargaining in Romania on a persistent crises background; provides a complementary mechanism to compensate the lack of national collective bargaining in issues of common interest – CPE is promoting universal rights that are not conditioned by its representativeness (like the syndicates organisations); offers instruments and guides the company management in view to develop

personalised innovative solutions to shape the labour relations type in the context of information & knowledge economy production systems functioning – with high degree of variation and heterogeneous diversity. This new model is comparable but highly differentiated with the labour relations type in the context of industrial economy production systems.

The knowledge society dimension could be provided by the open society organisations that works as an open source that provides: access to knowledge (concepts, definitions and values regarding an specific topic – in this case work-life balance), global networks connected to common values and interests (channels to collect, traffic, distributes, archived, structure etc. data and information): exchanging information and best practices with transnational partner organizations in aspects concerning labour flexibilisation and the reconciliation of professional and personal life employees in Romania.

The importance of “difference/distinction/uniqueness/identity/heterogeneity” as the new source of power against the “similarity/very alike/standardised/homogeneity” where the mass was represented the power. Becomes evident the transition from the value of quantity to the value of quality!

## **2. Models of practices. Details and arguments for sustaining the Good practice model: CPE**

### **2.1. Practice No. 1. Short presentation of the Centre for Partnership and Equality – CPE**



CPE is a Nongovernmental Organizations member on organization of Soros Open Network <sup>(2)</sup>, Coalition of NGOs Involved in Programs Concerning Violence against Women. Women Against Violence Europe – WAVE, National Association of Citizens Advice Bureaux. Centre for Legal Resources. Centre Education 2000+, Euroregional Centre for Democracy, Resource Centre for Roma Communities, Pro Women. Community Safety and Mediation Center, Cultural Foundation “Negru Voda”.

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<sup>(2)</sup> The Soros Open Network – Romania (SON) is a value-based network of 13 autonomous nongovernmental organizations, which fosters Romania’s sustainable development.

According with its status, Centre Partnership for Equality has double-headed governance: Directing Council and Executive President. The Directing Council has as members experts and professionals from Human Resources Management and Equal Opportunities for Women and Men domains, Representatives of : Prime Ministry Office – Romanian Government Chamber of Deputies – Parliament of Romania, Committee for Equal Opportunities for Women and Men, Universities, Business Organisations, etc.

### ***Mission***

Being aware of the role that it must play in changing and reforming the Romanian civil society and society at large, CPE is aiming at responding to the most ardent issues present in the gender area. CPE<sup>3</sup> promotes the integration of the equality of chance principles for men and women in public policies and in associated practices, as a part of democracy and open society, in view to redefining the state and to improve the women condition in Romania. Also, CPE develop and implements policies and programmes that aim the Romanian society awareness regarding the actual women's condition and their role they can and should play in social development of Romania.

### ***History***

At beginning starts as a gender-related program: Women's Program of Open Society Foundation Romania (launched in 1998), in 2002 thorough the creation of Partnership for Equality Centre develops continuous activity and starting with 2004, taking into consideration the new programs structure and the change of the visual identity, became Centre for Partnership and Equality, known as CPE.

CPE advocates for the following rights: Non-discrimination against women; The right to education; The right to be free from violence; Equal opportunities for women and men; Reproductive and sexual rights; A gender -inclusive approach to development Economic rights for women; Women's active involvement in public life. The values that guide CPE are: Commitment, Reliability, Equality, Partnership, Professionalism, Flexibility, Integrity, Respect, Strength and Tolerance.

CPE is an active promoter of the culture of equality in Romania, based on its three institutional program pylons for its current and future activities formulated by the Directing Council in 2005.

#### **Box No. 1** <sup>(4)</sup>

##### ***1. The national observatory on equal opportunities for women and men***

The main objective of the program is the development of the National Observer, an integrate

<sup>(3)</sup> [www.cpe.ro/english/index.php?option=com\\_content&task=view&id=13&Itemid=42](http://www.cpe.ro/english/index.php?option=com_content&task=view&id=13&Itemid=42).

<sup>(4)</sup> [www.cpe.ro/english/index.php?option=com\\_content&task=view&id=14&Itemid=43](http://www.cpe.ro/english/index.php?option=com_content&task=view&id=14&Itemid=43).

mechanism of promoting the equal opportunities for women and men in the public life, with emphasis on the labour market issues, and economical and social rights. The program objective is to be attained through the following actions:

- Creation of an information, research and resource structure in the gender equality area creation of a series/set of monitoring mechanism for the respect of the principle of equal opportunities for women and men, at legislative and central administration level;
- Initiation and development of lobby and advocacy actions for ensuring real and consistent equal opportunities for women and men;
- Training specific target groups for the promotion of the principle of equal opportunities for women and men in all the areas of the public life.

### **2. Gender and education**

The main objectives of the program are:

- Civic involvement to support the gender equality principle by increasing the teachers' competence regarding civic education from the perspective of the European integration;
- Development of practices and attitudes in the educational process, in the spirit of equal opportunities and equal treatment for the girls and boys, women and men;
- Development of a healthy life style by integrating the gender differences issues in the educational and health services programs;
- Prevention of trafficking in women, by raising their awareness about the risks associated with the illegal migration and trafficking in women, through specific sexual and gender education.

### **3. Violence against women**

The main objectives of the program are:

- Increasing the information and awareness level regarding the gravity and economical and social consequences of the violence against women phenomenon, through educational intervention projects;
- Sustaining the non-governmental organizations involved in the prevention of violence against women by creating a common framework of intervention against violence by analyzing, evaluating and implementation policies and methods for assisting and counselling victims of violence;
- Lobby actions to create and influence the specific legal environment, according to the reality and complexity of the domestic violence phenomenon;
- Conducting researches regarding the phenomena of domestic violence and violence at the workplace.

## **2.2. Practice No. 2. CPE active promoter of the culture of equality in Romania**

Among the diverse activities developed by the CPE in time we present a selection of projects with a strong connection with work and life times balance issues.

I. Project *Equal Opportunities for Women and Men – an European Value* (2005).

During 2005, CPE promoted the equal opportunities for men and women in partnership with the trade unions. This topic presents a strong connection with work and life times balance issues and represent in a way an beginning. So, is was developed the *Equal Opportunities for Women and Men – an European Value Project* of CPE <sup>(5)</sup>, coordinated by Irina Sorescu was financed with 43.250 Euro by the European Union through Phare for Micro-Projects Program – EUROPE FUND and co-financed by CPE with 10.850 Euro with funds received from Open Society Foundation Romania. The project <sup>(6)</sup> was implemented in partnership with CNS Cartel ALFA and aimed to involve the Trade Union Confederation in promoting and applying the European and national legal provisions concerning equal opportunities for women and men on the labour market. The commitment of the trade unions' members to the transformation of the principals of equal opportunity into concrete actions represents the main value added through the project. This project philosophy was that the trade unions can and must play an important role in promoting a non-discriminatory treatment for women and men on the labour market. The project's main goals were to train and to inform the CNS Cartel ALFA members on the issue of equal opportunities for women and men on the labour market, to familiarize them with European patterns and standards concerning this issue and to distribute inside the Confederation, several materials containing information and good practices examples concerning: access and employment, work relations, maternity protection, sexual harassment. Regarding the projects results the coordinator of the project declared:

Target group: – 80 members of the National Unions Confederation NUC Cartel ALFA, persons with management positions and persons with attribution in assuring the equal opportunities and treatment for women and men at job; – 1000 employers, NUC Cartel ALFA members. Activities: – Elaboration, editing and distribution within the confederation of information and national and European good practices materials concerning the equal opportunities in the labour area for the confederation representatives, employees and employers; – Organizing and developing information and training courses on the equal opportunities problems in the national and European labour domain for 80 members of the confederation; – Informing of 1000 union members about the equal opportunities for women and men on the labour market. Estimate results: – Training of some union members as resource-persons for equal opportunities for women and men; – Increasing the capacities and abilities of the union

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<sup>(5)</sup> Press Release, 20th of January, 2005.

<sup>(6)</sup> For further information concerning this project, please contact Center for Partnership and Equality – CPE, 33, Caderea Bastiliei St., Bucharest-1, phone +40 2121196/97, fax + 40 21 2121035, contact person: Irina Sorescu, project coordinator ([isorescu@cpe.ro](mailto:isorescu@cpe.ro)), Dana Martis, project officer ([dmartis@cpe.ro](mailto:dmartis@cpe.ro)).

representatives for identifying the gender discriminations and for use mechanisms and legal means of preventing, combating and penalization of this discrimination type; – Almost 400.000 of union members will receive information regarding the equal opportunities for women and men on the labour market from the national and European perspective and will benefit by the existence of the resource-persons with attributions on equal opportunities for women and men area <sup>(7)</sup>.

II. Other important activities on the way to promote gen equality of chance principles for men and women (2007).

In 2007 CPE continues with a very high media impact the communication on gender issues. One of the very ample and success campaigns was on preventing and combating sexual harassment with a very high media coverage (over 1.000.000 women, from the 24-35 age group were subjected to the campaign's message).

Other important activities on the way to promote gen equality of chance principles for men and women, mostly through training and formation of human resources managers from private companies, media representatives, trade union, NGOs and public institutions representatives. Next to training and formation as durable human capital investments there were used information campaigns in media, at work place or even to school, with strategic accomplishments like:

Partnership Development with the main authority in the field of equal opportunities for women and men – The National Agency for Equal Opportunities for Women and Men (Governmental Agency), Development of GEN (Gender Equality Non – discrimination) Network, Developing working instruments in the field of diversity management at the workplace, Developing working instruments for trade unions representatives. Implementing a lobby campaign on the gender impact of the pensions' reform, Training over 209 teachers and school counselors.

Development of GEN (Gender Equality Non – discrimination) Network. This is a key network of 35 non-governmental organizations having mandates in different human rights issues and fields that undertook gender and equal opportunities as a priority interest. They decided to work under the same umbrella network in order to better mainstream gender in their work as well as to promote equal opportunities and gender equality as part of their mandate.

Developing working instruments in the field of diversity management at the workplace especially designed for and offered to human resources managers from private companies, media representatives, trade union, NGOs and public institutions representatives.

Developing working instruments for trade unions representatives regarding:

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<sup>(7)</sup> [www.cpe.ro/english/index2.php?option=com\\_content&do\\_pdf=1&id=69](http://www.cpe.ro/english/index2.php?option=com_content&do_pdf=1&id=69).



- health and safety at the workplace;
- employees development (for women and men);
- designing of payment systems and evaluation tools from the perspective of the equal pay for equal work/work of equal value principles;
- respecting the rights of employees on maternal/parental leave <sup>(8)</sup>.

### **2.3. Practice No. 3. Good practice: CPE as a multifaceted promoter of the policies and measures for flexible working practices and reconcile professional life with personal life in the companies on the Bucharest-Ilfov area – The project *Be family friendly! Formation and consultancy for the Bucharest and Ilfov companies***



During period march 2009 – February 2011, CPE – Partnership for Equality Center *developed in partnership with* Fundacion Mujeres – Spania, the project *Be family friendly! Formation and consultancy for the Bucharest and Ilfov companies*”, project co financed from European Social Fund through the Sectoral Operational Programme for Human resources development 2007-2013

#### ***The general Objective of the Projects***

The policies and measures promoting on flexible working practices and reconcile professional life with personal life, in the companies on the Bucharest-Ilfov area.

#### ***Specific Objectives***

1. Exchanging information and best practices with transnational partner organizations in three countries within the EU, which have developed successful programs on reconciliation between work and family life and labour market flexibility, and have developed, implemented and evaluated specific tools targeted at employers and employees of public institutions and companies.

2. Training of 100 managers/HR managers from companies in the Bucharest-Ilfov, in themes and flexibility in working on reconciliation between work and family life.

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<sup>(8)</sup> [www.cpe.ro/english/index.php?option=com\\_content&task=view&id=99&Itemid=46](http://www.cpe.ro/english/index.php?option=com_content&task=view&id=99&Itemid=46).

3. Providing consultancy for 10 companies in the region Bucharest-Ilfov, to facilitate the introduction of domestic policies and measures on flexible working hours and reconciliation between work and family life.

4. Rewarding some companies that have developed and implemented at internal level, programs/policies/measures of flexibility and reconciliation between work and family life.

5. Project beneficiary: 100 managers/ HR managers.

***Beneficiaries of the project:***

– 100 managers/human resource managers of companies in the Bucharest-Ilfov;

– 2.500 employees of companies in Bucharest-Ilfov region.

The project aims to increase awareness of the target group managers to develop skills in the labour flexibilisation and reconciliation, to develop a framework for exchange of best practices and to reward companies that develops the most effective programs of work flexibility.

In the *Be family friendly! Formation and consultancy for the Bucharest and Ilfov companies* project are iterated as specific characteristics for Romanian labour market that demand an increased attention to the work and family life balance through reconciliation and flexibility measures at organisation level.

**Box. No. 2**

In Romania, studies show that:

- number of employees decreased in recent years;
- migration and declining birth rates have declined by 1.5 million people population, and the/those who choose to migrate are active in the labour market;
- measures of reconciliation and flexibility could determine the best use of human capital in the labour market;
- the differences still remain for women and men, due to maternity, child bearing, limited access to employment opportunities flexible integration;
- women need support to conciliate between work and family life in view to carry on especially the domestic responsibilities, caring for other family members – children, elderly – which are still in their dependability;
- very few people have access to flexible forms of working time;
- employees perceive high levels of stress caused by conflict professional life – family life;
- many employees complain long and inflexible work schedule;
- in many couples both partners work long hours, which affects the quality of couple and family life;
- most managers do not have the necessary skills to implement reconciliation measures and flexibility;
- very few companies use flexible working arrangements, tailored to the needs of employees;
- there are very few services available for children and elderly care.

*Arguments supporting the need for balance between work and private life <sup>(9)</sup>*

- a) arguments concerning gender equality and equal treatment between women and men;
- b) arguments about organizational management and human resources processes;
- c) statistical arguments to show data on problems caused by the conflict between work and personal life;
- d) mental health reasons (related to workplace stress and its effects).

*a) Arguments gender*

Women and men want a successful career and fulfilling personal life. Changing social norms of traditional femininity and masculinity and current reality of society require different management, adapted to different women and men. Programs to balance professional and personal life are responding differently to these needs. Both women and men want to build a career and at the same time, to achieve their personal goals, family.

Often, women are put in the difficult situation of choosing between family and career or make sacrifices and compromises in one or both of these areas, given that both one and the other can be very valuable for them. Recent European studies points out that becoming a mother has a significant and lasting effects on women's labour market participation, reflecting maintenance of gender roles in private, the family that the predominant role of women in caring for children, the elderly, people with disabilities etc.

Although the model woman that is not working is increasingly less present in Europe, which has not changed is how families share responsibilities at home. In Romania, almost as many women work as many hours as men weekly, these data must be read in conjunction with other data indicating the following:

- housework, childcare and the elderly are mostly a female responsibility;
- romania is on the winner's podium, taking first place in number of hours dedicated to daily domestic tasks;
- in Romania, most people says that if health problems/you would need special care, were based mainly on family.

*b) Organizational reasons*

Imbalance between work and family affect employees, their family and the company they work.

Time management has become an increasing problem more acute for employees, in particular the achievement of joint family and sharing time between requests from the workplace and home.

Both women and men are influenced by the impact of work-family conflict. The consequences of this conflict are for employees, reduced work performance and appearance/increase physical and emotional health problems and, if the organization, lower productivity, increased absenteeism and presenteeism (is the act of attending work while sick), and increased staff turnover. Here comes the crucial role of human resources specialists and managers, who can develop and implement organizational practices to create optimal working environment for employees, women and men, increasing thus the effectiveness of professional, personal and organizational.

The need for training managers in reconciling work with personal life/family is growing larger. A study on the subject of managers in Canada has shown that this need is the second in frequency after the management. Managers felt ever more acutely the need for information and skills to help them communicate effectively with an employee/an employee who has a personal/family problem.

*c) Statistical arguments*

Many European and international statistics underlines the problems of work-life conflict.

<sup>(9)</sup> [www.worklifebalance.ro/what-are-we-doing-why-2/de-ce-este-necesar-acest-proiect/](http://www.worklifebalance.ro/what-are-we-doing-why-2/de-ce-este-necesar-acest-proiect/).

Studies conducted in European countries indicate the following:

- at least 1 in 3 employees perceive high levels of stress, caused by the conflict between work and personal life/family;
- 40% of employed mothers and 25% of employed fathers perceives high levels of stress caused by work-family conflict;
- 50% of parents believe they have a problem to achieve a balance between time spent working and time spent with family;
- 2 of 3 parents show a moderately high daily stress, difficulties and conflicts caused by work-family role;
- divorce affects more than one third of adults, leading to an increase in women and men who raise their own children;
- women spend more time in family tasks and activities, leading to increased stress levels and an increased risk of depression;
- stress affects the quality of the work of women and men at work.

A study on the subject of employees with children shows that actions taken by the organization, the impact on improving the quality of family life is the second source of reward, as wage growth.

*d) Mental health reasons*

Balance affects mental health of employees and their mental health affects their work performance:

- in Europe, 28% of employees show a high stress at work. This increases the risk of anxiety, depression or fatigue. Mental health of employees can be influenced by management style, lack of social support, time pressure, repetitive tasks, interpersonal conflicts, job insecurity and lack of control and autonomy;
- More than 27% of adults in Europe have experienced at least one mental health problem within a year (World Health Organization, 2005).

The most common mental health problems in European countries as anxiety and depression, it is estimated that by 2020 depression will be the main health problem for adults and children in developed countries.

**2.4. Practice No. 4. Special event: Gala *Work-life balance Award* – First Romanian competition in field of the programs of work and life balance employee personal, organised by CPE**



CPE – Centre for Partnership and Equality organised the first Romanian Competition in field of the programs of work and life balance employee personal: *Work Life Balance Award* <sup>(10)</sup> as part of the “Be family friendly! Training and consulting for companies in Bucharest and Ilfov”, financed by European Social Fund, Operational Programme Human Resources Development 2007-2013. ([www.worklifebalance.ro](http://www.worklifebalance.ro)). The competitions followed as main stages: the submission of application period: January 13 to February 10, 2011, the judging

<sup>(10)</sup> [www.worklifebalance.ro/competitia-work-life-balance-award-4/](http://www.worklifebalance.ro/competitia-work-life-balance-award-4/).

process during: February 11 to February 21, 2011 <sup>(11)</sup>. On Thursday, February 24, 2011, there was held the gala *Work Life Balance Award* with the award ceremony for the companies that have joined this programme. The competition has been scored six companies in Bucharest and Ilfov, with a number of employees between 60 and 400 people from these areas of activity: production of varnishes and paints, food import and distribution, accounting and auditing, installation and maintenance services filling stations, IT distribution, manufacturing and pharmaceutical distribution.

The Partnership for Equality Centre (Centrul Parteneriat pentru Egalitate – CPE) has launched the Work-Life Balance Award (work-life balance Award), addressed to companies which implement measures and programs for the encouragement of their employees' personal lives. The competition is open for submissions between January 13-February 10.

The competition has been developed as a result of studies showing that 80 percent of Romanian employees consider their work conditions to be sources of stress, compared to 43 percent in other states of the European Union. On an European level, one in three employees perceive a high level of stress due to the conflict between their work and personal lives, with severe consequences on their physical, psychological and emotional health, as well on their work productivity.

Before 2008, over 60 percent of the interviewed managers were interested in developing programs aimed to help improve the relationship between their employees' personal and professional lives, shows the information from The Partnership for Equality Center (CPE). As the situation aggravated after the crisis began, «work-life balance does not have to be a secondary issue for organizations, but an opportunity to think and implement such programs as efficient means of non-financial motivation», stated Livia Aninosanu, program director at CPE» <sup>(12)</sup>.

The work life balance's competition awards were conferred to:

- FABRYO CORPORATION S.R.L. – The award *The best program work-life balance* (Great award);
- FIN EXPERT CONSULTING S.R.L. – The award *Stimulate employees and female employees for networking and creativity*;
- MACROMEX S.R.L. – The award *Care for employees and employees are/is in difficult situations*”;
- RHS COMPANY S.A. – The award *The foundation of a program tailored to the needs of employees and workers' work-life balance*;

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<sup>(11)</sup> [www.worklifebalance.ro/competitia-work-life-balance-award-4/regulament-de-participare/](http://www.worklifebalance.ro/competitia-work-life-balance-award-4/regulament-de-participare/).

<sup>(12)</sup> C. Dumitrescu, *Personal motivates professional*, Work-Life Balance Award encourages, in <http://business-review.ro/personal-motivates-professional-work-life-balance-award-encourages-10773/>.

- ROHE ROMANIA S.R.L. – The award *Encourage employees and female employees for healthy living*;
- ZENTIVA S.A. – The award *Support employees and female employees to relax in nature*;

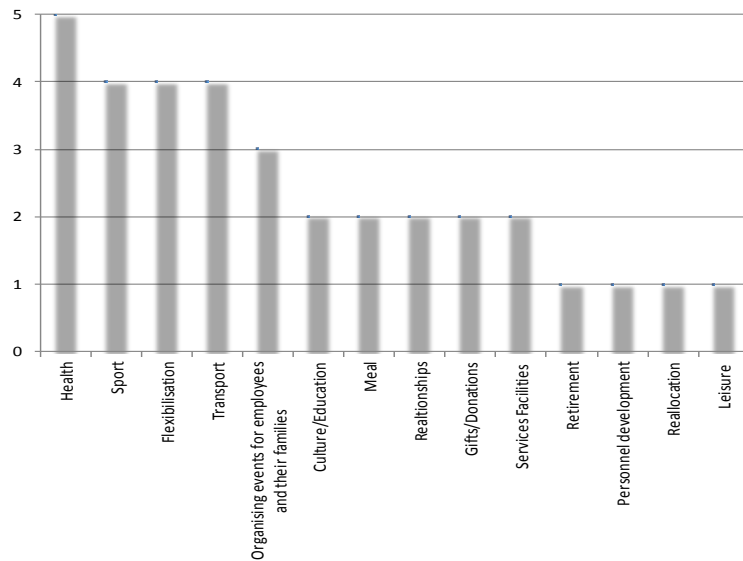
Work-life balance programs submitted in the competition were included the following categories of measures: financial aid for surgery and serious medical situations, access to gym, sports competitions: football, cross, skating, basketball, swimming etc. flexible hours, the program part-time or working from home or providing transportation reimbursement; events for employees and their families, information and education programs for healthy living, theatre and film, holiday vouchers etc.

Table 1 – Work life balance competition – the measures provided by the awarded companies

<b>Measures provided by companies</b>	<b>FBRYO</b>	<b>FIN EXPORT</b>	<b>MACROMEX</b>	<b>RHS</b>	<b>ROHE</b>
Health					
Sport					
Flexibilisation					
Transport					
Organising events for employees and their families					
Culture/Education					
Meal					
Realtionships					
Gifts/Donations					
Services Facilities					
Retirement					
Personnel development					
Reallocation					
Leisure					

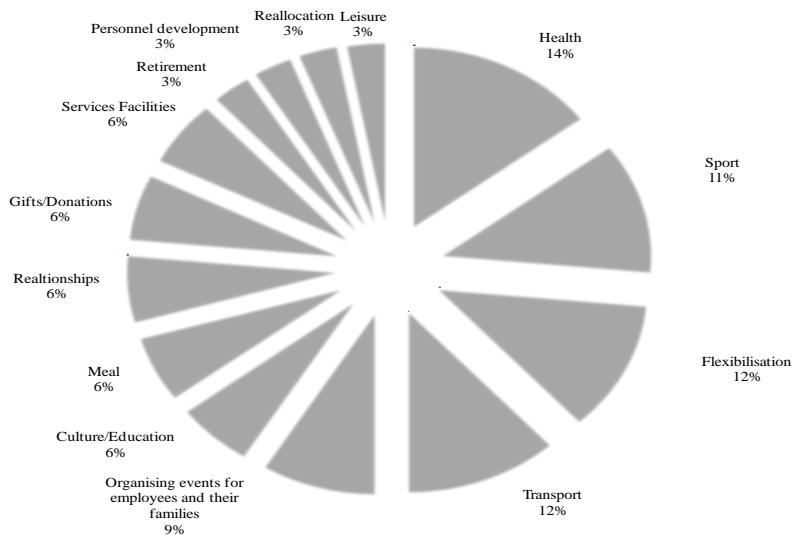
Source: *WLB Policies = Smart Business Startegies. Campanie realizatà de CPE – Centrul Parteneriat pentru Egalitate in cadrul proiectului “Fii family friendly! Formare si consultanta pentru campaniile din Bucuresti si lifov”*

Graph 1 – The measures provided by the awarded companies by frequencies



Source: WLB Policies = Smart Business Startegies. Campanie realizatà de CPE – Centrul Parteneriat pentru Egalitate in cadrul proiectului “Fii family friendly! Formare si consultanta pentru campaniile din Bucuresti si lifov”

Graph 2 – The structure of work-life balance measures provided by awarded companies by measure type



Source: WLB Policies = Smart Business Startegies. Campanie realizatà de CPE – Centrul Parteneriat pentru Egalitate in cadrul proiectului “Fii family friendly! Formare si consultanta pentru campaniile din Bucuresti si lifov”

**Box No. 3****What are the programs and measures for work-life balance <sup>(13)</sup>**

Programs and measures of work-life balance are designed to provide concrete answers to the question “How do we support people to work better and grow at work maintaining the same time, the balance between their professional and their family/personal life ?”

Adopting and applying work-life balance programs and measures, businesses support employee (he or she), so that they can manage harmonious work-life requirements of privacy needs. At the same time, work-life balance is a business strategy designed to produce positive effects on loyalty and performance of the employee, all of which affect the quality of services offered by the company and over its market competitiveness.

At European company’s level, work-life balance is positioned as an important criterion for differentiation in the process of attracting employees and employees with an absolute best training and experience. Specialized studies emphasize that these potential employees have a preference for the companies concerned with the wellness and balance of their employees. The favourite employers are those who demonstrate excellence in leadership and organizational culture, being able to attract and retain the best employees, as well as being able to develop and optimize their skills and capabilities.

In the WORK LIFE BALANCE’s competition awards the selection and hierarchy criteria’s were established focused on management’s evaluation perspective over the work-life balance. There were five criteria that reflect the work-life balance integration in the managerial practices at organisation level: the importance provided by the company and commitment of the management, the identification of needs, the employees informing procedures transparency by the company, implementing work-life balance programs and measures developed by the company and also Innovation and creativity of the new and creative work-life balance solutions, adopted by the company.

**Box. No. 4****What are the criteria of judging <sup>(14)</sup>**

Among the main issues pursued by the jury selection process and the winning companies can be found below, which will be tailored for each section of the competition:

**Importance provided by the company and commitment of the management**

work-life balance policies are a constant in organizational policies, including maintaining the company’s commitment to current economic conditions. The company is always concerned

<sup>(13)</sup> [www.worklifebalance.ro/competitia-work-life-balance-award-4/regulament-de-participare/](http://www.worklifebalance.ro/competitia-work-life-balance-award-4/regulament-de-participare/).

<sup>(14)</sup> [www.worklifebalance.ro/competitia-work-life-balance-award-4/regulament-de-participare/](http://www.worklifebalance.ro/competitia-work-life-balance-award-4/regulament-de-participare/).



with finding creative solutions that support the balance between work and personal lives of employees. Management understands the importance of these programs and measures for the health of the company and employees – supports initiatives and engage in their communication.

#### **Identification of needs**

**Policies**, programs and work-life balance measures designed by the company are based on specific needs of employees in terms of balancing work and private life; these needs are identified within a specific approach.

**Company's measures to inform employees** about the available and relevant work-life balance options to their particular situation, the process of accessing and using work-life balance programs (procedures, forms, discussion, training for supervisors and middle management, etc.). Is an transparent one.

#### **Implementing programs and measures**

Programs and concrete measures that are implemented by the company are based on specific needs of employees in terms of balancing work and private life, these needs are identified within a specific approach.

#### **Innovation and creativity**

New solutions, creative, adopted by the company to meet the needs of employees balance.

#### **Box No. 5**

The main benefits for organizations implementing work-life balance <sup>(15)</sup> policies and programs are:

- a) optimize the recruitment process;
- b) optimize staff retention;
- c) increased productivity;
- d) reducing costs;
- e) optimizing morale, level of motivation and empowerment of employees;
- f) optimize customer service;
- g) increasing the flexibility degree;
- h) reduce absenteeism;
- i) legal requirements;
- j) can become the “employer of choice of candidates” (“employer of choice”).

Why employers might be interested in work-life balance <sup>(16)</sup>:

- a) **optimize the recruitment process**: greater flexibility in the workplace can attract potential new employees, especially if applicants are in a position to make a comparative assessment of several job offers, experienced and highly qualified people can be attracted;
- b) **optimize staff retention**: valuable employees in a company can stay longer in the organization when it provides access to flexible work options;
- c) **increased productivity**: employees are more focused on the work they perform when they know that their employer offers the flexibility you need in this regard appears, also, may lead to fewer days of sick leave for minor medical problems;
- d) **reducing costs**: cost savings can be achieved with reduced staff turnover, reduced training costs for new employees, the indirect costs of accommodation for training

<sup>(15)</sup> [www.worklifebalance.ro/employer-2/](http://www.worklifebalance.ro/employer-2/).

<sup>(16)</sup> [www.worklifebalance.ro/employer-2/de-ce-angajatorii-ar-putea-fi-interesati-de-wlb/](http://www.worklifebalance.ro/employer-2/de-ce-angajatorii-ar-putea-fi-interesati-de-wlb/).

- activities, etc.;
- e) **optimizing morale**, level of motivation and empowerment of employees. An employer friendly, attentive to the needs of employees and a more diverse workforce leads to increased morale, creativity and team spirit;
  - f) **optimize customer service**. A flexible approach to working hours may potentially be used to extend the delivery of services to customers, improve customer relationships and to deal with situations where time zone differences, which are possible only if there in advance an agreement with employees in this regard;
  - g) **increasing the flexibility**. Can lead to flexibility including the services offered by the company customers (eg. to cover staff absences and holidays);
  - h) **reduce absenteeism**. Employees will no longer have to time off to solve pressing personal problems with these programs can have a better work-life balance private.
  - i) **legal requirements applying**. The Labour Code and Collective Labour Contract nationally for 2007-2010 are provided more rights of employees to reconcile work and private life;
  - j) **can become the “employer of choice of candidates”. “employer of choice”**. Reputation (so called “brand” of the employer) will increase the public (employees, candidates, new employees, partners, customers, etc.) because of its programs to reconcile professional and private lives that they provide employees.
  - k) All the above issues lead to increasing the competitiveness of the organization. work-life balance policies and programs and family-friendly working conditions support the competitiveness and ensure a win-win situation for both parties.

**The main benefits of work-life balance for employees** <sup>(17)</sup>

- More value, more control and balance in everyday life, both professionally and personally
- A better understanding of what constitutes the best balance between work and private life
- increased opportunity for involvement in community life
- Better management of working time
- Increased productivity
- Improved relations at work (with colleagues, managers, customers) and off the work
- Reduced stress and less negative transfer problems at work, home and vice versa
- A better quality of life
- Better physical health and mental
- Progress in career and greater job satisfaction
- Increased training opportunities
- Increased income and benefits associated
- More time for oneself.

The consequences of conflict between work and family life <sup>(18)</sup>

At the employee level:

- increased level of stress
- physical and emotional health problems
- risky behaviour
- increased marital stress
- low job satisfaction
- low career satisfaction
- poor performance at work.

<sup>(17)</sup> [www.worklifebalance.ro/employee-2/cum-te-ajuta-wlb-in-jobul-tau-si-in-viata-personala/principalele-beneficii/](http://www.worklifebalance.ro/employee-2/cum-te-ajuta-wlb-in-jobul-tau-si-in-viata-personala/principalele-beneficii/).

<sup>(18)</sup> [www.worklifebalance.ro/employee-2/cum-te-ajuta-wlb-in-jobul-tau-si-in-viata-personala/consecintele-conflictului-intre-munca-si-viata-de-familie/](http://www.worklifebalance.ro/employee-2/cum-te-ajuta-wlb-in-jobul-tau-si-in-viata-personala/consecintele-conflictului-intre-munca-si-viata-de-familie/).

At the employee's children level:

- behavioral problems
- emotional problems.

## 2.5. Manager's experiences and appreciations following the experience of work-life balance competition programme

### Box No. 6

**Alina Stanciulescu**, Head of Human Resources, R.H.S. Company S.A.<sup>(19)</sup>

I participated in this project, hoping that we can to inspire from experiences of other companies in the field and I joined CPE team in Spain having the opportunity to know the know-how of companies in this country. During the project we found that we already were implementing work-life balance measures without "labelling" them like that.

Collaboration with the CPE helped us to know better the needs of our employees, both those related to professional development, and those of personal, as prerequisites for effective measures work-life balance.

Thus, the program we develop is designed to meet the needs of all categories of employees (women/men, young employees with families, parents). Some benefits point refers to the nature of the material advantages (access to private medical services, free transportation for employees outside the city, etc.)

Other benefits targeting a high motivation to work and reduce work-related stress through continuous professional training, recognition of merit, management skills, flexible and remote working program.

I would also like to mention in addition to practical and professional experience of work-life balance held by CPE also an personal gain: the fact that I met wonderful people and I made friends for a long way.

### Box No. 7

**Catalina Marinescu**, HR Business Partner, Zentiva S.A.

I participated in this project since the first year as an understudy; I was finding revolutionary this idea and was enthusiastic. I believe that in view to implement **work-life balance measures and programs is required the existence of a well-defined and mature organizational culture**. Excessive stress, "in the last minute as a fireman" emergency action, major organizational disruption and other problems, does not recommend the organization to implement work-life balance measures and programs. Company must be balanced, with continuous successes, with achievements which generates safety among employees, with management that realize in a conscious manner the implications of such programs and who anticipates the medium term benefits for the company and for people.

In the company where I am working, we have promoted such a program and we **started a thorough investigation of the needs of employees**. Some measures were already in place but

<sup>(19)</sup> [www.worklifebalance.ro/who-recommends-us/](http://www.worklifebalance.ro/who-recommends-us/).

without the name we use today (cafeteria, days off). At this point, we are in consolidation phase of research results and current portfolio is to improve work-life balance measures with new programs that we will introduce later this year.

I would like to mention one of our successful programs, TALENTORIA, an initiative to discover hidden talents of our colleagues. Whether it is painting, music, dance or drama, we are ready to work together to relax after work!

On a personal level, this project helped me appreciate them even more colleagues, I learned to better understand my needs and pay costs, somehow, to improve the balance in my personal life too. It is true that I have slippage because I add, from time to time, bad weather conditions. But always ends with a rainbow of joy, when I manage to spend more time with my family!

#### **Box. No. 8**

Prizes offered to the six companies come to support the reconciliation between professional and personal life programs and measures development. Beneficiaries are employees of companies offered prizes, awards considering the profile and needs: a direct programs for fathers, as to improve the relationship and time spent with their children, creative and educational activities for employees and their friends and families in workshops where we can experiment, test and learn important things about each other, consulting sessions to transform your workspace into a welcoming place, relaxed, friendly and stimulating workshops for managers to assist in maintaining the balance in their lives.

«Competition organized by the CPE is a premiere for Romania, as well as professional and personal life balance programs are often in the first cycle of implementation in companies. Consequently, what we wanted was not to reward results and tradition, but rather **to promote this concept and encourage companies that have already tested measures and demonstrates commitment to maintain and develop them.** Therefore, our decision was to award all six companies applied in six categories of awards, which **recognize what is particularly each company in the work-life balance program developed.** Awards have been specially selected to support continued efforts initiated in companies and the competition we want to be only the first in a long series of such events», said Livia Aninosanu, Director of Programs.

## **2.6. Practice No. 5. CPE acts as “a knowledge vector” that provides work-life balance culture**

**CPE acts as “a knowledge vector” that provides work-life balance culture** through providing:

– Definitions of the concept “work-life balance”; An Glosar with specific terminology; Myths about work-life balance, Studies, surveys, reports, guides, brochures; Useful Blogs and Sites; articles focused on work-life balance – covering Europe, USA, Canada, New Zealand etc.

**Box No. 9****Definitions of the concept , recommended by CPE**

- “Work-life balance is the situation characterised by satisfaction, conflict of minimum role and optimum functioning of the her/his employee as well as in the tasks and roles from job place as in personal life/ family life (efficiency in professional life and in personal life, The Partnership for Equality, 2006).
- Work-life balance describes the capacity and ability of a person to assure the equilibrium between the responsibilities that arising from the paid work which provided and its professional objectives, responsibilities, interests, personnel obligations, social and cultural.
- The concept work-life balance was described as “a state of well-being that can reach person or which a person could fix as objective and that allows her/him to efficient sharing multiple responsibilities at the working place, at home and in community; these contribute to a good general heat state (physical, emotional, family and community) without pain or stress and without having any negative impact.”(Human Resources and Social Development Canada).

Or...

«about people that have any degree of control over their professional situation/ career: when, where and how they work. This balance is realised when the individual right to a fulfilled life inside and outside the paid work is accepted and respected as a rule, for the common wealth of the individual, company and society» (Employers for Work Life Balance)

- Work-life balance is an concept that sustains the employees efforts to divide the time and energy between work and the other important aspects of their life. It is about a daily effort of finding time for family, friends, community, spirituality, personal development, caring and other personal activities, outside the jobs requirements. Work-life balance is sustained by the employers that implements policies, procedures, actions and expectations that allow the employees to have a life more balanced. (humanresources.about.com)
- In the vision of the New Zeeland Department for Work, work-life balance means to efficient manage with inevitable juggling between the paid work and others important activities for peoples. That didn't necessarily means that work wouldn't put out the others things that are important, like the time spend with family, participation to activities in community, voluntary work, personal development, leisure and recreation.

From <http://www.worklifebalance.ro/what-is-and-is-not-wlb-2/definitii/>

**Box. No. 10**

*Glossary* <sup>(20)</sup> *recommended by CPE*

Leave to care for dependents

Parental Leave

Leave without pay

Sabbatical leave

Personal counselling

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<sup>(20)</sup> [www.worklifebalance.ro/what-is-and-is-not-wlb-2/glosar-2/](http://www.worklifebalance.ro/what-is-and-is-not-wlb-2/glosar-2/).

Fixed-term contract  
 Increased maternity allowance  
 Annualized working hours  
 Breaks in career/profession  
 Compressed Work Week  
 Core hours  
 Employee Assistance Programmes  
 Support the family<sup>177</sup>  
 Flexible Benefits  
 Flexible working options  
 Part-time work  
 Job Sharing  
 Flexi-time  
 Work at Home  
 Holiday Scheme  
 Occupational health services within the company  
 Mentoring  
 Child care services at the company  
 Private health services  
 Exchange of shifts  
 Working in shifts  
 Health care or subsidized complementary therapies  
 Teleworking  
 Free time in exchange for overtime  
 Working time account  
 Childcare vouchers  
 Fitness centre in the company

**Leave to care for dependents** (Dependency/Emergency leave) – employees can take some time off to deal with an emergency situation, such as health problems of one of the children.

**Parental leave** – legal parental leave they have access to both natural parents and adoptive parents.

**Leave without pay** (unpaid leave) – absence from work for a limited period of time agreed in advance with the employer. Contract work will stand, but salary ceases.

**Sabbatical leave** (Sabbatical leave) – less common in Romania, is usually a period between three months and one year, the employee with exceptional merit may choose to stop work and leave the company's money or a leave to rest, study or travel.

**Personal counselling** (business/life coaching) – employer engage an contract for coaching services from a professional mentor outside the company, which has regular meetings with the employee to advise him/her on professional and personal goals.

**Fixed-term contract** (Fixed-term/short-term/temporary contract) – contract approved/signed for a limited period of time, which may be renewed or has a termination date.

**Increased maternity allowance** (Enhanced/Improved maternity Provisions) – the employer provides a greater amount than the mandatory minimum or bonus for return to work.

**Annualized working hours** (Annualised hours) – work program contract is expressed in the total number of hours per year, which allows flexible distributing them throughout the year.

**Breaks in career/profession** (Career breaks) – the employee has a break of 1 to 5 years, usually for personal development, while the contract of employment ceases, but contact with the company is kept, it is not always maintained the position for the employee wishes to return.

**Compressed Work Week** (Consolidated/Compressed hours) – is a flexible model where the employee works less than the standard work five days a week, but accumulates the total number of hours per week, thus compressing the number of hours worked weekly few days. The most common compressed work week is 4-40 system, the employee works four days of ten hours each week instead of five days of eight hours.

**Core hours** – hours that employee with flexible hours must be present at work.

**Employee Assistance Programmes** – the employer pays a monthly subscription for assistance/emergency counselling the employee by phone at any time of day or night.

**Support family** (Family-friendly) – policy or practice oriented family support in its effort to spend more time together or to enjoy a better quality of life.

**Flexible Benefits** (Flexible benefits) – employees are offered various annual benefit packages from which to choose, eg. several days of leave, improved health, holiday or gift vouchers etc.

**Flexible working options** (Flexible working) – alternative work programs that offer employees the opportunity to perform tasks at home or at work and aspirations to pursue personal/spiritual.

**Part-time work** (Part-time/fractional work) – employee working less than 40 hours per week and is paid in direct proportion to hours worked. The advantages consist in a better allocation of time between the different responsibilities and interests and also low stress. The major disadvantage is the reduced remuneration and, in some companies, the absence of full-time employee benefits reserved.

**Job sharing** – a full-time is divided between two or more part-time employees who are paid in direct proportion to hours actually worked and assumes full responsibility for all work performed. The advantages consist in increased flexibility of working time, each employee can to replace the one who needs time off, low stress, improved collaboration between employees, the company added value thanks to multiple visions, skills, power for the same position, can keep some valuable employees who would otherwise have left the company to devote more time to family, study, etc. A possible insufficient communication between employees and different personalities/contradictory results adversely affecting disadvantage is this type of work.

**Flexi-time** – is a form of full-time employment, the employee and manager have an understanding on various hours of the start/centrifuging working hours and lunch breaks. The major advantage they have parents who have to take children to school in the morning and take them home at night and those who work overtime, for which they receive time off they need for personal activities. The disadvantage is the possibility the company runs understaffed at times.

**Work at home (working from home/Teleworking)** – employee (full or partial), in agreement with the employer, working from home part or all week, employer providing at domicile of employee the necessary equipment. It is compatible with certain types of activities that require high level of independence and autonomy. The main advantage is the extra time spent with children and disadvantages often include expensive equipment for the execution of work, lack of concentration, poor access to opportunities and information at work.

**Holiday Scheme** (Holiday purchase schemes) – the employee can purchase a limited number of additional days of leave, the cost of which varies depending on his salary and is deducted from it.

**Occupational health services within the company** (In-house Occupational Health Provisions) – there are occupational health facilities in the company, which employees can call for medical checkups and health assessment.

**Mentoring** – the employee has access to counselling on career development and life of a professional mentor, who may be another employee or someone outside the company whose services have been contracted by the employer.

**Child care services at the company** (On-site Childcare facilities) – the company has a nursery/kindergarten at the company, for employees with young children. Advantages are high, the economy of transport time, shower and made copies of the neighbourhood kindergarten to decreased stress levels in case of illness or emergency.

**Private medical services** (Private healthcare benefits), employer contracts for private healthcare services employees who have free or discounted.

**Exchange of shifts** (Shift swapping) – opportunity for employees to take the place of colleagues with the same qualification/position and enjoy free time without the use of paid leave days.

**Working in shifts** (Shift working) – the working day is divided into turns/exchanges (eg 12 am – 20 pm and 20 pm – 04 pm), to extend operating hours. Employees work one day instead.

**Health care or subsidized complementary therapies** (Subsidised healthcare or complementary therapies) – the employer provides employees therapy services (massage, etc.) Discounted and therapist is usually one or two visits per week.

**Teleworking/telecommuting** – working from home, using technology like phones or computers to maintain contact with colleagues or clients.



**Free time in exchange for overtime** (Time off in lieu Provisions-toil) – employees can take time off instead of overtime worked (eg 10 for 10 free hours overtime), but do not receive money in exchange.

**Account of working time** (Working time account) – a variant of flexible hours, in which every employee has a personal account which is recorded above or below the number of hours worked weekly hours. Overtime incurred shall be compensated with time off.

**Nursery tickets/vouchers** for childcare (Childcare vouchers)-employer sells discounted tickets parents or offer as part of compensation package, particularly mothers returned from maternity leave, giving them the opportunity to make savings with childcare.

**Fitness centre in the company** (Company fitness centres) – the centre is usually placed in the company and is owned by or contracted through outsourcing for use by employees.

#### **Box No. 11 - Recommended Resources by CPE** <sup>(21)</sup>

##### **Myths about Work-Life Balance** <sup>(22)</sup>

For the employee can achieve a balance between work and personal life, and the employer can successfully implement a system to promote and sustain this balance, they must inter alia, to identify and dismantle prejudices on Work-Life Balance.

The following are some commonly encountered myths about work-life balance and contradictory arguments:

- Flexible working is hard to implement;
- Flexible working time arrangements are permanent;
- Overtime resulting in increased productivity;
- Work-life balance can only help women, especially mothers;
- Work-life balance is addressed exclusively to employees with children;
- Work-life balance is so important for employees on the verge of retirement;
- Part-time work and career/promotion are incompatible;
- Work-life balance is not relevant in an economic recession;
- Work-life balance is only for big companies;
- Loss of control;
- Give your employees a finger and they will take the whole hand;
- Policies and practices for work-life balance favors only some employees;
- Work-life balance is addressed exclusively to employees of the lower hierarchical levels;
- You can have it all;
- Anyone can achieve a better work-life balance that works hard;
- The company in which I work will help me to reach equilibrium.

**Myth: *Flexible working is hard to implement;***

**Fact:** As a manager, you think that flexible working an employee means more work for you and

<sup>(21)</sup> [www.worklifebalance.ro/recommended-resources/](http://www.worklifebalance.ro/recommended-resources/).

<sup>(22)</sup> [www.worklifebalance.ro/what-is-and-is-not-wlb-2/mituri/](http://www.worklifebalance.ro/what-is-and-is-not-wlb-2/mituri/).

other employees, but there are many examples showing that good planning, open communication and working models allow more or less predictable implementation of successful flexible program. As an employee who wants a flexible work schedule, you think it will mean more work for your colleagues, but you can come up with a proposal showing that flexible colleagues will be affected, propose solutions possible and highlight the benefits that may result from this proposal.

**Myth: *Flexible working time arrangements are permanent;***

Fact: Not necessarily, because, as people go through different stages in their lives, there are life situations that require staff changes or short-term temporary work program. For example, a baby or an illness requiring start working reduced hours for a period of time, while the need to attend courses and seminars in the further study programs require temporary changes in hours of start work program.

**Myth: *Overtime resulting in increased productivity;***

Fact: It is quite false, as there is overwhelming evidence that overtime hours have a negative impact on health, safety and general welfare of the employees and the company's productivity. Also, employees and their superiors that overtime increased productivity means it penalizes efficient employees who perform their tasks in less time. Employee performance must be assessed in the quality of work and results, not time spent working.

**Myth: *Work-life balance can only help women, especially mothers;***

Fact: It is well-known tendency in recent decades developed countries (in recent years in Romania) of a partner to share with other partner the parenting small children task. Fathers are also encouraged continually to become more involved in children's lives (school, leisure activities) and are frustrated by the pressures and lack of understanding of the work for this aspect of their lives. Thus, changing the role of men in the family option results in a number of increasingly flexible work programmes for men.

**Myth: *Work-life balance is addressed exclusively to employees with children;***

Fact: Policies and Practices Work-life balance is addressed to all employees who may need different care of elderly or sick parents, ongoing studies, older employees who want an easier schedule before retirement, etc.

**Myth: *Work-life balance is so important for employees on the verge of retirement;***

Fact: On the contrary, an employee approaching retirement can benefit as much as a young employee from flexible working programs. Older employees want more free time but still can enjoy it, or cared for a sick partner or grandchildren. As for organization, it has many reasons to value older workers: experience rich and low supervision needs work, high level of commitment, dedication and loyalty and ability to train and serve as mentors for younger employees.

**Myth: *Part-time work and career/promotion are incompatible;***

Fact: It is true that part-time career development may slow because it takes more time to gain the necessary experience promotions, but this does not hinder career development. Women usually choose to work part-time option to raise children, but there are other reasons for an employee to work part time as a physically disabled patient care partner, further studies

continuing.

**Myth: *Work-life balance is not relevant in an economic recession;***

Fact: strong argument is that in times of crisis workers are grateful for having a job, regardless of amenities, and companies focus on survival. What companies seem to forget is a fundamental truth of business: a company is as healthy and productive as the people who put in motion. To survive and grow, companies must focus on people, causing them great extent the success or failure. In addition, there were great opportunities for small companies implementing work-life balance especially in times of crisis, whereas flexibility can reduce fixed costs if employees work from home and can reduce personnel costs is granted unpaid leave, which as to maintain a skilled employee in the company even in times of crisis.

**Myth: *Work-life balance is only for big companies;***

Fact: While there are additional costs associated with implementing these programs, there are ways in which small companies can start such programs with minimal costs. Also, small businesses, although they cannot provide the extent of the pay packages of big companies are able to provide more flexibility and to meet the specific needs of each employee.

**Myth: *Loss of control;***

Fact: There is a general fear regarding flexible working programs and loss control organization on employees and work performed by them. If people work from home, how can you be sure that they really work? And if certain employees are allowed to go home early and others do not want the same treatment? Such reasons often prevent the implementation of work-life balance policies, even if they are in business. The solution consists in thorough thinking of these policies and programs and the existence of written procedures that detail who is eligible and how to put them into practice effectively. It is however likely that, with a clear and proper management of these initiatives, employees is grateful for the flexibility and reward employers with greater commitment and loyalty.

**Myth: *Give your employees a finger and they will take the whole hand;***

Fact: For work-life balance policies to be successful, requires a high level of trust and cooperation between management and employees. Experience of specialists in human resources indicates the major importance of the trust as a base to offer flexible working program to retain talented employees.

**Myth: *Policies and practices for work-life balance favour only some employees;***

Fact: Some employees may feel excluded if these policies are not accessible and them, while others may feel disadvantaged compared to peers who use certain policies such as leave for the care of dependents or emergency leave, and they must take their respective tasks. Proper communication policies are essential in these cases, employees must be advised that the personal life of each family needs related to lifestyle changes over time and can occur at any time needs to be addressed eg. flexible hours program.

**Myth: *Work-life balance is addressed exclusively to employees of the lower hierarchical levels;***

Reality: False, since these policies can be particularly useful especially managers, who are more vulnerable to wear and psychological stress caused by job specific management requirements

(lack of a standard work, resulting in many additional hours, a high level responsibility and accountability, all for relatively high wage levels). Companies should encourage managers to use their own work-life balance policies, both to satisfy their own needs best and because they themselves can serve as a model for employees.

**Myth: *You can have it all;***

**Fact:** You can have it all, but probably not both. At different times of life, various aspects can be prioritized (now money, career over a week, sometimes family, health, etc.). If you think about the choices we make as a juggling ball from time to time one goes down your ball. And if you fall ball is glass, it can scratch or break. Family and personal relationships are like glass beads, which is not worth risking it!

**Myth: *Anyone can achieve a better work-life balance that works hard;***

**Fact:** The sad truth is that balance is often a luxury reserved for the wealthy, which money can buy a vacation to rest, a children's nanny, a housekeeper or a cook, gaining free time for family. Anyone can achieve a balance, but must be aware that there are limits.

**Myth: *The company in which I work will help me to reach equilibrium;***

**Reality:** Unfortunately, in many jobs the employee is treated as still in school: needs permission to go home early and ultimately it depends only obtain facilities for attaining equilibrium.

## **2.7. Practice No. 6. Study visit *Flexible work and work-life balance in Romania. Work-life balance, a continuing learning process* <sup>(23)</sup>**

CPE – Partnership for Equality Centre, organised during the period January 26 to 28, 2011, in Bucharest, the study visit “flexible work and work-life balance in Romania”. The study visit was addressed to specialists and policy makers in education and training and is part of the Lifelong Learning Programme funded by the European Commission. In Romania, the program is run by the National Agency for Community Programmes in Education and Training (ANPCDEFP), governmental organization that facilitates access to European alternative for lifelong and active learning.

On this occasion, seven participants from five European countries – Spain, Italy, Finland, Denmark and Belgium, representing the union structures, education and public institutions will have the opportunity to know aspects of labor flexibilisation and the reconciliation of professional and personal life employees in Romania.

During the study tour participants will visit some companies in Bucharest and Ilfov, to know their initiatives on reconciling work and private life of employees, how these measures have been implemented and results. Also, there will be

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<sup>(23)</sup> [www.worklifebalance.ro/2011/01/25/work-life-balance-un-proces-de-invatare-continua/](http://www.worklifebalance.ro/2011/01/25/work-life-balance-un-proces-de-invatare-continua/).

meetings and discussions with representatives of direction for equal opportunities between women and men from the Ministry of Labour, Family and Social Protection and of the National Union Bloc (BNS). This study visit facilitates the exchange of experience and know-how, providing both participants, and companies and institutions in Romania, the opportunity to meet new experiences, methods and working practices in the flexibilisation of work and beyond.

The participants were attending the Conference “How do we develop and implement programs and measures work-life balance in our organizations”, organized by CPE – Centre for Partnership and Equality, 27-28 January 2011, where they were meet the representatives of companies in Bucharest and Ilfov, offering thus the possibility to form a point of view on the business environment in Romania.

## **2.8. Practice No. 7: other examples of good practices**

### **2.8.1. Practice No. 7.1. Teleworking promotion**

Renault aims to maintain continuous, responsible and high-quality dialogue between management and labor at all levels of the company, taking into account technical, economic and social changes brought about by implementation of its strategy.

In October 2005 a Group-wide policy on relations with staff representatives was defined to make sure that Renault assumes its social responsibility in every country where it does business. The policy reflects the Declaration of Employees’ Fundamental Rights signed on October 12, 2004 and confirms the Group’s strong commitment to staff representation.

#### **Box No. 12**

Three brands: Renault, Dacia and Renault Samsung Motors  
 Renault is now present in 118 countries  
 Group sales worldwide: 2,7 million vehicles (year 2011)  
 A commercial network made of 18,000 sites  
 43% of the group sales are made outside Western Europe (2010)  
 The 5 biggest markets of the group are: France, Brazil, Germany, Russia and Turkey  
 Revenues for the year 2011: €42,628 million (car sales and financing)  
 A workforce of 128,322 employees (as of December 31,2011)  
 100% of Renault industrial sites are ISO 14001 certified  
 Renault: more than 10 years as the leading LCV brand in Europe

The Renault group Works Council is the only employee representative body spanning the entire Group. It is composed of 34 representatives from 19 countries of Renault's majority-owned subsidiaries in the European Union, as well as in Brazil, Argentina, Korea, Turkey and Russia). Two additional European deputy secretaries (Slovenia and Romania) have joined the select committee.

The Works Council carries on a wide-reaching dialogue between management and labour at international level. Its members are informed of the Group's strategic ambitions, with reference to economic, financial, social and environmental aspects. The Works Council is consulted systematically in the event of European projects with significant social impact.

In 2007 the Renault group Works Council held one plenary meeting, while the ten-member select committee (of whom five European deputy secretaries excluding France) met on eleven occasions.

In 2007 five collective agreements were signed at Renault s.a.s. They concerned teleworking, wages, the Group Works Council, the make-up of the Renault s.a.s Works Council and profit-sharing.

The agreement on teleworking was signed in early 2007 with all trade unions. It enables employees who so wish to work from home, in agreement with their manager. Teleworking functions on the basis of two to four days at home with at least one day on the home site. The company provides the employee with all the equipment necessary. Before teleworking can be put in place, the employee's domestic electrical system and IT access must be approved. A trial period of three months is applied and can be terminated at any time. At end-2007, 99 employees had adopted teleworking and 52 applications were pending. An equal number of men and women are concerned.

The distance from home is a key factor of choice for almost 60% of teleworkers.

### **2.8.2. Practice No. 7.2: project *Together for developing the social dialogue in Romania*, realised by CSN Meridian**

Good practice: On 27th of April CSN Meridian launched the project "Together for developing the social dialogue in Romania", project co-financed by the European Social Fund through the Operational Programme Human Resources Development 2007-2013, and will be held for a period of 3 years" <sup>(24)</sup>.

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<sup>(24)</sup> S. Bărbuceanu, *Annual Review 2011 on Labour Relations and Social Dialogue in South East Europe: Romania*, Friedrich-Ebert-Stiftung, Regional Project for Labour Relations and Social Dialogue in South East Europe Tadeusa Kosciuska 8/5, 11000 Belgrade, Serbia. The text is available online: [www.fessoe.de](http://www.fessoe.de), January 2012.

**2.8.3. Practice No. 7.3. Good practices guide: the working life reconciliation in medical domain**

O Bălută, L.Popescu, M. Cerkez, M. Păunescu, Good Practices Guide, The working life reconciliation in medical domain, This guide is a result of the project “innovative strategies for work organization design in the medical field in the region Bucharest-Ilfov - STAR-MED, co-funded by the European Social Fund, Operational Programme Human Resources Development 2007-2013, Priority Axis 3 - Increasing adaptability of workers and enterprises key area of intervention 3.2. Training and support for enterprises and employees to promote adaptability.





## CHAPTER VI HUNGARY

*Summary:* 1. Legal instruments for the reconciliation of work and family life. – 1.1. International obligation. – 1.2. The Hungarian legislative framework. – 1.2.1. Fundamental law. – 1.2.2. Act LXXXIV of 1998 on Family Support. – 1.2.3. Act CCXI of 2011 on the Protection of families. – 1.2.4. Act CXVII of 1995 on Personal Income Tax. – 2. The Labour Code. – 2.1. Provisions promoting and protecting family life in the Labour Code effective until 30 June 2012 (Act XXII of 1992). – 2.1.1. Establishment of employment. – 2.1.2. Benefits provided for women, mothers, fathers and parents during employment. – 2.1.3. Rules of protection in the case of the termination of employment by the employer. – 2.2. Provisions of the new Labour Code (Act I of 2012) concerning women, mothers, fathers and employees with a family. – 2.2.1. Protection of expectant women and mothers with young children. – 2.2.2. Benefits of employees (mothers and fathers) with young children. – 2.2.3 Benefits of employees raising their children as single parents. – 2.2.4. Atypical employment options. – 2.2.5 Flexible working time. – 2.3. Termination of employment. – 2.4. Other provisions assisting employees with family commitments. – 2.5. Provisions preventing the coordination of family life and work. – 3. Statutory background for equal opportunities in the Labour Code and in the separate equal opportunities legislation. – 3.1. The separate law on equal treatment and equal opportunities (Act CXXV of 2003). – 4. Social security legislation. – 4.1. Prenatal allowance and childcare allowance: child care fee, sick pay, home care allowance, birth grant and family allowance. – 5. Social institutions supporting parents (nurseries, kindergarten, pre-schools, etc.). – 6. Role of collective agreements in the coordination of family life and work. – 6.1. System and legal regulation of collective agreements and social dialogue. – 6.2. Role of collective agreements in the protection of expectant mothers, mothers with young children, fathers and employees with family commitments. – 7. Conclusion.

### **1. Legal instruments for the reconciliation of work and family life**

In the first five months of 2011, the number of children born was almost 10 percent less than in the corresponding period of the previous year and the number of deceases increased by almost 3 percent compared to January-May of 2010 – the Central Statistical Office (KSH) said to the Hungarian News Agency (MTI) on Wednesday. The population size of the country was estimated to be 9,969 thousand at the end May. The tendency started years ago.

In the first four months of 2012, however, 29 064 children were born, 5,2 percent more than in the previous year. The number of deaths was 46 626 which means a 1,8 percent increase compared to January-April of 2011. Natural decease

was by 602 persons lower than in the previous year, it amounted to 17 562 persons.

The previously declining trend seems to start rising. Governmental measures aim to support this shift.

In April 2012, the state secretary responsible for employment policy appointed a ministerial commissioner to improve the labour market situation of women. While in Hungary 51 out of 100 economically active women work and 4 of them part-time, the ratio of female employment in the European Union is 58 percent and 18 women out of 100 have part-time jobs. The Hungarian government set forth the objective to improve the situation by preventing the increase of economically inactive female population and the government will elaborate different schemes in the field of child car, labour market discrimination and adult education and training.

In order to achieve the above objectives, there are legal instrument promoting the employability of employees expecting and raising children. The instruments primarily appear in the labour legislation but social security and social regulations have an important role. Laws guarantee the protection of employees raising children, i.e. the highest level statutes within the framework of which the new Fundamental Law replacing the former Constitution of 1949 since 1 January 2012 plays an outstanding role. Hungary has signed or ratified several international agreements on the protection of women, children and workers with family responsibilities.

### **1.1. International obligation**

Hungary has been the member of the International Labour Organisation (ILO) since 1922 and has ratified 72 conventions since then. All ratified conventions are fundamental conventions including two conventions on the elimination of discrimination and on equal opportunities and the priority conventions. Of the conventions related to combining work and family responsibilities, Hungary has ratified Convention 183 on maternity protection (previously also Convention 103) and in 2010 reinforced Convention 175 on part time work and Convention 182 on the worst forms of child labour. However, Hungary has not ratified Convention 156 on the protection of workers with family responsibilities.

Hungary has also ratified conventions of the UNO on the protection of women and children.

Hungary promulgated the European Social Charter (Act C of 1999) on 14. November 1999 and in 2009, the Revised European Social charter was also ratified. There was partial ratification in both cases, at first ratification was at

minimal level, then gradually Hungary started to ratify more articles. Today the following articles have been ratified: Articles 1, 2, 3, 5, 6, 7/1, 8, 9, 10, 11, 12/1, 13, 14, 15/1, 17, 20, 21 and 22, among which articles promoting the harmonisation of family and work responsibilities are the following:

- Article 8 (the right of employed women to protection of maternity)
- Article 16 (the right of the family to social, legal and economic protection)
- Article 17 (The right of children and young persons to social, legal and economic protection)
- Article 20 (the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex).

It turns out from the above list that Hungary has not ratified the most important article, article 4 on the right to a fair remuneration. With a view to ensuring the effective exercise of the right to a fair remuneration, Point 1 recognises the right of workers to remuneration such as will give them and their families a decent standard of living. Hungary has not ratified Article 27 on the right of workers with family responsibilities to equal opportunities and equal treatment and article 26 on the right to dignity at work

Based on the above, it is clear that although Hungary is obliged to apply several international agreements indirectly promoting workers with family responsibilities, the Hungarian government has no concrete international obligation to implement international (ILO) and European agreements directly regulating the harmonisation of family and work.

The transposition of directives of the European Union into Hungarian legislation, for example the directives on parental leave, on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, on part time work and on anti-discrimination also provide protection for Hungarian workers.

## **1.2. The Hungarian legislative framework**

Hungarian legislation ensures the protection of families at the highest, constitutional level. The implementation of the principle enshrined in the Constitution is realised by several legal acts. Labour legislation ensures the protection of families and the specific labour protection of parents, mothers, fathers, young and elderly workers. Families enjoy protection and support under social security, social regulation and other specific acts, for example tax laws (family tax benefits) or the Act on judicial execution (provisions on income, benefits exempt from enforcement and on the recovery of child support).

Different economic measures support family businesses and family farms.

### **1.2.1. Fundamental law**

The new Fundamental Law, effective from 1 January 2012, replaced the constitution dating from 1949 (Act XX of 1949), which highlights the significance of the protection of families. The law emphasises that the family is the basis of the nation's survival as the smallest unit of society ensuring the balanced operation of the society and the economy. The most important regulations ensuring this objective are specified by cardinal laws. The Fundamental Law stipulates that the employment of children shall be prohibited except for cases laid down in an Act posing no risk to the child's physical, mental or moral development. Hungary shall adopt special measures to protect young people and parents in the workplace (Article XVIII).

Two cardinal acts providing important elaboration of the constitutional order regulate the support and protection of families and establish the relevant system. In certain areas, these laws are supplemented by further regulations, e.g. tax laws, the act on judicial execution, regulations stipulating labour relations, social security and other social acts.

### **1.2.2. Act LXXXIV of 1998 on Family Support**

The objective of the Act is to define the system and forms of family support services provided by the state, the eligibility conditions for the services, as well as the most important competence and procedural rules related to the establishment and disbursement of benefits in order to promote the social security of families and reduce the financial burden of raising children.

The types of family support determined by the act are the following:

- family allowance (child raising allowance, schooling support)
- childcare allowance (child care support, child raising support)
- maternity allowance.

### **1.2.3. Act CCXI of 2011 on the Protection of Families**

Chapter III of the Act specifically regulates the protection of the family and the commitment to have children in the field of employment. The provisions of the Act define the general principles and frameworks of protection and the

detailed regulation are provided by relevant acts. The main principles are as follows:

Parents who bring up minors shall be entitled to special labour law protection and to allowances which ensure the reconciliation of their parental role and work and the protection of family life throughout their employment. The scope of these allowances shall be determined by specific law. Pregnant mothers shall also be entitled to special allowances. The Act grants protection from dismissal to parents who bring up children under the age of three, care their ill children, are pregnant or are on maternity leave or unpaid leave for the home care of their children, and who participate in a human reproduction treatment or in a child adoption procedure. Parents are also entitled to supplementary leave and to a working time allowance.

In order to reconcile family and work, the Act encourages work in a part-time regime and in other atypical work arrangements.

The above allowances are defined by the Labour Code.

#### **1.2.4. Act CXVII of 1995 on Personal Income Tax**

The Act provides for family tax allowance from the personal income tax to support families. Depending on the number of dependents, there is an increasing amount of family tax allowance deductible from the tax base.

The main piece of legislation regulating the world of labour is the labour Code regulating the labour relations of the private sector. The new Labour Code (Act I of 2012) replaced the old Labour Code enacted after the political changes in Hungary (Act XXII of 1992) on 1 July 2012 but certain provisions will enter into force on January 1, 2013 (provisions of the New Labour Code relating to the derogation from the employment contract, the vacation and the calculation of the absentee pay instead of average wage). The Labour Code does not does not include concrete and direct provisions promoting the reconciliation of family and work, but some provisions indirectly support the harmonisation of these two areas of life, especially by ensuring specific rights to pregnant women, mothers, fathers or employees raising their children alone.

Specific acts regulate the service relationship of public servant and public employees. These laws regulate the rights of workers with family responsibilities similarly to the Labour Code, thus in the present study we shall present these regulations on the basis of the Labour Code.

In relation with labour relations, Act CXXV specifies the general rules ensuring equal treatment and promotion of equal opportunities. Act XCIII of 1993 on Labour Safety contains provisions protecting women and young workers.

## **2. The Labour Code**

If we would like have an overview on the labour legislation promoting the reconciliation of work and family, we have to introduce the Labour Code effective until 1 July 2012 and the new Labour Code effective since then, as the present situation is still mainly influenced by the former legislation for the time being. It is possible to measure the impacts of the new legislation only in one or two years' time, also because of the fact that certain provisions significantly affecting the situation of employees with family responsibilities (derogation from the employment contract, the vacation) will enter into force on 1 January 2013.

### **2.1. Provisions promoting and protecting family life in the Labour Code effective until 30 June 2012 (Act XXII of 1992)**

#### **2.1.1. Establishment of Employment**

Persons having completed the age of sixteen years may become employees. In departure from this rule, students having completed the age of fifteen years who pursue their studies in full-time educational institutions may also become employees during the school holidays. Based on the permission of the guardian authority, persons not yet having completed the age of sixteen years, too, may be employed as part of the cultural, artistic, sports and advertising activities defined by law:

- the employment conditions of pregnant or nursing women and young employees shall not risk the health or development of the employee.
- mandatory medical examination, i.e. a medical examination that an employee is required to attend on the basis of a rule relating to employment, including any medical examinations and tests prescribed with respect to pregnancy is forbidden.

#### **2.1.2. Benefits provided for women, mothers, fathers and parents during employment**

After the end of any unpaid leave granted for the nursing and care of children and following the termination of any unpaid leave granted for the nursing and care of close relatives, the personal basic pay of the employees concerned must be adjusted in line with the rate of the average annual pay rise provided in the interim

for employees in corresponding positions and with equivalent experience (Section 84).

The implementation of certain employer instructions may be refused if the execution of such instructions were to represent a disproportionate injury with regard to the relevant personal and/or family circumstances (e.g. attendance of training course designated by the employer, performance of work on a temporary basis in a location other than the place of work designated in the employment contract).

Women cannot, without their consent, be obliged to perform work in a different location as of the initial diagnosis of pregnancy until their children complete the age of three years. The same rule also applies to male employees who raise their children as single parents.

Women cannot be obliged to perform any extra work as of the initial diagnosis of pregnancy until their children complete the age of one year, while men raising their children as single parents cannot be obliged to perform any extra or excess work until their children complete the age of one year. Employees (whether male or female) raising children between the ages of one and four years as single parents can only be ordered to perform extra or excess work with their consent.

Special rules of protection apply to the working hours and schedule of work of young employees (under the age of 18 years) (Section 129/A).

Employees who, based on the parents' decision, play a larger role in the raising of their children and parents raising their children as single parents are entitled to extra leave (two days annually for one child, four days annually for two children, seven days in total per year in the case of more than two children).

Young employees are entitled to five days of extra leave per year.

The rule which makes it mandatory that one of the two days of rest per week must fall on Sunday is designed to help families to spend more time together. In practice, however, the law makes a large number of exceptions (e.g. in the case of work in multiple shifts, employees working for employers with an uninterrupted mode of operation, those working in working time frames, employees who perform work of a stand-by nature). Consequently, the main rule is not enforced in respect of many employees which makes it more difficult for families to regularly spend Sunday together.

In the case of the part of the ordinary leave that employees may take at their discretion, employees may change the dates of their pre-announced leave for family reasons.

The employer is required to hear the employee before granting leave.

Pregnant women and women after childbirth are entitled to twenty-four weeks of (paid) maternity leave, four weeks of which must be granted before the anticipated date of birth.

Breast-feeding women are entitled to a reduction of one hour twice daily during the first six months of breast-feeding and one hour daily up to the end of the ninth month (in the case of twins, the mother is entitled to a number of hours off in relation to the number of children).

Fathers are entitled to five working days off until the end of the second month following birth, at the latest (the wages so lost are covered by social security).

Employees are entitled to unpaid leave (whether the father or the mother, depending on the parents' choice) until their children complete the age of three years for the purpose of the home care of their children (covered by social security), and further until their children complete the age of 10 years during the term of the payment of a child care benefit, provided that the employee looks after the child at home, and until the completion of the age of 12 years in the interest of home nursing in the event of the sickness of their children.

Employees are exempted from their work-related duties during the entire term of treatments related to human reproduction procedures (unpaid).

In the event of work-related accidents or death related to occupational illness, the direct dependants become entitled to seek compensation from the employer for their lost maintenance.

The relevant legal rules do not make it mandatory for the employer to designate areas for the care of children (e.g. for the duration of job interviews). Consequently, an individual with a child is only able to attend a job interview or to go to an employment agency if he/she is able to leave the child in someone's care.

Upon the determination of remuneration (minimum wage), the Hungarian legal rules do not classify family status or the right to provide a decent standard of living for the family as equitable circumstances that should be taken into consideration as defined in Article 4.1 of the European Social Charter.

### **2.1.3. Rules of protection in the case of the termination of employment by the employer**

The law establishes a prohibition on the termination of employment:

- for the event of the ordinary termination of employment by the employer for any reason in the case of employees who are on sick leave for the nursing of their sick children or are entitled to unpaid leave for the nursing and care of close relatives, for the duration of such leave,



- in respect of employees eligible for unpaid leave until their children complete the age of three years for the nursing and care of their children (also if no such leave is taken), and
- for the duration of treatment related to human reproduction procedures, and
- during pregnancy, during the three months following birth and during the term of maternity leave.

A ban on termination is likewise designed to protect one of the parents intending to adopt a child, based on the parents' decision, during the six months following the placement of the child intended to be adopted in mandatory care.

In addition to these prohibitions and restrictions, the legislation on public sector workers contains further provisions. The employer may additionally not terminate the public sector service relationship through exemption during the following periods:

*a)* for the duration of employment abroad with an international organisation or employment abroad on the basis of an agreement entered into with a foreign state or other institution in implementation of an inter-state agreement;

*b)* in the case of a spouse granted unpaid leave with regard to the residence abroad of a person on long-term service abroad, for the duration of such unpaid leave;

*c)* for the duration of any study trip or preliminary course in the case of a person sent abroad with a scholarship grant, and

*d)* during the term of exemption from the performance of work due to training in or outside the school system designated by the employer or by other agencies with the employer's consent.

Additionally, the public sector service relationship may only be terminated through exemption in particularly justified circumstances

*a)* if the public sector worker's spouse (common-law spouse) does not have an independent living that is equal to the mandatory national minimum wage and has minimum three dependant children;

*b)* if the public sector worker is single, until his/her dependant child completes the age of eighteen years, and

*c)* if the public sector worker's spouse performs military or civilian service.

## **2.2. Provisions of the new Labour Code (Act I of 2012) concerning women, mothers, fathers and employees with a family**

The law that entered into force on 1 July 2012 fundamentally retains the former provisions that were designed to protect parents, mothers, fathers, young

people and elderly employees; in some instances, however, it weakens the protection previously afforded, while in some instances, it reinforces it.

The new Labour Code that entered into force on 1 July 2012 contains several new provisions with respect to pregnant employees, young mothers after birth and parents raising their children on their own. Some of these provisions provide new benefits for them, however, others represent a step back compared with the situation before.

The new Labour Code does not stipulate an express prohibition for the employer to oblige the prospective employee to undergo a pregnancy test or to ask questions at the time of the establishment of employment with respect to the prospective employee's pregnancy or family circumstances. The law prescribes restrictions for the employer in general, as part of the rights attached to the employee's person. Based on these, in the course of the interview conducted before the establishment of employment, the employer may only request the prospective worker to make statements or to disclose data which are not in violation of the employee's personality rights and are relevant to the establishment, maintenance or termination of employment. The prospective worker may only be obliged to undergo any aptitude test that is prescribed in the rules applicable to the given employment or that is necessary in the interest of the exercise of the rights and the fulfilment of the obligations determined by law with respect to the given employment. This legal solution is, no doubt, a step back compared with the specific prohibitive provision of the former Labour Code in spite of the fact that, also based on the general construction of the law, we may come to the same conclusion that the employer cannot oblige the prospective worker to undergo a pregnancy test. However, in the absence of a specific prohibition, in practice, employees find it harder to defend themselves against employer requests of this nature. Additionally, Hungary has ratified ILO maternity protection convention No. 183, Article 9 of which expressly prescribes a prohibition from requiring a test for pregnancy (Section 10).

The law prescribes for the employer as a general obligation during the term of employment that it is required to take its workers' best interests into consideration on the basis of fair deliberation and the unilateral determination of the method of the performance of work cannot cause a disproportionate injury to the employee. The law previously in force expressly stated that an injury that is disproportionate with respect to the employee's personal and family circumstances, too, may qualify as a disproportionate injury. By virtue of the fact that the new law does not make specific reference to personal and family circumstances, it may in practice create a situation where employees are uncertain as to whether they may cite such circumstances if the employer's unilateral measure or instruction were to cause a disproportionate injury in a specific situation with regard to their family

circumstances (e.g. employees are unexpectedly ordered to complete overtime) (Section 6(3)).

### **2.2.1. Protection of expectant women and mothers with young children**

The new law introduced the term “expectant” in the case of pregnant women which is, under any circumstances, a more worthy term to describe this state than the previously used term “pregnant”.

The law makes it mandatory for employers to offer expectant workers a position suited to their state of health, if justified on the basis of a medical opinion, as of the initial diagnosis of pregnancy until the child completes the age of one year, provided that they cannot be employed in their original positions. In this new position, the mother is entitled to her original remuneration even if the new position falls into an inferior pay category. If the employer is unable to offer another position, the mother must be exempted from work; however, also in this situation, she is entitled to her basic pay stated in her employment contract even in the absence of the performance of work (Section 60). At the same time, an expectant mother is not entitled to a salary if she does not accept the position offered without good reason. In this case, the expectant mother refuses a job or position that is suited to her qualifications and experience and where there is no change in the place of work.

Expectant workers may only be obliged to work in a workplace other than that stated in the employment contract or to work for another employer on a temporary basis (for maximum 44 working days per calendar year) with their consent. This preferential term continues to survive also beyond the birth of the child, until the child completes the age of three years [Section 53(3)].

Expectant employees are also entitled to preferential terms in their schedule of work. Based on this, the working hours of expectant workers can only be distributed unevenly with their consent, expectant mothers cannot be required to complete extra or excess work, cannot be assigned to stand-by duty and cannot be required to work at night. Employees are entitled to these terms also beyond the birth of the child, until the child completes the age of three years (Section 113).

*Maternity leave.* Mothers are entitled to twenty-four weeks of uninterrupted maternity leave, four weeks of which must be taken, as far as possible, before the anticipated date of birth. Maternity leave must also be granted to women who take children into their custody with the intention of adoption. If the child dies, maternity leave ceases on the fifteenth day following death; however, also in this case, the maternity leave may not be shorter than six weeks after birth (Section 127).

*Breast-feeding mothers are entitled to a working-time reduction* of one hour twice daily during the first six months of breast-feeding, or two hours twice daily in the case of twins, and a reduction of one hour daily, or two hours daily in the case of twins, until the end of the ninth month [Section 55(1)e)]. Breast-feeding mothers are entitled to an absence fee for the duration of breast-feeding [Section 146(3)].

*Exemption from work.* Employers are obliged to enable expectant women to attend the mandatory medical pregnancy tests during working hours if such tests fall on the working hours or any other tests that they may need during their pregnancy on account of their state of health. Pregnant employees are entitled to an absence fee also for the duration of such tests. Employers are likewise obliged to allow their employees to attend treatment related to human reproduction procedures in institutions of health care during working hours; however, employees are not entitled to a salary for the duration of such treatment [Section 55(1)b) and c) and Section 146(3)b)].

Employers are further obliged to exempt an employee from the performance of work during working hours if warranted by the employee's personal or family circumstances that deserve special deliberation. The employee is not entitled to a salary for the duration of such absence [Section 55(1)j) and Section 146(3)].

### **2.2.2. Benefits of employees (mothers and fathers) with young children**

*The concepts of child and parent.* The law defines who, in the case of the provisions regulated in the new Labour Code, may be regarded as a child for legal purposes. Based on this, a child is a child who is raised or taken care of in a single household as defined in the rules relating to family support [Section 294(1)c)]. Employees are only entitled to the individual benefits, such as the extra leave for children or the post-birth leave of fathers, if they raise their children in their own households; in other words, a divorced parent is not entitled to these benefits.

The law does not confine the concept of parent to blood parents but additionally includes adoptive parents, spouses living in a single household who wish to adopt the children in their households and the relevant procedure is already under way, guardians, foster parents and substitute parents [Section 294(1)h)].

*Mandatory part-time.* In response to the employee's offer, the employer is obliged to alter the employment contract to a part-time agreement corresponding to one half of the daily working hours until the child completes the age of three years. This benefit is due to both parents, also collectively. Naturally, the

employee's remuneration is reduced proportionately for the duration of such part-time employment [Section 61(3)].

*Leave for fathers for the event of the birth of children.* Fathers are entitled to five days off in the case of the birth of a child, or seven working days in the case of the birth of twins. This leave must be taken by the end of the second month following the child's birth at the time requested by the father. The father is also entitled to this leave if the child is still-born.

*Extra leave for children.* Every employee who has a child that is younger than 16 years is entitled to extra leave at the rate of two working days annually for one child, four working days a year for two children and seven working days in total per year in the case of three or more children. For the purposes of eligibility for extra leave, the child must first be taken into consideration in the year of birth and parents are last eligible for extra leave in the year in which their children complete the age of 16. Parents are entitled to the full annual extra leave in the year of birth and in the year of the completion of the 16th birthday, regardless of which part of the year the child was born in. Both parents are entitled to this extra leave. If the child is handicapped, an additional two days are added to the extra leave (Section 118).

*Unpaid leave for child care.* Employees are entitled to unpaid leave for the purpose of child care until their children complete the age of three years. This leave must be granted as requested by the employee. Either parent may take such unpaid leave, however, only one of them is eligible. Employees are required to notify their employers of such unpaid leave 15 days prior to its contemplated initial day. Employees may at any time disrupt this leave and may return to work before their children complete the age of three years; however, this, too, must be reported to the employer minimum 30 days before the contemplated resumption of work. The employer is obliged to continue to employ the returning employee after the leave taken for child care purposes in the position occupied prior to such leave or birth. Additionally, the employer is obliged to offer a pay rise to the returning employee if the remuneration of employees in equivalent positions had been raised in the interim. In this case, the employer has the obligation to increase the returning employee's pay at a rate by which the remuneration of employees in equivalent positions had been raised on average in the interim (Section 128). The employee is entitled to a social security service for the duration of this period.

Employees are also entitled to ordinary leave for the first six months of the unpaid leave taken for child care purposes, however, they are not entitled to such ordinary leave for the rest of the unpaid leave. Employees may also take this leave directly after the end of the unpaid child care leave. Until 31 December 2012, if child care leave ends by this date, the employee may also request the monetary redemption of the leave due for the first six months of such unpaid leave from the

employer during the term of his/her employment. After this date, however, no such monetary redemption will be allowed [Section 115(1)b)].

*Unpaid leave granted for the nursing of sick child.* Employees are entitled to unpaid leave also after their children complete the age of three years. Until the age of ten years, employees are entitled to unpaid leave if their children are in need of permanent nursing and they perform such nursing in person. For the duration of such unpaid leave, the employer has no obligation to pay a salary and is only obliged to grant leave. Parents nursing their children are entitled to a child care benefit from social security funds, based on the rules of social security, for the duration of such unpaid leave (Section 130).

### **2.2.3. Benefits of employees raising their children as single parents**

The law does not only protect expectant mothers and mothers with young children but also employees who raise their children as single parents in general, regardless of whether it is the mother or the father.

*Concept of parent raising child as a single parent.* Based on the law, an employee qualifies as a parent raising his/her child as a single parent if he/she raises the child in his/her household, is single, widowed or divorced or is separated from his/her spouse and has no common-law spouse [Section 294(1)i)].

*Employment in departure from employment contract.* Based on this, temporary employment in departure from the employment contract in a different position, at a different workplace or with a different employer is subject to the employee's consent if he/she raises a child under the age of sixteen as a single parent.

*Schedule of working hours.* An uneven schedule of working hours is subject to employee consent, including fathers, until the child completes the age of three years. Parents with children younger than three years, including fathers, cannot be assigned night shifts and cannot be obliged to render stand-by duty. An employee (mother or father) raising his/her child as a single parent can only be required to perform extra or excess hours or to render stand-by duty with his/her consent.

### **2.2.4. Atypical employment options**

The new Labour Code regulates a number of new atypical forms of employment which may help employees raising young children to coordinate family life with work. In addition to part-time employment and distance work,

these specific forms of employment include the division of jobs, on-call work or part-time employment on Saturday and Sunday.

*On-call employment* is an atypical form of part-time employment, as part of which the employee may agree to work six hours a day on average and the employer calls the employee in on a case-to-case basis upon the emergence of specific tasks. The employer is required to notify the employee minimum three days in advance (Section 193).

In the event of the *division of a job*, the parties may agree on the joint fulfilment by more than one employee of job responsibilities forming part of a single job. In the event of the absence of one of the employees, the other employee to the agreement must fulfil the duties arising from employment. The working schedule of these employees is unfixed. This form of employment enables two or more employees with young children or a father and mother from the same family, if they work for the same employer, to jointly undertake a single job. As part of this, they are free to determine which one of them works when. The only thing that matters to the employer is that the job taken on as a joint responsibility is completed. The employees concerned are entitled to a joint salary for the same job which must be divided between them in equal proportions unless otherwise agreed (Section 194).

#### **2.2.5. Flexible working time**

The rule of law does not regulate but does not exclude the arrangement of the employer and the employee agreeing on flexible working time, as part of which the employee is only required to attend the place of work during certain core hours determined by the employer (e.g. between 10.00 a.m. and 2.00 p.m. on business days), while the employee may complete the rest of the working time during the fringe hours, at the times of his/her choice, within the operating hours determined by the employer. The employer may also determine the ratio of core and fringe hours in other ways, and it is furthermore possible to transfer a part of the daily eight working hours to different working days of the week, within a certain time frame, or to carry them forward to another week of the month. This solution enables parents raising young children in particular to adjust the start and end of the daily working hours to their family commitments.

### 2.3. Termination of employment

*Termination by the employer.* The new legislation continues to provide protection for expectant women and employees with young children for the event of the termination of their employment by the employer. Based on this, the employer may not terminate the employee's employment:

- during the term of pregnancy,
- during maternity leave,
- during the term of unpaid leave taken for child care purposes and
- during the treatment of women related to human reproduction procedures, as defined by law, but for maximum six months following the commencement thereof (until the child completes the age of three years).

The term of pregnancy and reproduction treatment only represents actual protection if the employee informed the employer of this fact prior to the communication of termination (Section 65). Termination served by the employer during the term of these is unlawful, and if requested by the mother, she must in this case be reinstated into her pre-termination job and workplace on a mandatory basis.

If an employee with a young child (the mother usually) does not take unpaid leave for the purposes of child care and returns to work before the child completes the age of three years, while the employer is not barred from terminating such an employee's employment, the termination of employment in this instance is subject to a number of pre-conditions under the law which need not be taken into consideration in the case of other employees. In other words, the law does not prohibit the termination of employment by the employer but strongly limits the cases thereof. Based on this, the employment of a mother or father raising his child as a single parent may only be terminated by the employer if the employee commits a gross breach or, if employment is terminated for reasons related to the employer's operation or in the absence of employee skills, if the employee does not accept another equivalent or appropriate job previously offered by the employer or there is no such other unfilled position. The employer must prove the absence of such equivalent position [Section 66(6)].

*Beginning and length of notice period.* Based on the general rules, the notice period begins on the day following the communication of termination, regardless of whether notice is served by the employer or the employee. If, however, the employee is absent from work because he/she is ill or is nursing a sick child or close relative, the notice period begins on the day following the cessation of his/her inability to earn a living on the grounds of nursing (Section 68).

*Termination of employment on other grounds.* Other than the case of termination by the employer, the rule of law does not provide benefits of any kind



for mothers, fathers or employees with other family obligations for other events of termination. E.g. the employer is free to terminate the employment of expectant women, mothers with young children or employees raising their children as single parents at any time during the probation period without justification. The rule of law likewise offers no protection to such employees against the termination of their employment with immediate effect due to gross breaches. Employees in this status are further not in a preferential position of any kind in the event of the cessation of the employer without a legal successor.

#### **2.4. Other provisions assisting employees with family commitments**

The law contains other provisions favouring employees with family commitments which may, directly or indirectly, help them to reconcile family life with their work-related obligations. These are, for instance, the provisions which make it easier for employees to fulfil their duties related to their relatives.

*Concept of relative.* The law defines the range of relatives. Based on this, relatives are the spouse, direct-line relatives, the spouse's direct-line relatives (e.g. children, parents and grandparents), adopted, step- and foster-children, adoptive, step- and foster parents, siblings and the common-law spouse [Section 294(1b)].

*Further rights that employees have in relation to their relatives:*

- Employees are entitled to unpaid leave for the long-term personal nursing of relatives for a foreseeable period of more than thirty days, for the duration of such nursing but for maximum two years. The attending physician of the person in need of nursing must verify the need for nursing and its duration (Section 131).
- The notice period only begins after the end of the unpaid leave granted for the home nursing of a relative if the employer lays off the employee during such unpaid leave [Section 68c].
- An employee must be given two days off work in the event of the death of a relative [Section 55(1f)]. The employee is also entitled to his/her salary for this period which the employer must pay.
- In the event of the long-term personal nursing of a relative, the employee may only be employed in a different location or with a different employer, in departure from the employment contract, with his/her consent [Section 53(3)c].
- Another rule designed to assist families stipulates that if an employee sustains a work-related accident or dies as a result of a work-related accident or illness, the relatives are entitled to damages and they may seek these damages directly from the deceased employee's employer (Section 171). In this case, in addition to the expenses incurred in connection with the funeral, the relatives may

demand the payment of damages of an amount that enables them to maintain the living standards that they had before the employee's death.

- The new rule, on the basis of which the employee's relative may make legally binding declarations on behalf of the employee in his/her absence, also without specific authorisation, may help to fulfil certain employment-related obligations [Section 21(1)-(3)].

- It may help families that a new provision, in departure from the law previously in force, permits the employment of individuals with no acting capacity. This provision may improve the financial situation and day-to-day lives of the family members of these individuals as they no longer have the task of assigning home duties to their family members with no acting capacity and are no longer required to fully support these individuals (Section 212).

- The Act on Court Execution (Sections 65-66 of Act LIII of 1994) only permits the direct stoppage of 33% of the employee's salary in the case of an execution order issued for his/her salary. If, however, child maintenance must be deducted from one of the parents' salary, the deduction may reach 50% of the salary. The deduction must be made by the employer, and should the employer fail to make this deduction, the employer itself becomes joint and several surety towards the beneficiary parent.

## **2.5. Provisions preventing the coordination of family life and work**

Certain provisions of the Labour Code, however, do not facilitate but prevent or significantly restrict the coordination of work and family commitments. These are primarily the provisions relating to the scheduling of working time which may cause particular difficulties in the case of parents raising children over the age of three years as the protective provisions only take children into consideration up to this age.

Effective as of 1 July 2012, the law no longer renders Sunday the general mandatory weekly day of rest in the case of employees who are employed outside the general working schedule. In these instances, the law only prescribes one mandatory Sunday a month as a day of rest, while it renders the determination of the schedule of working time the employer's unilateral right in general, a few exceptions apart (Section 96). This new possibility may therefore prevent families from enjoying at least one joint day of rest a week during which the entire family could be together and could all take part in joint programmes.

Another rule that is likewise not conducive to the planning of private life is the one which, in departure from the general rule which requires the employer to notify employees of their weekly schedule minimum seven days in advance,

allows the employer to shorten this period to four days, thereby changing the previously determined schedule of work. The employer may make such changes to the schedule if warranted by unforeseeable circumstances in its management or operation. However, employees do not have scope for disputing the emergence or unforeseeable nature of these circumstances (Section 98). This rule therefore allows the employer's unexpected decision to upset the employee's previously planned and organised private programmes and family duties.

The provisions with an impact on remuneration may negatively affect the family budgets of employees. The new law no longer requires employers on a mandatory basis to pay a wage supplement to employees working in multiple shifts at workplaces with an uninterrupted mode of operation on these grounds. This may reduce the wages of those working in this mode of operation by 5 to 10% in the future.

The new law also allows the employer not to pay wages for any stoppage time (that is, for periods when it is unable to provide work for its employees) if it is caused by insuperable external circumstances beyond its control [Section 146(1)].

The law of Hungary prescribes that the Government fix the minimum wage in a legal rule, after a series of consultations with the relevant social partners. However, effective as of 1 July 2012, the criteria that should be taken into consideration for the fixing of the minimum wage no longer feature the minimum sum that is necessary for sustenance. The legal rule cites, among the factors with an impact on the amount of the minimum wage, the criteria necessary for the fulfilment of the given job, the situation of the national economy and the labour market specificities of the various sectors of the national economy and the individual geographical areas; in other words, fundamentally economic and financial criteria, whilst it fails to make mention of any social consideration. Also with a view to this rule, Hungarian income levels fail to take account of the criteria identified in Article 4 of the European Social Charter with respect to remuneration.

### **3. Statutory background for equal opportunities in the Labour Code and in the separate equal opportunities legislation**

Act XXII of 1992 (old Labour Code) regulates the possibility of the approval of equal opportunities plans for employers that come under the effect of the law. The employer and the trade union with representation at the employer (or in the absence of a trade union, the works council) approve the equal opportunities plan together. The plan may serve to regulate the objectives set to improve the

employment situation of and to provide equal opportunities for disadvantaged employee groups (women, employees over the age of forty, Roma, handicapped individuals and employees raising two or more children under the age of ten years) and to determine the means by which those objectives may be achieved.

The new Labour Code no longer stipulates a statutory obligation with respect to the drafting of equal opportunities plans.

The 1992 law only prescribed the prohibition of discrimination, while the details were regulated in a separate law. The new legislation, too, merely pronounces the general rule and principle of the requirement of equal treatment when it prescribes that the requirement of equal treatment must be observed in the context of employment, with special regard to remuneration. The remedying of any breach in violation of this requirement cannot result in the violation or curtailment of the rights of other employees. The law only regulates the criterion related to the discrimination-free remuneration of work (Section 13), while the rest of the requirements related to equal treatment in employment are regulated in a separate law.

### **3.1. The separate law on equal treatment and equal opportunities (Act CXXV of 2003)**

This act regards as discriminatory and therefore prohibits measures which differentiate between employees with regard to e.g. family status, motherhood (pregnancy) or fatherhood.

According to this law, any direct discrimination, indirect discrimination, harassment, unlawful isolation, retribution or any instruction given to any of the above effect constitutes a violation of the requirement of equal treatment.

A measure qualifies as direct discrimination if, in consequence of such measure, an individual or group is treated less favourably on account of their actual or presumed:

- a)* gender,
- b)* racial affiliation,
- c)* skin colour,
- d)* nationality,
- e)* national affiliation,
- f)* mother tongue,
- g)* disability,
- h)* state of health,
- i)* religious or ideological conviction,
- j)* political or other opinions,

- k) marital status,
- l) motherhood (pregnancy) or fatherhood,
- m) sexual orientation,
- n) gender identity,
- o) age,
- p) social origin,
- q) financial situation,
- r) the part-time nature or fixed term of their employment or any other work-related legal relationship,
- s) affiliation with any interest representation,
- t) any other situation, attributes or characteristics (hereinafter collectively referred to as “attributes”),

than the treatment other individuals or groups in a comparable situation enjoyed or would enjoy.

A measure qualifies as indirect discrimination that does not amount to direct discrimination and seemingly satisfies the requirement of equal treatment if it places the individuals or groups with the attributes referred to in Section 8 at a disadvantage in substantially larger proportions than other individuals or groups in a comparable situation, whether in the past, present or future.

Harassment is an act of a sexual or other nature in violation of human dignity which is related to the attributes defined by law of the individual concerned and the purpose or effect of which is to create an intimidating, hostile, humiliating, degrading or aggressive environment against that individual.

All measures qualify as unlawful isolation which isolate certain individuals or groups of individuals on the basis of their attributes defined by law from other individuals or groups in a comparable situation without this being expressly permitted by law.

A practice qualifies as retribution which causes an injury of a legal nature, is aimed at causing or threatens to cause an injury of a legal nature to an individual who raises an objection, institutes proceedings or participates in proceedings on account of the violation of the requirement of equal treatment on that score.

In addition to the sanctions prescribed by law, the upholding of the requirement of equal treatment is guaranteed by the establishment of a separate authority, the *Equal Treatment Authority*, which investigates any employment-related complaints filed with respect to discrimination. As part of the *institution of proceedings of public interest*, trade unions, too, may proceed directly before the Authority in the interest of the employees concerned. In the context of the investigation of complaints related to discrimination, the law also regulates the reversal of the burden of proof in harmony with the relevant EU directive.

#### **4. Social security legislation**

##### **4.1. Prenatal allowance and childcare allowance: child care fee, sick pay, home care allowance, birth grant and family allowance**

The amount of the allowance is 70% of the daily average wage.

*Child care fee.* Entitlement until the age of two of the child. No other income is allowed.

*Sick pay.* Entitlement: Women who cannot perform their work due to the pregnancy or delivery. Mothers breastfeeding their children under the age of one and under hospital care. Parents taking care of their sick children under the age of twelve.

*Home care allowance.* Parents and grandparents are entitled to this benefit until the age of three of the child. The monthly amount of the allowance equals the minimum old age pension.

*Birth grant.* All women are entitled to this grant after the birth of the child.

*Family allowance.* The amount of family allowance depends on the number of children. In the case of single parents there is an increased amount.

#### **5. Social institutions supporting parents (nurseries, kindergartens, pre-schools, etc.)**

From the point of view of family-work balance, child care institutions have an important role.

Since March 2012, a specific act ensures the protection of children. The provisions of the act are based on the manifold support for families, including the development of a sustainable, family-oriented system ensuring children's rights. The act provides for cash and in kind benefits. Usually child care institutions are operated by local governments.

#### **6. Role of collective agreements in the coordination of family life and work**

##### **6.1. System and legal regulation of collective agreements and social dialogue**

The main scene of the conclusion of collective agreements in Hungary is the workplace. Collective agreements may also be concluded by the social partners that participate in the Sectoral Dialogue Committees in respect of the participating

employers and, regardless of this, collective agreements may also be entered into in respect of multiple employers. At the same time, there is also scope for the extension of collective agreements to entire sectors or sub-sectors.

The Labour Code regulates the scope and conditions of collective agreements concluded at the workplace, while a separate law on Sectoral Dialogue Committees (Act LXXIV of 2009) provides for the terms of collective negotiations and collective agreements covering multiple employers and the scope for the extension of collective agreements to entire sectors (sub-sectors).

Effective as of 1 July 2012, the new Labour Code placed the regulation of collective negotiations at the workplace on entirely new foundations. Trade unions operating at the workplace previously became eligible to enter into a collective agreement if their candidates nominated for the works council elections obtained more than 50% of the votes cast; in the case of a single trade union, the given trade union, too, was required to obtain votes in excess of 50% at the works council elections. In other words, the law tied eligibility for the conclusion of a collective agreement to the works council elections where the majority support of employees provided legitimacy and, in the case of multiple trade unions, the law required them to enter into a coalition. Also in the case of multiple trade unions, it was possible to leave any trade union that disagreed out of the collective negotiations, however, only if the number of votes cast for the remaining trade unions exceeded 50% of the votes cast. A trade union that obtained more than 65% of the votes on its own became eligible to engage in collective negotiations and to enter into a collective agreement on its own in the event of the disagreement of the rest of the trade unions.

The new rules no longer tie the right to engage in collective negotiations to the works council elections. As of 1 July 2012, those trade unions are entitled to negotiate and to enter into an agreement with the employer whose number of members reaches minimum 10% of the employees working for the employer. If there is more than one trade union that reaches this threshold, the law itself prescribes that these trade unions are entitled to engage in negotiations and to conclude an agreement collectively. There is no scope for one of them, for instance, a trade union with a larger number of members, to enter into a collective agreement on its own in the case of disagreement. Consequently, trade unions are under any circumstances required to come to an agreement on their demands vis-à-vis the employer. If there is only a single „10 %” trade union at the employer, this single trade union will become entitled to engage in collective negotiations and to enter into a collective agreement. The law does not allow trade unions whose individual membership is below 10% but whose combined membership exceeds the 10% limit to enter into a coalition and to thereby enter into a collective agreement (Section 276).

Neither the employer, nor the eligible trade union is allowed to refuse an offer for engagement in collective negotiations [Section 276(4)]. However, also in this event, it is naturally not compulsory to conclude a collective agreement as the conclusion of an agreement is up to the free will of the parties.

The new law does not make it compulsory for the employer, as the former Labour Code did, to disclose the most important data necessary for the wage negotiations with the trade unions every year in advance. It is now a mere possibility for trade unions to request such information, and the law does not prescribe a time limit for the employer's reply. The new rules also allow the employer not to supply any data if the request for data may result in the disclosure to the public of any data, fact, information or solution which may jeopardise the employer's lawful business interests or operation. The law previously in force did not offer this option; it merely prescribed an obligation of confidentiality for the individuals and organisations that were necessarily made aware of such data (Section 234).

Only one collective agreement may be concluded with a single employer; however, one and the same employer may be governed by more than one collective agreement, for instance, if a collective agreement is also reached in the given sector or sub-sector. In this case, the collective agreement reached at the lower level may only depart from the agreement concluded at the higher level in favour of the employees [Section 277(4)]. A collective agreement concluded with the employer is applicable to all individuals in employment with the employer, regardless of whether they are members of the trade union concluding the agreement or not.

If there is no trade union eligible to conclude a collective agreement ("10% trade union") at the employer, the new law allows the works council to conclude an agreement with the employer on issues that may be regulated in the collective agreement, not including the issue of remuneration (Section 268). The works council has the right to enter into an agreement even if there is a trade union or there are trade unions represented at the employer but their individual membership does not reach minimum 10% of the number of employees.

The new law also abolished the "welfare principle" that was regulated in the code previously in force; in other words, the principle that the collective agreement may only depart from the statutory rules in favour of the employees. As of 1 July 2012, the collective agreement may also depart from the statutory rules to the detriment of the workers, except as regulated by law.

The rules of collective negotiations and agreements *on a sectoral level* are regulated in Act LXXIV of 2009 on Sector-Level Dialogue. This law regulates the institution of sector-level dialogue, the Sectoral Dialogue Committees (SDC) and the establishment, operation, rights and termination of these committees. Only



trade union and employer organisations and alliances satisfying the criteria of representativeness as defined by law may become the members of the committee. Compliance with the relevant criteria is monitored by an independent committee established specifically for this purpose. The law regulates the procedural rules of sector-level collective negotiations and the conditions of the conclusion of collective agreements and their extension to entire sectors. Based on this, SDCs

*a)* may conclude agreements and

*b)* may engage in collective agreements in the interest of the conclusion of a collective agreement

in accordance with the rules determined in the Labour Code and this law. Only one collective agreement may be concluded in a single SDC for a single sector of the national economy or a single sector or sub-sector.

The totality of the interest representations participating in each side of the SDC are collectively entitled to enter into a collective agreement in the SDC.

If a collective agreement cannot be reached in the absence of agreement on the part of the members of a given side of the dialogue, it is concluded by the representative interest representations with decision-making powers of the given side collectively. Unless agreed otherwise, the collective agreement enters into force on the first day of the month following the expiry of a period of fifteen days after the conclusion of the agreement. Employer interest representations have the obligation to promote the disclosure of the collective agreement to the employees employed by their members.

The effect of a collective agreement concluded in an SDC extends to the members of the employer interest representation concluding the agreement and the employees engaged in employment with them.

A collective agreement concluded in an SDC will extend to employers forming part of an employer interest representation that joins the SDC subsequently and to the employees engaged in employment with them if the employer interest representation joining the SDC after the conclusion of the collective agreement issues a declaration that it also joins the collective agreement concluded in the SDC and further

*a)* the trade union or trade unions eligible to enter into a collective agreement which operates or operate at the employer as a member of the given employer interest representation agrees or agree with accession to the collective agreement on a preliminary basis, or

*b)* in the absence of the trade unions referred to in paragraph *a)*, the employees vote for accession to the collective agreement. The vote is valid if it is attended by more than one half of the employees in employment with the employer. The yes votes of more than one half of the attendees at the vote are required for accession.

If multiple sector-specific trade unions entered into the collective agreement in the SDC and any one of them terminates the agreement, the collective agreement ceases to have effect if it had not been possible to enter into the collective agreement without the given trade union's participation. Based on this provision, a trade union with representation at an employer that is a member of an employer interest representation that joined the collective agreement subsequently does not have the right to terminate the agreement. In the event of termination, the collective agreement ceases to have effect upon the expiry of a six-month notice period.

If multiple employer interest representations concluded the collective agreement in the SDC and any one of them, including an employer interest representation that joined the collective agreement subsequently, terminates the agreement, with regard to Sections 280 and 283 of the Labour Code, it will only cease to have effect in respect of the employers that form part of the employer interest representation that terminated the agreement.

*Extension of effect of collective agreement.* Based on the joint application of the two sides to an SDC and in consultation with the national employer and employee interest representations, the representatives of national interest representation confederations and the competent minister in charge of the specific sector, as set forth in Act XCIII of 2011 on the National Economic and Social Council, the minister may extend the effect of a collective agreement concluded in an SDC in respect of the rights and obligations arising from employment, the method of the exercise and fulfilment of these and the related procedural rules to the employers classified into the given sector on the basis of their principal activities. A condition of such extension is that the employers that are the members of the signatory employer interest representations collectively employ the majority of those working in the sector and, if the collective agreement was not reached in the SDC, that at least one of the signatory sector-specific trade unions should be a representation that qualifies as representative.

The effect of the collective agreement cannot be extended if the collective agreement is contrary to a rule of law and/or contains provisions less favourable for the employees than the collective agreement with a wider personal scope that was previously extended in the sector unless the collective agreement with a wider personal scope expressly permits such departure. For the purposes of this provision, a collective agreement concluded within the sector at a superior SDC qualifies as a collective agreement with a wider personal scope.

The extension of the agreement ceases to have effect if

a) a court of law annuls the decision on such extension due to an infringement, or

b) the minister revokes such extension through the due application of the relevant rules.

The minister provides for the publication of the decision on the extension of an agreement, the decision on the revocation of such extension and the text of the collective agreement with an extended scope in *Magyar Közlöny* (Hungarian Gazette). The decision enters into force upon the expiry of a period of 30 days reckoned from the date of publication.

*National social dialogue.* Until 11 October 2011, the National Council for the Reconciliation of Interests represented the institution in the business sector for nation-wide trilateral social dialogue between social partners operating at a national level and the Government. This institution has been replaced by a multilateral consultation forum, the National Economic and Social Council (NESC). The Government does not take part in this council directly as a consulting member.

*Purpose of establishment of Council, principles of operation.* The Council has been set up for debating comprehensive issues concerning the growth of the economy and society and national strategies that span multiple governmental cycles as well as for promoting a harmonious and balanced economic growth and the identification and implementation of social models that serve this objective. It is a consulting and advisory board that is independent of Parliament and the Government, operating as the most comprehensive, multilateral consulting forum for a social dialogue between employer and employee interest representations, economic chambers, civil organisations active in the area of Hungarian communities, the representatives of science in Hungary and beyond the borders and the churches identified in a separate law.

*Members of the Council:*

- a) employer and employee interest representations and interest representation alliances,
- b) national economic chambers,
- c) civil organisations active in the field of Hungarian communities,
- d) churches
- e) representatives of science in Hungary and beyond the borders.

The Council seeks to achieve the widest possible national consensus and takes account of the consultation practices that have evolved in the European Union in the course of its operation.

*Tasks of the Council:* As part of its consulting, reviewing and advisory responsibilities, the Council

- a) keeps track of and analyses the country's social and economic development,

*b)* identifies proposals for Parliament and the Government for the resolution of complex macro-economic and social problems,

*c)* debates the Government's employment policy, labour market and income distribution strategies and concepts with an impact on wider strata of society and fundamental issues related to the economy, employment, the development of incomes and social policy,

*d)* reviews contemplated governmental measures with a direct impact on businesses, employment and wider groups of society,

*e)* takes part in the exploration of the impacts of legal rules and other governmental decisions and informs the Government of its findings,

*f)* conducts consultations on strategic issues related to the European Union,

*g)* discusses all issues concerning the national economy and social policy.

The new Labour Code also identifies the consultations related to the fixing of the minimum wage as one of the tasks of the Council. At the same time, contrary to the old Labour Code, social partners no longer have specific consulting rights with respect to the minimum wage and the determination of the annual wage increase (Section 153 of the Labour Code).

There are separate interest reconciliation forums in the public sector.

## **6.2. Role of collective agreements in the protection of expectant mothers, mothers with young children, fathers and employees with family commitments**

The provisions of collective agreements were last analysed on a national scale in 2008 on the basis of the collective agreements filed with the ministry responsible for employment. It may be concluded on the basis of this study that, in general, these agreements did not contain specific rules with respect to the reconciliation of work and family life. It may be stated in general that the employer-level collective agreements contain provisions protecting parents, mothers and fathers as part of the regulation of the following issues:

- selection criteria for collective redundancies (in particular, if more than one family member works for the same employer; in this case, the goal is to ensure that the contemplated redundancy plan should not affect all family members),

- rules regarding the use of social facilities and the allocation of social expenditures (the operation of employer-owned holiday homes, crèche or kindergarten facilities is very rare),

- drafting and implementation of equal opportunities plan (in particular, at large companies),

- training, re-training and vocational aid (primarily in connection with collective redundancies),
- extra leave and reductions in working time,
- flexible working time,
- atypical employment options.

The number of child care facilities (crèches, kindergartens, day-care centres, day-care facilities for pupils) is very low and these fall short of satisfying the existing demand. The number of state-operated institutions and institutions subsidised from the central budget and the number of places available in these institutions are particularly low. At the same time, there are few facilities operated as private businesses and these are very expensive.

## **7. Conclusion**

The new Labour Code has introduced a number of provisions for the protection of workers with young children and the improved coordination of family life and work that are more favourable than those that were in force before. However, there are still a large number of unresolved problems. The greatest deficiency continues to remain that, in the case of children over the age of three years, there are no measures or provisions, other than the few days of extra leave a year, that take account of the family status in the course of the performance of work, the establishment of employment and, in particular, upon the termination of employment. There are no provisions designed to help mothers returning to work from maternity and child care leave (when the child completes the age of three years).

The low sum of social benefits paid for the duration of unpaid leave taken for the early care of children likewise fails to encourage young people to have children whilst in employment.

The available crèche and kindergarten capacity operated by the State and local governments falls short of the actual demand for these services, and this circumstance, too, is an obstacle to having children whilst in employment.

It would be particularly important to ratify the European and international rules and conventions designed to coordinate family life and work from a legal point of view.



Part IV  
FINAL LITERATURE REVIEW





## CHAPTER VII

# EUROPEAN FRAMEWORK

*Summary:* 1. Introduction. – 2. Understanding work-life balance: major issues. – 2.1. Gender equality. – 2.2. Work-life balance for parents. – 2.3. Quality of work and working conditions. – 3. Costs and benefits of work-life balance. – 4. Structural and Institutional Settings (policies). – 5. Conclusions: relevance for the LIBRA Project.

### **1. Introduction**

Work-life balance is the term used in literature to refer to policies that strive to achieve more compatibility and a better balance between work and home responsibilities. These policies apply to all workers, not just working parents, and their presence or absence in an organisation may have an effect on people, particularly in judging their own ability to combine both work and family life. Today the term work-life balance is commonly used as a general expression to describe policies that were previously termed ‘family-friendly’, but have now extended beyond the sphere of the family. Work-life balance refers to the flexible working arrangements that allow both parents and non-parents to benefit from working arrangements that provide a balance between work responsibilities and personal responsibilities. The term ‘work-life balance’ is preferable due to the fact that it encompasses the experiences and needs of parents and non-parents alike, and represents a more progressive theoretical framework in which to consider new ways of living and working that are satisfactory for everyone.

The issue of work-life balance is clearly interrelated and affects most workers at some point in their lives. This issue is particularly relevant for those facing changes in their lives, because this may, depending on individual circumstances, influence the decision-making process in terms of the options, support or constraints facing the individual. It also represents a topical policy issue and in the last decade has attracted public interest and debate involving government departments, employers, trade unions, employees, parents, childcare specialists and providers, among others. All the issues discussed and analysed are included in the literature review. Outlining and analysing literature regarding this theme provides a good grounding for further policy initiatives in these areas. It also highlights gaps in the literature, thus leading to the formulation of further research

questions that must be addressed, particularly in a national and European context. In addition, it is the aim of this review to highlight issues within the work-life balance theme that may have and have an impact on the context.

Everything above mentioned has to be considered within the economic downturn which hit Europe since 2008. As a consequence, in 2010 and in the aftermath, governments and social partners created new initiatives to deal with the crisis, such as austerity measures, cutting of social welfare and programmes. Therefore, the economic downturn has impacted notably on the labour market in most European countries, resulting in growing unemployment rates, an increase in atypical forms of employment and a decrease in the quality of work.

There have been several major European studies, surveys and institutional documents regarding work-life balance in recent years, including through the European Women Lobby, the European Trade Union Confederation (ETUC), the framework agreements signed by BUSINESSEUROPE, UEAPME, CEEP and CES and several publications and specific initiatives (BusinessEurope, ETUC, CEEP, UEAPME, *Revised Framework Agreement on Parental Leave*, ETUC Conference, Implementing the revised Parental Leave Framework Agreement: meeting the challenges, Brussels, 16-17 February 2011; BUSINESSEUROPE, UEAPME, CEEP, ETUC, *Framework Agreement on Parental Leave*, Revised, 18 June 2009).

The purpose of this document is to record key findings from the literature that will have a bearing on the evaluation, development, and promotion of work-life balance initiatives, bargaining and national application. We are particularly interested in the potential for policy learning, notably in the context of EU policy recommendations.

There are numerous issues related to this theme, so we considered a selection of them, including:

- Gender equality
  - Wage Gap
- Work-life balance for parents
  - Maternity and paternity leave (parental leave)
  - Childcare services
- Quality of work and Working conditions
  - Working time
  - Family friendly workplace and arrangements
  - Job flexibility and flexicurity
- Structural and Institutional settings (policies)
- Costs and benefits of work-life balance

The following analysis will examine findings linked to these issues.

## 2. Understanding work-life balance: major issues

Work-life balance is all about striking the right balance between what we can achieve in our work and our social lives. Effective work-life balance policies and practices benefit individuals, families, employers and society; supporting the combination of working, family and private lives.

Work, indeed, is a part of ‘life’; there are many social aspects to ‘work’. This is also the reason why the idea of ‘balance’ is not simply one of time – making sure that we spend ‘balanced’ time between ‘work’ and ‘life’. Effective work-life balance is often thought to be related more to ‘how we feel when we have ‘control’ over things we do in our work and social lives.

The theme has come to the forefront of policy discourse in the European Union and Member States in recent years, in response to globalization, technological and demographic changes, ageing populations and labour market developments. From as far back as the 1960s, studies have proliferated concerning the link between work and family, with new concepts emerging such as work-family stress, work-family compensation, etc, until the 90s when “work-life balance” became more widespread, and linked to terms of work-personal integration, work-personal life harmonization, etc. (A. Gregory, S. Milner, *Work-life balance: A matter of choice?*, *Work and Organization*, Editorial Gender, January 2009, vol.16 No.1; N. Fitzpatrick, *Work Life Balance: The Challenges*, in *Equality News*, Spring 2005, 22-26; O. Kontula, I. Söderling, *Demographic Change and Family Policy Regimes*, in C. Höhn et al. (eds.), *People, Population Change and Policies: Vol. 2: Demographic Knowledge – Gender – Ageing*, Springer 2008; J. Lewis, *Work Family Balance, Gender and Policy*, Edward Elgar Publishing Ltd, 2009, 1-241; R. Crompton, M. Brockmann, *Class, gender and work-life articulation*, in D. Perrons, C. Fagan, L. McDowell, K. Ray, and K. Ward (eds.), *Gender Divisions and Working Time in the New Economy. Changing Patterns of Work, Care and Public Policy in Europe and North America*, Cheltenham: Edward Elgar, 2007,103-122; S. Lewis, C. Cooper, *Work-life Integration. Case Studies of Organisational Change*, Chichester, Wiley, 2005).

In this sense, the *Second European Quality of Life Survey (EQLS)* (Eurofound, *Comparative analysis of working time in the European Union*, April 2010) explores the subject of family life and work across Europe, looking at ways to find a better balance between work demands and family responsibilities. Pressures to increase flexibility in employment status (fewer long-term and full-time jobs), working hours (non-standard hours, more intense work) and mobility, as well as a rising uncertainty in jobs and professional careers, affect women in particular and generate tensions between work and family life (also Bielinski, 1999; A. Gourdsward, M. Nanteuil, *Flexibility and Working Conditions: A*

*Qualitative and Comparative Study in Seven EU Member States* in *European Foundation for the Improvement of Living and Working Conditions*, Dublin, 2000; J. Bird, *Work-life balance. Doing it right and avoiding the pitfalls*, Preprint of an article accepted for publication in *Employment Relations Today*, autumn 2006, vol. 33, no. 3; EPSU, *Collective Bargaining Conference*, Implementing the 2009 Congress resolution on collective bargaining and social dialogue, 2009; C. Fagan, J. Rubery, D. Grimshaw, M. Smith, G. Hebson, H. Figueiredo, *Gender mainstreaming in the enlarged European Union – recent developments in the European Employment Strategy and Social Inclusion Process. Industrial Relations Journal*, 36(6): 568-591, 2005; J. Lewis, *Work Family Balance, Gender and Policy*, cit.; ILO, *Equality at work: The continuing challenge*, International Labour Conference 100th Session, 2011; L. Peacock, *Flexible working arrangements under threat as BP scraps nine-day fortnight*, *Personnel Today* Monday, 20 august, 2008; J. Plantenga, C. Remery, *EU Expert Group on Gender and Employment, Flexible working time arrangements and gender equality: A comparative review of 30 European countries*, Publications Office of the European Union, Luxembourg, 2010).

Issues of work-life balance are often the core of employment policies across Europe because of its benefits to companies and their employees. For example, work-life balance can help to improve organisational output and productivity and to reduce employee dissatisfaction and disengagement. Despite these well-documented benefits, the adoption of work-life balance practices across Europe is patchy and often confusing. This is largely because of a profusion of different legal, financial, social and cultural situations (J. Bird, *Work-life balance. Doing it right and avoiding the pitfalls*, Preprint of an article accepted for publication in *Employment Relations Today*, cit.; P. Callan, *Business Benefits to Diversity Management*, in *Equality News*, The Equality Authority, Dublin, summer 2005, 30-32; C. Fagan, J. Rubery, D. Grimshaw, M. Smith, G. Hebson, H. Figueiredo, *Gender mainstreaming in the enlarged European Union – recent developments in the European Employment Strategy and Social Inclusion Process. Industrial Relations Journal*, cit.; McKinsey and Company, *Women Matter: Gender Diversity, a corporate performance driver*, France, 2007; J. Lewis, *Work Family Balance, Gender and Policy*, cit.).

Facing the issue of work-life balance, today, means also considering the economic downturn which started to hit Europe in 2008. In response to this situation, in 2010, governments and social partners at national and European level created new initiatives to deal with the crisis, such as austerity measures, cuts in social welfare and programmes. Therefore, this economic downturn has had a notable impact on the labour market in most European countries, resulting in growing unemployment rates, increasing in atypical forms of employment and a

decrease in the of quality of work (Eurofound, *Industrial relations and working conditions developments in Europe 2010*, Annual Report, 16 November 2011; Commission of the European Communities, *Employment Situation and Social Outlook*, Monthly Monitor, January 2011; A. Dye, *Pourquoi la crise affecte-t-elle les femmes en particulier ?*, 17 February 2009, [www.cadtm.org](http://www.cadtm.org); EHRC, *Women and the Economic Downturn*, Manchester: Equality and Human Rights Commission Mimeo, 2009; C. Rake, *Are women bearing the burden of the recession?*, A Fawcett Society Report, London, March 2009; S. Seguino, *The Global Economic Crisis, Its Gender Implications and Policy Responses*, Paper prepared for the Gender Perspectives on the Financial Crisis Panel, 53rd Session of the Commission on the Status of Women, United Nations, 5 March 2009; M. Smith, *Analysis Note: Gender Equality and Recession*, EGGE, European Commission's Network of Experts on Employment and Gender Equality issues, Fondazione Giacomo Brodolini, 2009; M. Smith, F. Bettio, *Analysis Note: the Economic Case for Gender Equality*, EGGE, European Commission's Network of Experts on Employment and Gender Equality issues, Fondazione Giacomo Brodolini, 2008).

## 2.1. Gender equality

Equality is one of five values on which the Union is founded. The union is bound to strive for equality between women and men in all its activities (Art. 2 and 3 TEU, Art. 3 TFEU).

As the European Commission states in the *Report on the progress on equality between women and men in 2010* (European Commission, *Report on equality between women and men 2010*, Office for Official Publications of the European Communities, SEC(2011)193 final, Luxembourg, 2011), gender equality is a fundamental right guaranteed by Article 23 of the Charter of Fundamental Rights of the European Union. In addition, Article 8 of the Treaty on the Functioning of the European Union states: 'In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women'. The Roadmap for equality between women and men 2006-2010 (European Commission, *A Roadmap for equality between women and men 2006-2010*, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, [COM(2006) 92 final], 2006) already affirmed this principle, outlining six priority areas with key objectives and actions including the reconciliation of private and professional life through the modernisation of existing EU gender equality legislation. The Commission has reaffirmed its commitment to gender equality by adopting the

European Commission, *A Strengthened Commitment to Equality between Women and Men A Women's Charter Declaration by the European Commission on the occasion of the 2010 International Women's Day*, 5 March 2010, COM(2010)78 final and adopting a Strategy for Equality between Women and Men (European Commission, *Strategy for equality between women and men 2010-2015*, Communication of the European Commission, COM(2010) 491 final, 21 September 2010).

In this direction, achieving gender equality is also vital for EU growth, and employment and social cohesion objectives. The target of the Europe 2020 Strategy – the EU key document for smart, sustainable and inclusive growth which is a follow-up of the Lisbon Strategy of 2000 – is to raise the employment rate for women and men aged 20-64 to 75 % by 2020 (European Commission DG Justice, *Achieving the Europe 2020 employment target*, September 2011).

With the employment rate for women currently at 62.5 %, female employment levels must increase both quantitatively and qualitatively.

Moreover, the European Institute for Gender Equality (EIGE) was launched in June 2010 to help further the EU's efforts to combat discrimination. The function of the new institute is to act as a 'knowledge centre' and networking body, which provides professional support to the European Commission and Member States. The EIGE will collect and disseminate information, data and good practices concerning gender equality generated at EU, national and local level. According to this, the 2010-2015 Strategy highlights the contribution of gender equality to economic growth and sustainable development through the following priorities: equal economic independence for women and men; equal pay for work of equal value; equality in decision-making; promoting gender equality beyond the EU; gender roles, legislation and governance tools (on the issue, (European Commission, *A Roadmap for equality between women and men 2006-2010*, cit.); Eurobarometer, *Gender equality in the EU in 2009*, February 2010; I. E. Kotowska, A. Matysiak, M. Styrac, A. Pailhé, A. Solaz, D. Vignoli, *Second European Quality of Life Survey: Family life and work*, Eurofound, March 2010; European Commission, *Strategy for equality between women and men 2010-2015*, cit.; Council of the European Union, *Council conclusions on the European Pact for gender equality for the period 2011-2020*, March 2011; European Commission, *Europe 2020: a strategy for smart, sustainable and inclusive growth*, March 2011; BusinessEurope, UEAPME, CEEP and ETUC, including representatives of the EUROCADRES/CEC Liaison Committee, *Framework of actions on gender equality*, 1 March 2005; European Parliament, *Resolution on equality between women and men in the European Union 2010*, 8 March 2011; European Commission, *Report on the progress on equality between women and men in 2010*, 15 February 2011).

*Wage gap*

One of the five priorities of the *Strategy for equality between women and men 2010-2015* (European Commission, *Strategy for Equality between Women and Men 2010-2015*, [SEC (2010) 1080 final], Background document accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2010)491, 2010) regards equal pay for equal work. Key actions foreseen include the commitment of the EC together with the European social partners to “explore possible ways to improve the transparency of pay” and “support equal pay initiatives at the workplace”.

This issue is, therefore, at the centre of European interest. In fact, the Roadmap ((European Commission, *A Roadmap for equality between women and men 2006-2010*, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, [COM(2006) 92 final], 2006), the Communication of the European Commission *Tackling the pay gap between men and women* (European Commission, *Tackling the pay gap between men and women*, COM (2007) 424 final, Brussels, July 2007), the European Parliament Resolution of 18 November 2008 with recommendations to the Commission on the application of the principle of equal pay for men and women (2008/2012(INI)); European Commission, *A Strengthened Commitment to Equality between Women and Men A Women’s Charter Declaration by the European Commission on the occasion of the 2010 International Women’s Day*, cit., and the Council Conclusion on the Strategy 2010-2015 (European Commission, *Actions to implement the strategy for equality between women and men 2010-2015*. [SEC (2010) 1079/2], accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions [COM(2010)491], 2010) state the importance of equal pay for improvement and better growth (see also the accompanying documents to the Strategy 2010-2015 SEC[2010] 1079 and SEC[2010]1080).

In the same direction, Council of the European Union, *Council conclusions on the European Pact for gender equality for the period 2011-2020*, 7 March 2011; Council of the European Union, *Council conclusions on the European Pact for gender equality for the period 2011-2020*, cit.), reaffirms the commitment of the Council to “close the gender gaps in employment and social protection, including the gender pay gap”. The Council urges action at Member State and Union level in this field to promote women’s employment in all age brackets and to close gender gaps in employment and to ensure equal pay for equal work and work of equal value (see also *BusinessEurope*, *Ueapme*, *Ceep* and *Etuc*,

including representatives of the Eurocadres/Cec Liaison Committee, *Framework of actions on gender equality*, cit.).

The current situation in European countries shows that significant progress has been made in recent decades in advancing gender equality. National policies and legislative frameworks have improved, but major challenges remain. Women continue to suffer discrimination in terms of available jobs, remuneration levels, benefits and working conditions, and access to decision-making positions. Recent data show that 829 million women live in poverty worldwide, while the equivalent figure for men is 522 million. Women's wages are on average 70-90 per cent of men's. The gender pay gap still exists despite advances in education, and women continue to be over-represented in low-income jobs. A significant proportion of this pay gap is due to occupational and sectoral segregation (see European Commission DG Justice, *Tackling the pay gap between men and women*, Publications Office of the European Union, Luxembourg, 2011; ILO, *Equality at work: The continuing challenge*, cit.; A. Ponzellini, C. Aumayr, F. Wolf, *Addressing the gender pay gap: Government and social partner actions*, Eurofound, March 2010; Eurobarometer, *Gender equality in the EU in 2009*, cit.; European Commission, *Information campaign in all EU countries about the gender pay gap*, launched on 3 March 2009, <http://ec.europa.eu/equalpay>; European Commission DG Justice, *Responding to unequal pay*, Background note to Conference "Equality between women and men", Fondazione Brodolini, September 2011, 19-20; European Commission, *The gender pay gap – Origins and policy responses. A comparative review of 30 European countries*, Office for Official Publications of the European Communities, Luxembourg, February 2007).

As mentioned above, many national governments and the social partners have adopted a wide range of measures to close the gender pay gap. Some examples of these can be seen in Austria, Norway, Belgium and the UK. Collective agreements are one of the most important tools to have been adopted to reduce the gender pay gap across Europe. For example, in Finland, the Government's Equal Pay Programme has led to the introduction of comprehensive income policy agreements that have resulted in an equality allowance in order to implement equal pay. The most recent collective agreements provide a 0.2 % equality allowance to favour low-wage, female-dominated workplaces. In France, the 2006 Act on Equal Pay between Women and Men introduces compulsory collective bargaining on gender equality and requires companies to report on salaries and plans to close the gender pay gap (concerning situations at national level, see European Commission, *Report on equality between women and men 2010*, cit.; European Commission DG Justice, *Responding to unequal pay*, cit.; Eurostat, *The life of women and men in Europe*, Luxembourg, Office for Official Publications of



the European Communities, March 2008; Eurostat, *Women and men in the EU*, cit.).

However, there are major obstacles that hinder the reduction of the gender pay gap, including traditions and gender stereotypes, on the one hand, and the economic downturn on the other. Due to the economic and financial crisis, unemployment rates have risen sharply throughout Europe. Women indirectly become the ‘losers’ of any economic crisis given that governments tend to undertake measures to alleviate public debt through reductions in public finances, social policy and social protection systems. Moreover, governments may tend to view gender equality as less of a priority. As a result, women may stand to be profoundly disadvantaged by the recession and national responses to the crisis (see Eurostat, *Women and men in the EU*, cit.; European Commission DG Justice, *Responding to unequal pay*, Background note to Conference “*Equality between women and men*”, cit.; European Commission DG Justice, *Tackling the pay gap between men and women*, cit.; ILO, *Equality at work: The continuing challenge*, cit.).

## 2.2. Work-life balance for parents

Maternity and childcare issues are contained in current legislation and workplace policies. It can be seen from literature that while much effort has been made to research policy concerning matters such as maternity needs, childcare needs, and early education for infants, there is a disjunction between policy and practice in the workplace (see F. Bettio, J. Plantenga, *Care Regimes and the European Employment Rate*, in L. Costabile (ed.), *Institutions for Social Well Being, Alternative for Europe*, Palgrave Macmillan, London, 2007; C. Bizzarro, P. De Vita, *La prospettiva internazionale sulle misure di sostegno all’infanzia*, in *Bollettino Adapt*, 15 March 2010, n. 9, 1-2; Chartered Institute of Personnel and Development, *A parent’s right to ask: A review of flexible working arrangements*. CIPD, London, 2003; E. Drew, R. Emerek, E. Mahon (eds.), *Women, Work and the Family in Europe*, Routledge, London, 1998; EGGE, *The provision of childcare services. A comparative review of 30 European countries*, European Commission’s Expert Group on Gender and Employment Issues, March 2009; European Commission DG Justice, *Gender equality in caring responsibilities over the lifecycle*, September 2011; European Commission, *Report from the Commission on the implementation of the Barcelona objectives concerning childcare facilities for pre-school-age children*, COM(2008) 638 final, 2008; M. Fine-Davis, *Work Life Balance of Working Parents: Four Country Comparative Study*, in *Equality News*, Spring 2005, 12-15; M. Fine-Davis, J. Fagnani, D.

Gioviannini, L. Hojgaard, H. Clarke, *Fathers and Mothers: Dilemmas of Work-Life Balance. A Comparative Study of Four European Countries*, Kluwer Academic Publications, Dordrecht, 2004; J. Plantenga, R. Remery, *The provision of childcare services: a comparative review of thirty European countries Co-ordinators synthesis report prepared for the Equality Unit*, European Commission, 2008; Council of the European Union, Council Conclusions on *Review of the implementation of the Beijing Platform for Action – Women and the Economy: Reconciliation of work and family life as a precondition for equal participation in the labour market*, December 2011).

Many working parents are experiencing increasing levels of stress due to two main factors: the lack of work-life balance arrangements in the workplace and the lack of affordable childcare in all forms of childcare centres. Almost all parents are experiencing problems in terms of accessing adequate, affordable, local childcare that meets their needs and those of their children (see European Commission, DG Employment, Social Affairs and Equal Opportunities, *Deficiencies in the Supply of Family Friendly Service*, Research note, June 2007; O. Kontula, I. Söderling, *Demographic Change and Family Policy Regimes*”, cit.; I.E. Kotowska, A. Matysiak, M. Styrac, A. Pailhé, A. Solaz, D. Vignoli, *Second European Quality of Life Survey: Family life and work*, cit.; ; ILO, *Equality at work: The continuing challenge*, cit.; APQ-CISL, Eurocadres, ESZT, UGT-Fes, Unonen, ZSSS, *The Gender Floor Model. Gender Floor a transnational path toward reconciliation for managerial women*, European Publication of a project financed by the European Commission, 2008).

Discrimination related to pregnancy and maternity is still common. The access of women to certain jobs can be restricted on the basis of their reproductive role. Several equality bodies worldwide have even witnessed increased discrimination against women on the grounds of maternity. Specific cases regard dismissals for pregnancy and nursing, failure to grant time for nursing, withholding of pre- and postnatal benefits, denial of promotion, and refusal to allow workers to return to posts occupied before maternity leave (see I. E. Kotowska, A. Matysiak, M. Styrac, A. Pailhé, A. Solaz, D. Vignoli, *Second European Quality of Life Survey: Family life and work*, cit.; ILO, *Equality at work: The continuing challenge*, cit.; Fondazione Brodolini, *Gender equality in caring responsibilities over the lifecycle*, Background note to Conference “Equality between women and men”, European Commission DG Justice, September 2011, 19-20).

The *Europe 2020* establishes two important goals for the EU in the horizon 2020 regarding the equal sharing of caring activities: to achieve an adult (20-64) female and male employment rate of 75%; and to reduce the share of population living under the poverty line by 25%. From the ensuing *10 integrated guidelines*,

the so-called employment guidelines (GLs 7 to 10) are also relevant in this context, and all of them are the basis on which Member States have drawn up their *National Reform Programmes* setting out a detailed plan of the actions they will undertake following the new strategy (see European Commission, *Europe 2020: a strategy for smart, sustainable and inclusive growth*, cit.; European Commission, *Country-specific recommendations for delivering on growth and jobs*, Adoption of 27 sets of country-specific recommendations, June 2011).

*Maternity and paternity leave (parental leave)*

In recent years, new legal provisions have been introduced to protect women against dismissal and discrimination due to pregnancy, marital status, family responsibilities or maternity leave. Many countries provide women with paid leave if they have a miscarriage or stillbirth or suffer from some other abnormal condition. There are also increasing provisions for paternity leave. However, groups such as part-time workers or those in export processing zones may not be able to benefit from such improvements. The lack of adequate paid leave can also render sectors of the labour market inaccessible or unattractive for workers with family responsibilities (see ILO, *Equality at work: The continuing challenge*, cit.; Eurofound, *Industrial relations and working conditions developments in Europe 2010*, cit.; A. Ponzellini, C. Aumayr, F. Wolf, *Addressing the gender pay gap: Government and social partner actions*, cit.; Eurobarometer, *Gender equality in the EU in 2009*, cit.; Fondazione Brodolini, *Gender equality in caring responsibilities over the lifecycle*, cit.).

The European Union has also influenced legislation concerning maternity and childcare through its directives, most particularly through the Maternity Directive and the Council Recommendation on Childcare, both of 1992, the Communication “*Citizen’s Summary – Better maternity leave provisions designed to promote reconciliation of family and working life*” (European Commission, *Citizen’s Summary – Better maternity leave provisions designed to promote reconciliation of family and working life*, Communication from the European Commission, 2009), the Parental Leave Directive (2010) and one on self-employed workers (2010).

Under the new Parental Leave Directive (2010/18/EU), parents have the right to longer parental leave. The revised Directive gives each working parent the right to at least four months leave after the birth or adoption of a child (up from three months before). At least one of the four months cannot be transferred to the other parent – meaning it will be lost if not taken. Furthermore, the Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity will guarantee a maternity allowance of at least 14 weeks, which will enable women to interrupt

their professional activities, if they so wish. The social protection for assisting spouses and life partners has also been considerably improved. They will have the right to social security (such as pensions) if the Member State offers such protection to self-employed workers.

The European Social Dialogue is also involved in this issue. In fact, the European Trade Union Confederation (ETUC), BusinessEurope, the European Association of Craft, Small and Medium-sized Enterprises (UEAPME) and the European Centre of Employers and Enterprises providing Public services (CEEP) have made a commitment to enhancing gender equality in the labour market and workplace through the *Framework agreement on Parental Leave*. The 1995 Framework agreement on parental leave marked an important turning point in European Social Dialogue because it was the first agreement reached between the EU-level social partners under the Maastricht social policy procedure. Consequently, it was also the first agreement that was backed by a Council Directive, Framework agreement on parental leave (Council Directive 96/34/EC). To better achieve the goals foreseen in the agreement, in 2009 and 2011, the EU-level social partners decided to revise existing provisions and introduce new ones. This included inter alia ensuring higher take up of parental leave by fathers and taking into account the growing diversity of the labour force and societal developments, including the increasing diversity of family structures (see also ETUC, *ETUC's Position on the revision of the Pregnant workers Directive*, January 2009).

Regarding the initial 1995 framework agreement which was incorporated into Directive 96/34/EC, this revised version was also included in the annex of the Directive 2010/18/EU (Council of the European Union, *Council Directive implementing the revised Framework Agreement on parental leave* concluded by BUSINESSSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC, [2010/18/EU], 8 March 2010).

Contributions to the theme have come from the European Women's Lobby (EWL) – the largest umbrella organisation of women's associations in the European Union (EU), through work to promote women's rights and equality between women and men – which are issues involved in the European Commission's Consultation on possible new EU measures in the area of paternity leave (European Women's Lobby, *EWC Final Response to the European Commission's Consultation on possible new EU measures in the area of paternity leave*, February 2011).

At Member State level, there are some differences in their main policy responses regarding reductions in gender inequalities in the provision of caring activities and the balance between men and women. Some countries are improving the accessibility and quality of their caring services, infrastructures and

institutions. This also includes income support schemes to co-pay for the caring activities, particularly for low-income people. In other cases, policy responses have timidly tried to improve, from a gender point of view, the prevailing policy frameworks that have guaranteed the functioning of the current care models. A few countries have made some changes in labour regulations in order to improve the reconciliation of work and family life. Many countries are introducing initiatives to promote changes in stereotyped attitudes towards equal share of care responsibilities among men and women (on the national situations, see I. E. Kotowska, A. Matysiak, M. Styr, A. Pailhé, A. Solaz, D. Vignoli, *Second European Quality of Life Survey: Family life and work*, cit.; ILO, *Equality at work: The continuing challenge*, cit.; Fondazione Brodolini, *Gender equality in caring responsibilities over the lifecycle*, cit.; A. Ponzellini, C. Aumayr, F. Wolf, *Addressing the gender pay gap: Government and social partner actions*, cit.; Eurobarometer, *Gender equality in the EU in 2009*, cit.).

#### *Childcare services*

Childcare is defined by the Partnership 2000 Expert Working Group on Childcare as the term used to describe “daycare facilities and services for pre-school children and school-going children out of school hours ... such as pre-schools, daycare services, crèches, playgroups, childminding and after-school groups” excluding primary, secondary and special-education schools.

The EU Recommendation on childcare (1992) stated that Member States should try to ensure that:

- services are affordable
- services combine safe and secure care with a broad education or pedagogical approach
- the needs of parents and children are taken into account in determining access to services
- services are available in all areas and regions, whether urban or rural
- services are accessible to children with special needs and to children in single-parent families.

Successively, in 2002, the European Council meeting in Barcelona concluded that, by 2010, Member States should aim to provide childcare to at least 90% of children between 3 years and mandatory school age and at least 33% of children under 3 years of age.

Similarly, the *Report from the Commission on the implementation of the Barcelona objectives concerning childcare facilities for pre-school-age children* (European Commission, *Report from the Commission on the implementation of the Barcelona objectives concerning childcare facilities for pre-school-age children*, cit.), which reviews the progress made towards the achievement of the

Barcelona objectives in the Member States and identifies the obstacles and challenges with regard to the development of childcare facilities for pre-school-age children. It fits within the context of the actions provided for in the “*Roadmap for Equality between Women and Men (European Commission, A Roadmap for equality between women and men 2006-2010, cit.)*” and provides a basis for the ideas and initiatives presented by the Commission to promote a better work-life balance (see also E. Kotowska, A. Matysiak, M. Styrac, A. Pailhé, A. Solaz, D. Vignoli, *Second European Quality of Life Survey: Family life and work, cit.*; Council of the European Union, *Council conclusions on the European Pact for gender equality for the period 2011-2020, cit.*).

The development of childcare facilities gives parents more freedom to choose how to organise their time and thus to better reconcile their working life with family life. This applies in particular to women, who, faced with inadequate childcare options, are more likely than men to have to give up work or to choose working arrangements which prevent them from fully exploiting their talents. The European economy is thus deprived of their productive potential, at a time when it is having to contend with economic and demographic challenges (see APQ-CISL, Eurocadres, ESZT, UGT-Fes, Unonen, ZSSS, *The Gender Floor Model. Gender Floor a transnational path toward reconciliation for managerial women, cit.*; F. Bettio, J. Plantenga, *Care Regimes and the European Employment Rate, cit.*; C. Bizzarro, P. De Vita, *La prospettiva internazionale sulle misure di sostegno all’infanzia, cit.*; EGGE, *The provision of childcare services. A comparative review of 30 European countries, cit.*).

The availability of affordable childcare facilities outside the family is a precondition for many women and men to fully engage in working life and earn their living. A lack of such services places workers with family responsibilities at a disadvantage and reduces the range of jobs accessible to them.

### **2.3. Quality of work and working conditions**

As Eurofound states in the report *Quality at work and Employment in Europe: Issues and challenges* (European Foundation for the Improvement of Living and Working Conditions, *Quality of Work and Employment in Europe: Issues and Challenges, 2002*), the workplace culture itself determines the quality of work, the extent to which flexible working arrangements are implemented and who may access them.

Related to this, stress at work is a growing phenomenon in the EU and the social partners in many Member States are working with policymakers to try to highlight awareness of this issue and to promote good practices in the prevention

and management of stress. The EU-level cross-sector social partners' framework agreement on work-related stress, which was concluded in 2004, provides a European framework for the management of this issue. In February 2011, the European Commission published a staff working paper on the implementation of the social partners' framework agreement on work-related stress (European Commission, *Report on the implementation of the European social partners' Framework Agreement on Work-related Stress*, Commission Staff Working Paper, SEC(2011) 241 final, 2011). Overall, the working paper found that a set of principles and rules is now well-established in many Member States as a result of the implementation of activities created by the social partners at national level. These include amendments to legislation, social dialogue, awareness-raising events and the development of practical guidance and tools to manage stress. This was achieved through legislation and binding or non-binding collective agreements.

Workplace cultures are also an important aspect to consider in relation to those facing caring responsibilities. A positive workplace culture may be seen as a source of support, whereas a pressurised, inflexible environment, which fails to support working parents, may act as a factor that discourages people from becoming a parents. The literature demonstrates that structural change is needed to alter working routines and norms, such as the long-working-hour culture and presenteeism. Management styles and practices are also crucial for work-life balance policies, and the literature reveals the need for managers to receive support and training in order to effectively implement and assess flexible working arrangements (L.J. Barham, B.H. Gottlieb, E.K. Kelloway, *Variables Affecting Managers' Willingness to Grant Alternative Work Arrangements*, *Journal of Social Psychology*, 1998, 291-302; S. Cazes, A. Nesporova, *Labour markets in transition: Balancing flexibility and security in Central and Eastern Europe*, ILO, Geneva, 2004; E. Drew, R. Emerek, *Employment, Flexibility and Gender*, cit.; Eurofound, *Industrial relations and working conditions developments in Europe 2010*, cit.; Eurofound, *Social dialogue, working time arrangements and work-life balance in European companies*, Report, 7 December 2009; A. Gourdsward, M. Nanteuil, *Flexibility and Working Conditions: A Qualitative and Comparative Study in Seven EU Member States* in *European Foundation for the Improvement of Living and Working Conditions*, cit.; L. Peacock, *Flexible working arrangements under threat as BP scraps nine-day fortnight*, cit.; S. Rao, N.V.S. Suryanarayana, *Quality of work life: role of collective bargaining*, Article, August 2010).

However, in the last four years, the economic downturn has had a notable impact on the labour market in most European countries, resulting in growing unemployment rates, increasing atypical and flexible forms of employment and a

decrease in the quality of work (see Eurofound, *Industrial relations and working conditions developments in Europe 2010*, cit.; Commission of the European Communities, *Employment Situation and Social Outlook*, cit.; A. Dye, *Pourquoi la crise affecte-t-elle les femmes en particulier?*, cit.; EHRC, *Women and the Economic Downturn*, cit.; EHRC, *A short guide to Managing the downturn and preparing for recovery*, Equality and Human Rights Commission, Manchester, 2009; C. Rake, *Are women bearing the burden of the recession?*, cit.; S. Seguino, *The Global Economic Crisis, Its Gender Implications and Policy Responses*, cit.; M. Smith, *Analysis Note: Gender Equality and Recession*, cit.; M. Smith, F. Bettio, *Analysis Note: the Economic Case for Gender Equality*, cit.). This has, naturally, had a negative impact on work-life balance measures.

Flexible working time schedules refer to arrangements such as staggered working hours, flexitime arrangements and working time banking. This flexibility in working time represents a pillar of the European employment strategy (see European Commission, *A Roadmap for equality between women and men 2006-2010*, cit.; CEC, *Mid-term progress report on the roadmap for equality between women and men (2006-2010)*, Commission of the European Communities, November 2008; European Commission, *Country-specific recommendations for delivering on growth and jobs*, cit.; European Commission, *Europe 2020: a strategy for smart, sustainable and inclusive growth*, cit.; European Commission, *Strategy for equality between women and men 2010-2015*, cit.).

In this context, part-time work has been reported by several countries in Europe to be the main option to achieving a better work-life balance. In these countries, part-time work has increased a lot in recent years, even though it must be considered that in some countries, these initiatives were undertaken in response to the economic crisis rather than a willingness to reach a better quality of work and work-life balance (see Eurofound, *Working time in the EU*, Foundation Findings, 31 January 2012; Eurofound, *Comparative analysis of working time in the European Union*, cit.; Eurofound, *Industrial relations and working conditions developments in Europe 2010*, cit.; Unice, Ceep, Ces, *Accordo quadro sul lavoro a tempo parziale*, Recepito nella Direttiva 97/81/CE del Consiglio 15 dicembre 1997; M. Keune, *Collective bargaining and working time in European overview*”, in M. Keune, B. Galgóczi, *Collective bargaining on working time: recent European experiences*, 2006; J. Plantenga, C. Remery, *EU Expert Group on Gender and Employment, Flexible working time arrangements and gender equality: A comparative review of 30 European countries*, cit.). On the contrary, working time arrangements – such as flexible working time, working from home and teleworking – are little related to work-life balance. This situation can be found, for example, in Romania, Slovakia or Italy (see Eurofound, *Working time in the EU*, cit.; Eurofound, *Industrial relations and working conditions*



*developments in Europe 2010*, cit.; Eurobarometer, *Gender equality in the EU in 2009*, cit.).

Regarding this issue, in 2010, the European Commission launched a consultation of EU-level social partners concerning a review of Directive 2003/88/EC which refers to certain aspects of the organisation of working time, due to the changes of working patterns and practices in the last decades. In the sense of an harmonisation of working time, also the Framework Agreements on part-time work (1997) and teleworking signed by the Eu-level social partners UNICE/UEAPME, CEEP and CES. (CES, UNICE/UEAPME, CEEP, *Accordo quadro sul telelavoro*, 16 July 2002).

This work-life balance approach was first introduced under the banner of “family friendly”.

Work-life policies and flexible working arrangements have become very popular recruiting tools for employers. In fact, they can be used to promote the idea that the employer is protecting the worker. However, at the same time, the employer can further his own interests. For example, work-life balance promises are often implemented to enhance well-being and equal opportunities but, in reality, are largely driven by business concerns such as recruitment and retention. These opportunities include but are not limited to, support for childcare as well as flexible working arrangements such as working from various locations, or part-time or reduced hours. However, individuals often use this extra time to work more, rather than fewer hours, thus benefiting more the employer rather than the individual (J. Lewis, *Work Family Balance, Gender and Policy*, cit.).

One of the most important ways employers attract potential employees is through the promotion of work-life balance on the organisation’s website. Cowan and Hoffman (M.F. Hoffman, R.L. Cowan, *The meaning of work/life: A corporate ideology of work/life balance*, *Communication Quarterly*, 2008, 56, 227-246) investigated the websites of Fortune’s 2004 list of “100 Best Companies to Work for” and they noted websites are important recruiting tools because they allow organisations to ‘speak for themselves.’ Through their research, they found several emerging themes that explain the relationship between paid work and the rest of life. These themes include the ideas that “work always comes first”, “life means family”, “balancing work and life is an employee responsibility”, and “organizations control Work/Life programs” (M.F. Hoffman, R.L. Cowan, *The meaning of work/life: A corporate ideology of work/life balance*, cit.). What these results suggest is that there are severe discrepancies across organizations as to what constitutes “balance”.

Work-life balance policies can be realised through flexible working practices and the fostering of open and inclusive workplace environments. As above mentioned, there are many reasons why such open and inclusive workplace

environments are necessary to implement changes. Legislative measures to improve work-life balance will only work if a supportive workplace environment promotes them (APQ-CISL, Eurocadres, ESZT, UGT-Fes, Unonen, ZSSS, *The Gender Floor Model. Gender Floor a transnational path toward reconciliation for managerial women*, cit.; I.E. Kotowska, A. Matysiak, M. Styrac, A. Pailhé, A. Solaz, D. Vignoli, *Second European Quality of Life Survey: Family life and work*, cit.; J. Plantenga, C. Remery, *EU Expert Group on Gender and Employment, Flexible working time arrangements and gender equality: A comparative review of 30 European countries*, cit.).

Flexibility in work organisation has increased significantly in recent years and is an important element of the European employment strategy (see European Commission, *A Roadmap for equality between women and men 2006-2010*, cit.; European Commission, *Mid-term progress report on the roadmap for equality between women and men (2006-2010)*, Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions [COM(2008) 760 final], 2008; ; European Commission, *Country-specific recommendations for delivering on growth and jobs*, cit.; European Commission, *Europe 2020: a strategy for smart, sustainable and inclusive growth*, cit.; European Commission, *Strategy for equality between women and men 2010-2015*, cit.).

The driving force behind work-life balance is that it makes good business sense that employer and employee needs coincide and it can also respond to the wide variety of client groups' needs. However, there are still many barriers which hinder best practices in this field. (see K. Bellamy, K. Rake, *Money Money Money Is it still a rich man's world? Fawcett Society*, London, 2005; J. Bird, *Work-life balance. Doing it right and avoiding the pitfalls*, cit.; P. Callan, *Business Benefits to Diversity Management*, in *Equality News*, cit.; K. Campbell, A. Minguez-Vera, *Gender Diversity in the Boardroom and Firm Financial Performance*, *Journal of Business Ethics*, 2007; M.F. Hoffman, R.L. Cowan, *The meaning of work/life: A corporate ideology of work/life balance*, cit.; N. Fitzpatrick, *Work Life Balance: The Challenges*, in *Equality News*, cit.; A. Goudswaard, M. de Nanteuil, *Flexibility and working conditions: a qualitative and comparative study in seven EU Member States*, *European Foundation for the Improvement of Living and Working Conditions*, Dublin, 2000; L. Peacock, *Flexible working arrangements under threat as BP scraps nine-day fortnight*, cit.; S. Cazes, A. Nesporova, *Labour markets in transition: Balancing flexibility and security in Central and Eastern Europe*, cit.).

Regarding the crisis and attempts to stabilize the EU economy and ensure growth, the widespread use of short-time working has represented a major tool in recent years in helping organisations to resolve difficult economic situations (see

Eurofound, *Industrial relations and working conditions developments in Europe 2010*, cit.; Commission of the European Communities, *Employment Situation and Social Outlook*, cit.; A. Dye, *Pourquoi la crise affecte-t-elle les femmes en particulier ?*, cit.; L. Peacock, *Flexible working arrangements under threat as BP scraps nine-day fortnight*, cit.). Flexicurity remains, however, an important part of the EU employment strategy. In fact, in the employment guidelines for Member States for 2008-2010 (Council of the European Union, *Council Decision on guidelines for the employment policies of the Member States*, [2008/618/EC], 15 July 2008), the European Council states that MS should continue to promote flexibility combined with employment security and reduce labour market segregation.

The relatively diverse positions of EU Member States within the flexibility/equality spectrum indicate the importance of policy measures. In fact, working time flexibility is on the policy agenda in several countries, although the specific topics vary, as does the focus on gender equality. Some countries focus on flexibility as an instrument to increase participation (both number of people and working hours). A recent innovation in this respect regards the fact that part-time working hours no longer almost exclusively involve women, but are also now considered as a policy instrument within the context of active ageing. Especially in the Nordic countries, involuntary part-time work is an important issue, leading to policy measures, which try to create a new balance between flexibility and security. Time banking and annualised hours are also part of the current policy agenda in some countries with an aim to lower the prevalence of overtime. In addition, there is a clear effect from the current financial and economic crisis. Within this context, flexibility is seen as an important policy instrument in order to allow employers to adjust to changing economic circumstances. In the current debate, however, the gender dimension does not figure prominently. As such, it is important that, despite the recent economic developments, the progress made in family-friendly labour market structures is maintained. This implies that both flexibility in working time arrangements and gender equality are considered to be important preconditions of economic recovery (I.E. Kotowska, A. Matysiak, M. Styrz, A. Pailhé, A. Solaz, D. Vignoli, *Second European Quality of Life Survey: Family life and work*, cit.; J. Plantenga, C. Remery, *EU Expert Group on Gender and Employment, Flexible working time arrangements and gender equality: A comparative review of 30 European countries*, cit.; Eurobarometer, *Gender equality in the EU in 2009*, cit.; ILO, *Equality at work: The continuing challenge*, cit.; APQ-CISL, Eurocadres, ESZT, UGT-Fes, Unonen, ZSSS, *The Gender Floor Model. Gender Floor a transnational path toward reconciliation for managerial women*, cit.).

### 3. Costs and benefits of work-life balance

As described in previous chapters, employees' work-life balance priorities can be considered to fall within three general categories: gender equality and wage gap; working time arrangements (total working hours, flexibility and working conditions); and, for those with parenting or other care responsibilities, parental leave entitlements (maternity, paternity, parental and carers) and childcare (subsidies or direct provision) (European Commission, DG Employment, Social Affairs and Equal Opportunities, *Study on the costs and benefits of options to improve provisions for the reconciliation of work, private and family life*, Main Report, June 2008; P. McDonald, K. Brown, L. Bradley, *Explanations for the provision-utilisation gap in work-life policy*, Women in Management Review, 2005; L. Thornthwaite, *Working Time and Work-Family Balance: a Review of Employees' Preferences*, Asian Pacific Journal of Human Resources, 2004, vol. 42, 166-184). Where these needs are met through organisational work-life programmes, employees are found to have increased organizational commitment and job satisfaction. A greater sense of control over their own work schedules leads to improved mental health (P. McDonald, K. Brown, L. Bradley, *Explanations for the provision-utilisation gap in work-life policy*, cit.). Furthermore, work-life programmes that allow employees to have a greater involvement at home appear to be linked to employee wellbeing (J.H. Greenhaus, K.M. Collins, J. D. Shaw, *The relation between work-family balance and quality of life*, Journal of Vocational Behavior, 2003, 510-531; C.L. Cooper, P. Liukkonen, S. Cartwright, *Stress Prevention in the Workplace: Assessing the Costs and Benefits to Organisations*, European Foundation for the Improvement of Living and Working Conditions, Dublin, 1996) for men as well as women. Organizations can benefit in a number of ways, including reduced absenteeism and better integration of women returning after maternity (P. McDonald, K. Brown, L. Bradley, *Explanations for the provision-utilization gap in work-life policy*, Women in Management Review, 2005). Work-life balance measures can represent an opportunity for organizations to learn new ways of working (C.L. Cooper, P. Liukkonen, S. Cartwright, *Stress Prevention in the Workplace: Assessing the Costs and Benefits to Organisations*, cit.; S. Lewis, C. Cooper, *Work-life Integration. Case Studies of Organisational Change*, cit.).

Where employees' needs are not met, employees will experience work-life stress, although it is possible that for some people without caring responsibilities, time stress is partially or wholly offset by other factors, such as material rewards or job enjoyment. European surveys suggest that unmet demand for work-life balance (especially a mismatch between desired and actual hours) is increasing (D. Gallie, *Work pressure in Europe 1996-2001: Trends and determinants*, British

Journal of Industrial Relations, 2005, 43,3, 351-75; F. Green, N. Tsitsianis, *An Investigation of national trends in job satisfaction in Britain and Germany*, British Journal of Industrial Relations, 2005, 43,3, 401-29), with possible adverse consequences for employees' wellbeing and performance at work (A. Gregory, S. Milner, *Work-life balance: A matter of choice?*, *Work and Organization*, cit.).

Recent research has outlined that many private enterprises have taken up work-life balance as a human resource issue, having seen business benefits in implementing flexible working (K. Bellamy, K. Rake, *Money Money Money Is it still a rich man's world?* *Fawcett Society*, cit.; J. Bird, *Work-life balance. Doing it right and avoiding the pitfalls*, Preprint of an article accepted for publication in *Employment Relations Today*, cit.; P. Callan, *Business Benefits to Diversity Management*, in *Equality News*, cit.; K. Campbell, A. Minguez-Vera, *Gender Diversity in the Boardroom and Firm Financial Performance*, cit.; C.L. Cooper, P. Liukkonen, S. Cartwright, *Stress Prevention in the Workplace: Assessing the Costs and Benefits to Organisations*, European Foundation for the Improvement of Living and Working Conditions, Dublin, 1996). Employers who introduce and manage work-life balance effectively find that they can improve recruitment and retention, increase motivation and loyalty, achieve better productivity and reduce absenteeism and stress. Businesses that operate flexible working practices are often better equipped to deal with economic fluctuations.

As we have seen, there are a number of benefits to be gained by promoting work-life balance. However, there are also a number of costs. The biggest cost seems to regard the trade-off between flexibility and actual time invested in the company. Findings show there is a discrepancy between the flexibility desired and the expectations of their employers driving from this flexibility. While on the one hand employees crave for the chance to work from home or in an alternate space, organizing their own hours, they recognize that management may require them to work during the "private life portion of their day because this flexibility seems to generate a twenty-four hour working day (see K. Bellamy, K. Rake, *Money Money Money Is it still a rich man's world?* *Fawcett Society*, cit.; J. Bird, *Work-life balance. Doing it right and avoiding the pitfalls*, Preprint of an article accepted for publication in *Employment Relations Today*, cit.; P. Callan, *Business Benefits to Diversity Management*, in *Equality News*, cit.; K. Campbell, A. Minguez-Vera, *Gender Diversity in the Boardroom and Firm Financial Performance*, cit.; M.F. Hoffman, R.L. Cowan, *The meaning of work/life: A corporate ideology of work/life balance*, cit.; N. Fitzpatrick, *Work Life Balance: The Challenges*, cit.).

#### 4. Structural and Institutional Settings (policies)

As the *Second European Quality of Life Survey* (I.E. Kotowska, A. Matysiak, M. Styrz, A. Pailhé, A. Solaz, D. Vignoli, *Second European Quality of Life Survey: Family life and work*, cit.) states, EU policies that seek to reconcile work and family life have gradually shifted their aims from the equal treatment of women and men at work towards the need to increase employment levels in order to stimulate economic growth, ways to achieve better work-life balance and, more recently, means to facilitate an increase in birth rates. In particular, over the past decade, these policies have been redesigned to accentuate the fact that work-life balance, the gender division of paid and unpaid work, and an increase in birth rates are all equally important. According to the European Commission (European Commission, *Equality between women and men 2009*, Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Office for Official Publications of the European Communities, [COM/2009/0077 final], Luxembourg, 2009), ‘reconciliation policies are key responses to long-term economic and demographic challenges, and should therefore be reinforced to stimulate growth’ (see also ILO, *Equality at work: The continuing challenge*, cit.; Eurofound, *Industrial relations and working conditions developments in Europe 2010 Industrial*, cit.; Eurofound, Report, *Reconciliation of work, family and private life in the European Union*, 2011; Advisory Committee on Equal opportunities for Women and Men, *Opinion on the future of gender equality policy*, 2010).

Similarly, the Council of the European Union: the European Pact for Gender Equality 2011-2020 urges action at Member State and Union level in the following fields:

- Measures to close gender gaps and combat gender segregation in the labour market:
  - a) promote women’s employment in all age brackets and close gender gaps in employment, combating all forms of discrimination;
  - b) eliminate gender stereotypes and promote gender equality at all levels of education and training, as well as in working life, in order to reduce gender segregation in the labour market;
  - c) ensure equal pay for equal work and work of equal value
  - d) promote women’s empowerment in political and economic life and advance women’s entrepreneurship;
  - e) encourage the social partners and enterprises to develop and effectively implement initiatives in favour of gender equality and promote gender equality plans at the workplace; and

- f) promote the equal participation of women and men in decision-making at all levels and in all fields, in order to make full use of all talents.
- Measures to promote better work-life balance for women and men:
  - a) improve the supply of adequate, affordable, high-quality childcare services for children under mandatory school age with a view to achieving the objectives set at the European Council in Barcelona in March 2002, taking into account the demand for childcare services and following national patterns of childcare provision;
  - b) improve the provision of care facilities for other dependants; and
  - c) promote flexible working arrangements and various forms of leave for both women and men.

The issue of reconciliation had already been addressed as one of the priorities of the European Social Partners in the first Framework of actions adopted by BUSINESSSEUROPE, UEAPME, CEEP and ETUC in 2005 (BusinessEurope, Ueapme, Ceep and Etuc, including representatives of the EUROCADRES/CEC Liaison Committee, *Framework of actions on gender equality*, cit.). For ETUC, indeed, policies which enable women and men to combine good quality work with parenthood and other caring responsibilities are a crucial prerequisite for gender equality and the overall welfare of society. According to the ETUC, women must be able to earn an income that gives them economic independence without being penalised for being potential mothers and carers. Men must also be given the opportunities to balance their work and family life (ETUC: *Resolution on Recommendations for improving gender balance in trade unions*, adopted at the Executive Committee on 9 March 2011; Evaluation Report on *Framework of actions on gender equality*, 2009; ETUC Resolution ‘*Reducing the gender pay gap*’, June 2008; *ETUC Position on the EC Communication ‘Tackling the pay gap between men and women’*, June 2008; *ETUC’s Position on the Second Stage Consultation of the Social Partners at Community level on the Reconciliation of Professional, Private and Family Life*, July 2007).

Concerning legislation, in Europe, anti-discrimination laws have been consolidated, definitions of discrimination and the allocation of the burden of proof have been brought into line with European Union directives. Around the world, new laws have been introduced or existing legislation amended to eliminate discrimination based on gender or maternity and marital status. Existing legislation has been complemented by family-friendly policies relating, for example, to parental leave, maternity protection and breastfeeding. Such policies have been implemented at enterprise and national levels. New ombudsman offices dealing specifically with discrimination on several grounds have been established in some European countries. In many countries, equality bodies have significantly contributed to a better implementation of laws and policies against discrimination

at work. In others, they have faced serious difficulty in fulfilling their mandate (see Advisory Committee on Equal Opportunities for Women and Men, *Opinion on the effectiveness of the current legal framework on equal pay for equal work or work of equal value in tackling the gender pay gap*, August 2009; European Commission, *Report on equality between women and men 2010*, Office for Official Publications of the European Communities, Luxembourg, 2011; European Network of legal experts in the field of gender equality, *European Gender Equality Law Review*, Publication commissioned by the European Commission, June 2009; European Network of legal experts in the field of gender equality, *Gender Equality Law in 30 European Countries*, Publication commissioned by the European Commission, October 2009; European Network of legal experts in the field of gender equality, *Legal Approaches to Some Aspects of the Reconciliation of Work, Private and Family Life in Thirty European Countries*, Publication commissioned by the European Commission, August 2008; ILO, *Equality at work: The continuing challenge*, cit.).

## 5. Conclusions: relevance for the LIBRA Project

Work-life balance, as we have seen, is not just for people who wish to spend more time with their families or have other caring responsibilities. It provides an opportunity for all people to achieve and maintain a ‘balance’ between their paid work and their life outside work, whatever their ‘life’ involves, from childcare and housework to leisure or self-development.

This paper highlights the work-life balance challenges posed by organisational practices and strongly gendered organisational and national cultures. At the same time, they give us some pointers for improving employees’ work-life balance. Most importantly perhaps, it demonstrates the limitations of adaptive strategies for achieving work-life balance and the need for collective rights to back up individual choice, as in the case of parental leave – e.g. the Nordic context (see N. Datta Gupta, N. Smith, M. Verner, *The impact of Nordic countries’ family friendly policies on employment, wages, and children*, *Rev Econ Household*, 6, 65-89, 2008; A. Gregory, S. Milner, *Work-life balance: A matter of choice?*, *Work and Organization*, cit.; Eurofound, *Reconciliation of work and family life and collective bargaining in the European Union*, An analysis of EIRO articles, 2006; EPSU, *Collective Bargaining Conference*, cit.).

The development and improvement of social dialogue and collective bargaining at national and EU-level represent the *condition sine qua non* for the achievement of an efficient and concrete work-life balance. Changing the attitudes of all people towards the issue is essential to close the existing gender gaps: some



innovative projects have already been introduced in many EU countries, regions and at EU level, also with a lifecycle approach (as the project LIBRA itself highlights and other experiences demonstrate – see e.g. APQ-CISL, Eurocadres, ESZT, UGT-Fes, Unonen, ZSSS, *The Gender Floor Model. Gender Floor a transnational path toward reconciliation for managerial women*, cit.; McKinsey and Company, *Women Matter: Gender Diversity, a corporate performance driver*, cit.).

The review of qualitative and quantitative data concerning work-life balance and related issues demonstrates that work-life balance policies need to be implemented as much as possible in all industries, and on a wider basis in organisations that are currently using them. They also need to be assessed efficiently and regularly in order to improve their practice in the workplace. Indicators of success and failure need to be established for industries on a national basis. Workplace cultures need to be explored to a greater extent to determine what changes are needed to successfully adopt work-life balance policies and to establish the ‘hidden’ practices that hinder implementation more clearly. Indeed, improvements in maternity leave need to be matched by statutory paternity leave in order to combat current gender inequalities in leave legislation related to childbirth. The literature also highlights the demand for improvements in childcare and other “*individual friendly*” services (such as laundry, banks, gyms, etc.), with a preference for company based crèches and centres (see APQ-CISL, Eurocadres, ESZT, UGT-Fes, Unonen, ZSSS, *The Gender Floor Model. Gender Floor a transnational path toward reconciliation for managerial women*, cit.). Within this context, flexibility is also seen as an important policy instrument in order to allow employers to adjust to changing economic circumstances.

In the current debate, however, the gender dimension does not figure prominently. As such it is important that, despite the recent economic developments, the progress made in family-friendly labour market structures has to be maintained and better implemented. This implies that both flexibility in working time arrangements and gender equality are essential preconditions of economic recovery.

Creating a culture to support work-life balance is, therefore, complex but crucial.



## CHAPTER VIII

### ITALIAN FRAMEWORK

*Summary:* 1. Definition of concept of work-life balance. – 2. The impacts of work-life balance policies on the organization and corporate culture. – 2.1. Work-life balance and Corporate Social Responsibility. – 2.2. Work-life balance and productivity. – 3. National legislation and policy strategies to foster the development of reconciliation between work and family life. – 4. Collective bargaining in Italy. – 4.1. The decentralized collective bargaining and implementation of policies to reconcile the joint notice of 7 March 2011. – 5. Reconciliation of view of productivity and flexibility and work organization. – 5.1. Services to individuals and families.

#### **1. Definition of concept of work-life balance**

The theme of work-life balance (WLB hereafter), came in response to the changing socio-economic demographic structures on the 1970s, resulted in a great change on the society and the labor market. This is manifested through the increased participation of men in family responsibilities and women in employment, the radical change of the values and recognition given to overtime work, increased market competition, demographic transition, the change in the traditional family structure, leisure and social interactions. This put its foot note on the organization of the labor market, time management and generally on socio-economic structure. The term work-life balance was used for the first time in the 1970s as a resource management policy. The pioneering companies (IBM, AT&T, and Merck), that were aware of the importance of women's participation in the corporate structure started some initiatives focused on the idea of flexibility by providing specific permission and /or parental leave, programs of assistance in caring for children up to testing of home working solutions (About the origins of the WLB see: E. Applebaum, *Restructuring work: temporary, part-time and home-employment, in technology and Women's employment*, National Academy press, Washington DC, 1987).

Starting from the 1980s, WLB started to expand and incorporated the male audience to become a need shared by all (mothers, fathers, and singles; young and old) (For further discussion see: B. Harrington, D. Hall, *Career management and work/life integration: Using self-assessment to navigate contemporary careers*,

Sage Publications, New York, 2007). The direct consequence of the multidimensionality of the topic was that it related initiatives implemented by the various organizations concerned, released following different perspectives that could vary depending on the peculiarities of stakeholders and interests defined from time to time as a priority. The American case is soon followed by Britain where branches of American companies began to gear up with different services for workers (sports hall, coffee bar, daycare centers). Then the culture began to spread throughout Europe (See: S. Zedeck and K. Mosier, *Work in the family and employing organization*, in *American Psychologist*, 1990, 45, 240-251).

M. O'Driscoll (M. O'Driscoll, *The interface between job and off-job roles: enhancement and conflict*, in C. Cooper and I. Robertson (eds.), *International Review of Industrial and Organizational Psychology*, John Wiley, Chichester, 1996, vol. 11) categorized the models related to work and life outside work in five as:

1. The segmentation model: hypothesizes that work and non-work life are mutually exclusive or totally unrelated.
2. A spillover model: It hypothesizes that one world can influence the other in either a positive or negative way.
3. A compensation model: proposes work and life outside work are supplementary to each other.
4. An instrumental model: intends that activities in one domain facilitate success in the other. The classical example is the instrumental worker who will seek to maximize earnings, even at the price of undertaking a routine job and working long hours, to allow the purchase of a home or a car for a young family.
5. A conflict model: proposes that with high levels of demand in all spheres of life, some difficult choices have to be made and some conflicts and possibly some significant overloads could occur on an individual.

From 1980 onwards to the present, the question of WLB has passed through different trends in the European countries. That is from addressing issues crucial to the development of the social and economic model of European societies (sustainable development and demographic balance) to gender related models (Please refer to: J. Lewis, *Work/family reconciliation, equal opportunities, and social policies: the interpretation of policy in work-family reconciliation, equal opportunities, and social policies: the interpretation of policy trajectories at the EU level and the meaning of gender equality*, in [www.ciimu.org](http://www.ciimu.org)).

The debate about WLB developed tends to follow two different approaches that have contradictions both the normative evolution which that contract. Ideally, we should define work and life carefully. It is partly the blurring of the distinctions and the borders between them that has stimulated interest in the topic. In simple terms, “work” refers to paid employment while “life” includes activities

outside work. T. Rothausen (T. Rothausen, *Family in organizational research: A review and comparison of definitions and measures*, in *Journal of Organizational Behavior*, 1999, 20, 6, 817-836) has presented a detailed analysis of how the concept of family has been operationalized by W/O psychologists and other work-focused researchers and offers five different models. Regardless of the lack of consensus on the definition of family, she suggested that «family would include all the staff who could meet all the needs thought to be met by the family and this is an operational or effective rather than a “traditional” or legal definition of a family».

The classic approach considers WLB as a matter of gender or mono-gender. This approach defines the WLB as a set of «conciliation policies designed for women (mother friendly) to access the job market easily and permanently through different devices (part time, long leave) that could help to combine women’s aspirations to achieve success in work and commitment in the family life». Adopting this type of solution guarantees high employment rates but generates fairly marked segregation levels, producing the so-called aggregate-level model one-and half bread winner (For further discussion: M. Naldini, *Le politiche sociali in Europa. Trasformazioni dei bisogni e risposte di policy*, Carocci, Bari, 2006). The limitations in the classical approach led to an innovative interpretation and evolution of the WLB or more inclusive formula that refers to a complex of relationships, dynamics and interconnections that call for question the entire corporate structure (See: I. Quadrelli, *Promuovere la conciliazione tra responsabilità familiari e impegno lavorativo nei luoghi di lavoro*, Working Paper Osservatorio Nazionale della Famiglia, 2012, n. 2). According to this approach, the goal of the WLB is a corporate reformation of work capable of realizing a new interweaving of existential spheres (private-life, working life), developing new forms of organization that will enable men and women to substitute work with other activities and responsibilities (family, study, recreation, social commitment). Recent studies show that new organizational formulas and a renewed conception of non-work related to traditional formulas favour a transversal wellness with positive effects on the climate and satisfaction within organizations, as well as on the health and satisfaction of individuals (See: R. Prandini, *Perché il welfare aziendale fatica ad emergere? Come passare da una condizione di riflessività “impedita” a una “dispiegata”*, in *La conciliazione famiglia-lavoro nelle piccole e medie imprese. Costruire e governare nuove reti*, Franco Angeli, Milano, 2009).

Clutterrueck defined WLB as «a state where an individual manages real or potential conflicts between different demands on his or her time and energy in a way that satisfies his or her need Achieving work-life balance can arguably be boiled down to: being aware of different demands on time and energy; having the ability to make choices in the allocation of time and energy; knowing what values

to apply to choices and making choices. It is achieved when an individual's right to fulfill life inside and outside paid work is accepted and respected as the norm, to the mutual benefit of the individual, business and society» (See: D. Clutterbuck, *Managing the Work-Life Balance*, Chartered Institute of Personnel & Development, 2003). According to this perspective, WLB is a means to achieve a wider purpose than merely individual/personal preferences.

Many researches show, in fact, WLB has positive outcomes for individual or other stakeholders. That is WLB is a tool for achieving collective well-being, capable of combining competitiveness and productivity (See: D. Pink, *Free Agent Nation: the future of working yourself*, Warner Books, New York, 2001).

WLB is attractive to businesses because it acts as a lever for competitiveness and productivity in a global market becoming pro-actor of new dynamics and techniques of human resource management in order to maximize their potential contributions to the success of organizations, which includes attention to the involvement of businesses and social partners in the implementation of organizational culture based on WLB (See: C. Casadei, *Il direttore del personale vuole un posto nel board*, Il Sole 24 Ore, Inserto, 27 giugno 2007, 27-30).

So reconstructing the WLB is an opportunity to rethink the corporate and organization of work: developing a new interweaving of existential spheres (private-life, working-life) by developing new forms of organization that will enable men and women to alternate work with other activities and responsibilities; through an innovative system of personnel management. Many studies show that policies that are loyal and more efficient are those that allow workers to manage flexibly their time, living and working conditions. Organizations that fail to consider these issues are facing the crucial problem of brain drain (See: J. Ware, C. Grantham, *The future of work: Changing patterns of workforce management and their impact on the workplace*, in *Journal of Facilities Management*, May 2003, n. 2). Family and work-life has become an increasingly important issue for companies both for the effect of external pressures arising from Community legislation, national and internal incentives, and contracts resulting from cultural change and new management practices (On this point see: I. Quadrelli, *Promuovere la conciliazione tra responsabilità familiari e impegno lavorativo nei luoghi di lavoro*, Working Paper Osservatorio Nazionale della Famiglia 2012, n. 2; see also S. Mazzucchelli, *Conciliazione Famiglia Lavoro. Buone pratiche di welfare aziendale*, in *Osservatorio sulla Famiglia*, 2011, ebook n. 1, 42).

## 2. The impacts of work-life balance policies on the organization and corporate culture

The development of policies that focused on the needs of workers and degree of satisfaction produces economic and social benefits because conciliation is not a constraint for businesses but is linked to organizational design. The work process targeting family needs expand the organizational action on the one hand and producing responsible and motivated employees on the other hand (On the positive effects on the organization and employees, see Fondazione Report I-CSR, People First, *Le dimensioni del bilanciamento tra vita personale e professionale: le nuove prassi italiane*, March 2011, 59-6; M.C. Bombelli, *Il lavoro e la vita: alla ricerca di un nuovo punto di incontro*, in *Sviluppo & Organizzazione*, 2003, n. 199; R. Cappellari, *Il tempo e il valore. Flessibilità e gestione dell'orario di lavoro*, Utet, Torino, 2002; G. Costa (a cura di), *Manuale di gestione del personale*, Utet, Torino, 1994; L. Duxbury, C. Higgins, *CPRN Discussion Paper: work-life balance in the new millennium: where are we? Where do we need to go?*, Canadian Policy Research Networks, 2001; J.E. Perry-Smith, T.C. Blum, *Work-family human resource bundles and perceived organizational performance*, in *Academy of Management Journal*, 2000, 43, 1107-1117; L. Quaratino, *Evoluzione dei sistemi retributivi: dalla compensation al total reward*, in D. Boldizzoni (a cura di), *Management delle risorse umane*, Il Sole 24 ore, 2003. On the model of the Total Reward System object of experimentation, see F. Ballone, R. Belleggia, P. Costa, V. Giorgi, E. Manfreda, P. Moretti, D. Rotondo, *Total Reward System e Work Life Balance: un approccio integrato all'attrazione e retention delle persone nelle organizzazioni*, 2005. For a further deepening of the Total Reward System cfr. T. Torre, *Verso logiche di Total Reward*, in *Impresa Progetto*, 2008, n. 2).

A recent study by the chair of training and policies relating to the management of human resources of La Sapienza university of Rome, come with organization and management of employment relationship model whose main tenet is the link between work-life balance and Total Reward System( a motivational pay system that adds benefits and WLB programs designed to help employees in the difficult reconstruction of working time and personal life on the traditional remuneration) as a conjunction between business needs and the needs of workers and generating benefits for both parties involved, i.e., on time of work life for workers and better performance for the company.

## 2.1. Work-life balance and Corporate Social Responsibility

It follows that the work- life balance policies are the result of interacting subsystems particularly the social, organizational and institutional subsystems. To develop such policies a company can act on four dimensions or levers that are complement to each other: work organization, corporate culture, remuneration system, corporate services. This shows us that there is strong link between WLB and corporate social responsibility. The promotion of Corporate Social Responsibility (CSR) and the dissemination of socially responsible business practices are, therefore, areas where you can see the relationship between the economy and the social sphere.

CSR is an area of interest and intervention of the European Union that intends to focus on a strategy of development, which is socially sustainable and calling companies to act as plaintiff's ethical connotations. The debate on CSR in Europe dates back to the nineties with the publication of the White Paper by Jacques Delors, «the challenges for growth, competitiveness and employment in the new century», in which he called for a «new direction of development for the capitalist economy for social inclusion and the reduction of unemployment» by assuming responsibility for all economic actors (See: L. Bagnoli, *Responsabilità sociale e modelli di misurazione*, Franco Angeli, Milano, 2010; on social responsibility in Lisbon Strategy as an important element of development and competitiveness A. Di Pascale, *La responsabilità sociale dell'impresa nel diritto dell'Unione Europea*, Giuffrè, Milano, 2011). In this sense, the issue of work- life balance is part of corporate social responsibility defined by the Commission as «the voluntary integration of companies that have social and environmental concerns in their business operations and in their interaction with the various carriers of interest (stakeholders)».

The Commission places particular emphasis on the usefulness of the economic and social corporate responsibility and its instrumentality with respect to the European model of development as defined in the Lisbon summit, i.e., dynamic and competitive knowledge-based economy based on investment in social cohesion that can realize economic benefits (See Commissione Europea, *Green Paper. Promoting a European framework for Corporate Social Responsibility*, COM(2001) 366 definitive). It defined the internal CSR, exercised in respect of its staff and shareholders, or with impact on its internal operations through the reduction of energy consumption and the adoption of practices that reduce the impact on the environment and the outside CSR, which concerns the relationship with customers, suppliers, the local community and its political institutions, the third sector, the voluntary sector, etc. On the other hand CSR for employees refers to investment in human capital, health and safety. The debate on



corporate social responsibility also continued with the 2002 European Communication *Corporate Social Responsibility: A business contribution to sustainable development*, the launch of the European Multi stakeholder Forum (whose work has focused on the collection of good practices and deepening the link between CSR and development) (Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee, *Implementing the partnership for growth and jobs : making Europe a pole of excellence on corporate social responsibility*, COM(2006)0136 final. On this point, and more generally on the definition of CSR at EU level: P. Donadi, R. Prandini, *La conciliazione famiglia lavoro nelle piccole e medie imprese, costruire e governare nuove reti*, Franco Angeli, Milano, 2009; G. Faldetta, *Corporate family responsibility and work-life balance*, Franco Angeli, Milano, 2008; for a reconstruction of the European framework: [www.ec.europa.eu](http://www.ec.europa.eu) e [www.eur-lex.europa.eu](http://www.eur-lex.europa.eu)).

On March 3, 2010, the Commission with the Europe 2020 Strategy is committed to renew the EU strategy to promote Corporate Social Responsibility of Companies as a key element to ensure the long-term confidence of employees and consumers and urged the Member States to promote new forms of conciliation of work and private life. In 2011, then, there was the new communication of October 25, 2011 (No. 681), with which the Commission has reviewed and passed the notion expressed in the previous Green Paper of 2001, providing a new definition of CSR: «the responsibility of enterprises for their impacts on society». The new approach makes significant changes to the complex discussion around the theme, reducing the weight of a subjective approach of companies (similar to the theory of stakeholders) and requires greater commitment to the principles promoted by international organizations such as the 'OECD' and the 'UN' (and agencies such as the 'ILO'). This shift of focus is a major innovation and follows a position historically promoted by the rating agency, Standard Ethics of Brussels, near the European environments. The actions listed above, therefore, show us the relation between social responsibility and WLB.

## **2.2. Work-life balance and productivity**

S. Joshi et al (2002) (In S. Joshi, J. Leichne, K. Melanson, C. Pruna, N. Sager, K. Williams, *Work Life Balance... A case of social responsibility or competitive advantage?*, Georgia Institute of Technology, 2002, at [www.worklifebalance.com](http://www.worklifebalance.com)) raised a very basic question that states if the WLB was born as needs of employees and expression of corporate social responsibility or as a requirement to

undertake a lever of competitiveness and productivity? The result shows WLB achieves both needs. The dilemma, that gives the title to research, is emblematic: summarizes in a few words the origin and the difference between the U.S. and European systems of WLB. In particular, the U.S. system of WLB was born as an answer to those needs arising as a result of economic and social change (“private” (see par. 4): a) as a corporate retention policy and fairness; b) as a lever of competitiveness and productivity; c) as a policy recruitment for the best talent. For U.S. companies the WLB is a lever of productivity capable of ensuring “competitive advantage”. On the contrary, the European system is the result of an intervention “public”, national and Community level needs and has found activations and different implementations in different Member States. Compared to American, the WLB of European is linked to factors of political, social and cultural development and is poorly connected to individual initiatives when investing in internal policies of WLB, seems for reasons of “image”.

A comparison between the two systems is not easy, because they are based on completely different stances (On this point, see L. Cooper, *America can learn from Europe on Work Life Balance*, in *CNN On line*, 25 May 2011). In Europe, recently there is a tendency to ‘Americanization’ of the concept of WLB, although European companies seem to understand that WLB is a matter of both social and business, and the two plans are strategically intertwined. The commitment to support (with appropriate measures) the family and the individual workers, should not be understood by business realities, as originating from a choice philanthropic or welfare state at the expense of redeeming or business purposes, but must rather be classified, according to the strategic approach proposed by stakeholders’ view in an efficient, innovative and productive policy of human resource management (In this sense, E. Freeman, J. Harrison, C. Wicks, L. Parmar, S. De Colle, *Stakeholder Theory: The State of the Art*, Cambridge University Press, 2010). The philosophy that moves or that should guide every business intervention is based on the recognition of the competitive advantage of investment in conciliation, or rather, on the fact that reconciling work and family life is not only a necessity, but also an opportunity that can produce benefits to both individuals and organizations. The analysis of one company literature reveals, in fact, the intention to engage in conciliation can find, for the company, a solid justification even economic. In this case, the opinion expressed by top management with respect to conciliation measures and policies, places them in the context of “win-win” initiatives, that is capable of generating outweigh the costs both for the company and stakeholders. Therefore, support of WLB can be economically viable, an investment capable of ensuring return greater than costs. If a company is engaged on the issue of WLB, it is possible to observe employees in greater ease in managing the pace of life and work: those who have the opportunity to

benefit from forms of flexible working actually suffer less interference of work on their family. They are significantly more satisfied and, therefore, even more motivated to produce (See, *Families and Work Institute*, Dialogue on work place flexibility, available at [www.familiesandwork.org](http://www.familiesandwork.org), 2007). The workers in companies that pay attention to the issue of reconciliation enjoy better health and well-being. Greater autonomy and control in managing their work and flexibility are, in fact, the same elements that reduce stress by more than a drop in the number of hours spent at work. Some studies show that the introduction of flexible working would result in a reduction of stress by 70% (See, J. Kathi, C. Lovelace, C. Alves, *Work stress and leadership development: The role of self-leadership, shared leadership, physical fitness and flow in managing demands and increasing job control*, in *Human Resource Management Review*, 2007, 17). From the Side of the company, it is difficult to identify the costs related to implementation of consolation policy and evaluating the benefits achieved (exact calculation is difficult). Nonetheless, numerous studies have shown that supporting reconciliation work and family life in the company contributes to improve financial performance and the value generated for shareholders. The companies have a growth rate of sales over a period of 5 years higher than the average; have performance in terms of shareholder returns, 22% higher than companies with average attention to this issue and 38% compared to those that have a low consideration (See H. Zare, Z. Haghgooyan, K. Asl, *Determining and Prioritizing the Criteria and Scales of Quality of Work Life (QWL) by AHP Method*, in *European Journal of Social Sciences*, 2012, n. 3). The increase in the level of employee satisfaction, in turn, has a positive impact on the corporate profit because there is a reduction in rates of absenteeism and delays. The development of the ability to attract and retain talent consequently leads to a significant decrease in turnover; improves the level of business productivity and reduces business costs, when in conciliation allows the containment of various cost categories (On this point see E. Galinsky, *When Work Works: A Project on Workplace Effectiveness and Workplace Flexibility*, Families and Work Institute, 2004). Different international studies have also found that the development of a system of human resource development in the company, in a context of high participatory evolution of industrial relations, produces a positive impact on both the productivity of companies, employee satisfaction, and reducing absenteeism among workers. Some authors consider the concept of “system of industrial relations” as a heuristic tool, “useful” to understand the state of industrial relations in a given context, without loading meanings that go beyond the detection of the facts, factors and trends that affect them (In this sense G.S. Bain, H.A. Clegg, *Strategy for Industrial Relations Research in Great Britain*, in *British Journal of Industrial Relations*, 1974, 12, n. 1). Other authors such as J.T. Dunlop, *Industrial*

*Relations Systems*, New York, Henry Holt and Company, 1958, consider the concept of the industrial relations system with ideological implications).

### **3. National legislation and policy strategies to foster the development of reconciliation between work and family life**

The question of balance between work and family life in Italy has taken a new direction since the end of the Nineties. Reconciliation policies are no longer mere instruments aimed at meeting female workers' personal needs, linked to specific and determined life cycles, and they have become innovative elements within the production system and distinguishing features of an integrated system of business organization policies, social and land use policies, thus meeting not only women's and men's subjective needs but also the need of economic growth and competitiveness of the labour market. Reconciliation policies certainly support the family, but they are also development policies affecting economic growth and social development. So there is a shift from a private and individual dimension to a system dimension (for further information on this topic see the proceedings of the workshop organized by the Department for Family Policies, *L'evoluzione delle politiche di conciliazione tra vita familiare e vita lavorativa: azioni e prospettive*, marzo 2008). Therefore the adoption of reconciliation policies brings about some advantages for people, companies and the relevant local area, as shown by several studies carried out at national and European level (In this regard see the comparative analysis carried out by V. Viale, *Un approccio comparato alla conciliazione tra vita lavorativa e vita familiare*, in Collana Focus Isfol, luglio 2011). In order to understand the reasons that led our country to develop ad hoc initiatives to foster the balance between family and work life, it is important to take into account a number of highly influential factors, among which: one of the lowest birth rate (1.42%) (For an analytical comparison of this data with other EU Countries see ISTAT, *Noi Italia, in Tasso di fecondità totale nei paesi UE*, edizione 2011), lowest female employment rate (In this regard, see ISTAT, *Rilevazione sulle forze di lavoro – Media 2011*), highest rates of inequality between men and women in Europe, in the recent Global Index 2011 Italy was ranked 74<sup>th</sup> out of 135 Countries covered by the report and among the last of the European Union; a very low rate of childcare facilities, suffice it to think that our country was and is still far from reaching the target of 33% of available places in crèches set by Europe. In 2009 the Department for family policies, which depends on the Presidency of the Council of Ministers, had already outlined the state of the art of early years' services, which shows that only 16% of children has access to a dedicated facility (See A. Rosina, L. Sabbatini

(eds.), *Diventare padri in Italia: fecondità e figli secondo un approccio di genere*, ISTAT, 2005. For further information on the factors affecting reconciliation policies see the research project *People First! Le dimensioni del bilanciamento tra vita personale e vita professionale: le nuove prassi italiane*, a cura della Fondazione I- CSR, marzo 2011).

The analysis of the phenomenon has to start from the relevant legislation. The legislator has tackled the issue of reconciliation between family and work life and, in a couple of years, has adopted a series of measures in order to regulate an issue which is incorrectly considered as marginal. A brief historical digression enables us to remember that the Italian legislation basically safeguards women as workers and mothers, through two important laws (Law No. 204/71 and Law No. 903/77).

Twenty years after the law on maternity protection, new positive actions were undertaken through the law 125 of 1991, followed by a period of promotion of equality and reconciliation between family responsibilities and work life, between personal and family life (For further information concerning the purpose of the law see the documents released by the National Committee of Equality available on the official website of the Ministry of Labour and Social Affairs [www.lavoro.gov.it/Lavoro/Europalavoro/SezioneCittadini/PariOpportunita/Adulti/legge125\\_91.htm](http://www.lavoro.gov.it/Lavoro/Europalavoro/SezioneCittadini/PariOpportunita/Adulti/legge125_91.htm)).

The main change in the regulation of this field, in particular the time use, was highlighting the legislator's need to live up to a cultural change, according to which people's well-being is not measured by their wealth but by their available amount of time (With regard to studies on the time use see the ISTAT, *Usa del tempo*, 1 February 2012; L. Tanturri, L. Mencarini L. Francovich, Time use between work and family in the life cycle: a gender analysis ,Working paper, 2006, and D. Del Boca, A. Rosina, *Famiglie sole. Sopravvivere con un welfare inefficiente*, Il Mulino, 2009). For this reason part-time work is regulated ( a form of work that allows people to have more time to spend with their family and for the same reason parental leaves are introduced or extended etc.). From a legal point of view this cultural process entails the adoption of the concept of time as an asset; therefore it becomes the object of specific laws, rights and duties of the parties. The legislator begins to develop real policies of reconciliation, through the law No 285/97, which provides for measures to be taken both at central and decentralized level in order to foster rights, the quality of life, the development and the family. The law envisages the experimentation of innovative, social and education services for early childhood. These are the first steps towards the reconciliation between work and family life in connection with childcare in Italy. The process goes on with the enactment of the decree-law 335/98, later transformed with some modifications into the Law N. 409/98 placed detailed rules for overtime. As far as night work is concerned, following the changes introduced

by Law No. 25/99, it is forbidden for women to work from midnight to 6 a.m. after the detection of the pregnancy until the first birthday of the child. In addition the following categories of workers are not entitled to night work: the mother of a child aged under three years old or, alternately, the father living with her; the worker, whether male or female, with sole custody and with whom the child aged under twelve years old lives; the worker, male or female, who has a dependent disabled person, former Law 104/92 (In this regard see E. Ghera, *Diritto del lavoro. Il rapporto di lavoro*, Cacucci, Bari, 2006).

As far as the regulation of part-time work is concerned, the Legislative Decree No 61/2000 decisively contributed to the reorganization in the field of work-life balance, and additional changes were introduced by the Legislative Decree 276/03 (For further information M. Biagi, M. Tiraboschi, *Istituzioni di diritto del lavoro*, Giuffrè, Milano, 2012). However, the real cultural and legal turning point is marked by Law 8 March 2000, No. 53, including *Provisions for the support of maternity and paternity, for the right to care and training and for the coordination of the times of city*. This law, which aims at fostering the balance between work, care, training and relationships, regulates the access to parental leaves in relation to maternity, paternity and child-care. Furthermore, it regulates workers' training leaves and provides for the coordination of cities times of working and the use of time for social solidarity. This law was followed by the adoption of a single law regulating maternity and paternity: the Legislative Decree n. 151, 26<sup>th</sup> March 2001 (whose article 70 was changed by law No. 289 October 15, 2003) (See Isfol, *Conciliazione vita/lavoro: un traguardo possibile l'esperienza Equal*, Isfol, 2006; D. Gobbi (ed.), *Conciliare famiglia e lavoro: un aiuto dai fondi Articolo 9 della Legge 53/2000*, collana focus Isfol, 2009, n. 2).

The law 53/2000 has completely changed the child-care leaves to which parents are entitled; it has introduced leaves for parental care or training leaves, previously ruled by collective bargaining; and it has introduced provisions related to the times for life. However, one of the pillars to implement balance policies is surely article 9 of the aforementioned law, which is considered as a strategic instrument for the implementation of policies to balance work and family times. This article has been recently changed by art. 38 of the law June 18, 2009, No 69, which has widened the circle of potential beneficiaries and updated the list of interventions that can be financed (For further details on the changes to the laws, see the documents published on the official website of the Department for family policies, [www.politichefamiglia.it/documentazione/dossier/conciliazione-l-53/le-politiche-per-la-conciliazione.aspx](http://www.politichefamiglia.it/documentazione/dossier/conciliazione-l-53/le-politiche-per-la-conciliazione.aspx)). The last step taken by the bill on work has been Law No 183/2010 which, under article 23, states that the Government is in charge of the reorganization of rules concerning temporary leaves and leaves (In this regard see R. Caragnano, S. Facello, *Congedi, aspettative e permessi: cosa*

*cambia con il decreto del 9 giugno 2011*, Bollettino speciale ADAPT, 2011, n. 34). The issue of balance between private and work life has increasingly become a central issue for relevant Ministries and governmental bodies: the Ministry of labour and Social Affairs, the Office of the National Council for equality and the Department for equal opportunities. In this regard it is interesting to focus on the main positive actions undertaken by the aforementioned institutional bodies for family, its members and their well-being. As far as the family policy is concerned, the stance adopted by the white paper on the future of social model is of paramount importance (In this regard see M. Sacconi, *La vita buona nella società attiva*, maggio 2009).

It acknowledges the vital importance of a family friendly approach. It provides all the instruments and the strategies in order to reach this goal and it sets up good opportunities but also of responsibilities. In the wake of the position expressed by the white paper, in December 2009, an action plan was presented: *Italy 2020 action plan for the inclusion of women in the labour market*. It was the result of a concerted effort of the Ministry of labour and Social Affairs and of the Department for equal opportunities.

The action plan envisages a series of concrete measures which can support female workers (such as an increase in family crèches, the enhancement of care services, registration of trained caregivers and babysitters, economic support for those who work from home via telecommuting, tax cuts for female workers in the South of Italy). For its implementation the Government has already allocated 40 million euros, an amount which regions directly manage through public tenders. For an analytical study, please see the official documentation available on the website of the Department for equal opportunities, within the Presidency of the Council of Ministers ([www.pariopportunita.gov.it/index.php/archivio-focus/1783-intesa-conciliazione-dei-tempi-di-vita-e-di-lavoro](http://www.pariopportunita.gov.it/index.php/archivio-focus/1783-intesa-conciliazione-dei-tempi-di-vita-e-di-lavoro) and for a fact-finding and quantitative analysis see R. Caragnano, V. Sorci, *Agenda dei programmi regionali sulla conciliazione vita-lavoro*, Bollettino speciale ADAPT, 2011, n. 25).

An additional tool for the promotion of policies of reconciliation and equality in the workplace is represented by the Charter of equal opportunities presented in October 2009. The document is a declaration of intent, voluntarily signed by businesses of all sizes with the aim to promote an inclusive corporate culture, free from discriminations and able to enhance the talents in all aspects. Some of the organizers, on top of the Office of the National Councillor, are Sodalitas Foundation, AIDAF – Italian Association of family businesses, AIDDA – Businesswomen Association, Impronta Etica, and UCID – Christian Union of Entrepreneurs and Executives. The document is composed of 10 points which represent concrete commitments taken by the organizations which will sign it (For

further details and to read the full text of the Paper see the ad hoc website [www.cartapariopportunita.it/contenuti/home.aspx](http://www.cartapariopportunita.it/contenuti/home.aspx)).

#### 4. Collective bargaining in Italy

In the European context Italy is characterized by a system of collective bargaining at three levels which, following the usual distinction, are: economy-wide, branch and firm levels. Economy-wide bargaining is limited to framework agreements, national protocols, and social pacts, which do not take place at regular intervals, but rather at any time the social partners consider them useful. The best-known social pact of the last twenty years was signed in 1993. Before the 1993 protocol decentralized bargaining could take place at firm or plant level or at local level for groups of small firms but the relationship between centralized and decentralized bargaining was complex, with many possibilities for conflict (For deepening read B. Ebbinghaus, J. Visser, *The Societies of Europe. Trade Unions, in Western Europe since 1945*, Palgrave Macmillan, London, 2000. On the problem about effectiveness of collective agreement see F. Santoro-Passarelli, *Autonomia collettiva*, in Id., *Saggi di diritto civile*, Jovene, Napoli, 1961; G.F. Mancini, *Libertà sindacale e contratto collettivo erga omnes*, in *RTDPC*, 1963, 570; G. Pera, *Problemi costituzionali del sindacalismo italiano*, Feltrinelli, Milano, 1960; G. Vardaro, *Contratti collettivi e rapporto individuale di lavoro*, F. Angeli, Milano, 1985; L. Mengoni, *Il contratto collettivo nell'ordinamento giuridico italiano*, in *Jus*, 1975, 167, and U. Romagnoli, *Il contratto collettivo*, in *DLRI*, 2000, 225). About legal implications of collective agreement see M. Grandi, *Rapporti tra contratti collettivi di diverso livello*, in *DLRI*, 1981, 355, adde A. Lassandari, *Il contratto collettivo aziendale e decentrato*, Giuffrè, Milano, 2001. 1991 has been an important period for system of negotiation in Italy even though this situation is general in Europe. In fact, centralized bargaining arrangements have re-emerged (or, in some cases, emerged for the first time) in countries as diverse as Finland, Ireland, Italy, Portugal, and Norway (See G. Fajertag, P. Pochet, (eds.), *Social Pacts in Europe*, ETUI, Bruxelles, 1997). But the most important period and Act is 1993 (About situation in Belgium, Germany, and Spain see E. Arcq, *Collective Labour Relations and Social Pacts in Belgium*, in G. Fajertag, P. Pochet (eds.), *Social Pacts in Europe*, ETUI, Brussels, 1997, 97-102; R. Bispinck, *The Chequered History of the Alliance for Jobs*, in G. Fajertag, P. Pochet (eds.), *Social Pacts in Europe*, ETUI, Brussels, 1997, 63-78; L. Fraile, *Tightrope: Spanish Unions and Labor Market Segmentation*, in A. Martin, G. Ross (eds.), *The Brave New World of European Labor*, Berghahn Books, New York, 1999, 312-67). The 1993 Protocol (Protocollo Giugni)



consisted of a tripartite agreement between the peak associations of unions and employers' organizations and the government and it established national sectoral bargaining, that is automatically applicable to all workers regardless of their union affiliation, should determine general wage increases linked to a target rate of inflation to be set by the government every year (and referred with an interval of three years) (In general about Italian collective bargaining, L. Bellardi, L. Bordogna (eds.), *Relazioni industriali e contrattazione aziendale. Continuità e riforma nell'esperienza italiana recente*, F. Angeli, Milano, 1997; P. Rescigno (a cura di), *Autonomia privata individuale e collettiva*, Jovene, Napoli, 2006; M. Rusciano, *Contratto collettivo e autonomia sindacale*, Utet, Torino, 2003; G. Giugni, *La lunga marcia della concertazione*, Il Mulino, Bologna, 2003; L. Bellardi, *Concertazione e contrattazione. Soggetti, poteri e dinamiche regolative*, Cacucci, Bari, 1999, *adde Ead.*, *Le relazioni industriali in transizione: nodi critici e ipotesi di riforma*, in *DRI*, 2003, n. 3, 362; G. Ferraro, *La riforma del sistema contrattuale*, in *RIDL*, 2008, vol. I, 31; P. Ichino, *A che cosa serve il sindacato?*, Mondadori, Milano, 2005; R. De Luca Tamajo, *L'evoluzione dei contenuti e delle tipologie della contrattazione collettiva*, in *RIDL*, 1985, I, 16; G. Vardaro, *Differenze di funzioni e di livelli fra contratti collettivi*, in *LD*, 1987, n. 2, 229; M. Persiani, *Contratti collettivi normativi e contratti collettivi gestionali*, in *ADL*, 1999, n. 1, 1; U. Carabelli, *Dalla "professionalità" statica alla "competenza" dinamica: modelli organizzativi e contrattazione collettiva tra passato e futuro*, in *Rappresentanza, rappresentatività, sindacato in azienda ed altri studi. Studi in onore di Mario Grandi*, Cedam, Padova, 2005, 81. Relationship and power of collective bargaining to repeal in part law are analyzed in R. De Luca Tamajo, *La norma inderogabile nel diritto del lavoro*, Jovene, Napoli, 1976; L. Mariucci, *Le fonti del diritto del lavoro quindici anni dopo*, Giappichelli, Torino, 2003; M. Napoli, *Le fonti del diritto del lavoro e il principio di sussidiarietà*, in *DLRI*, 2000, 85; L. Nogler, *Saggio sull'efficacia regolativa del contratto collettivo*, Cedam, Padova, 1997).

Theoretical contributions to our knowledge and understanding of collective bargaining include those of the Webbs, Flanders, Chamberlain and Kunn. According to the Webbs, collective bargaining is one of the three main methods used by trade unions to achieve their basic aim of improving the condition of their members' working lives (See S. Webb, B. Potter Webb, *Industrial democracy*, Longmans, Green, London, 1902); according to A. Flanders, *Collective Bargaining: a Theoretical Analysis*, in *BJIR*, 1968, n. 1, 216-222. The individual bargaining «provides for an exchange of work for wages and...adjusts for the time being conflicts of interest between a buyer and seller of labour».

Collective bargaining could be considered from three perspectives which represent three different stages in the development of collective bargaining. They

are a means of contracts for the sale of labour, a form of industrial government and a method of management (For N. V. Chamberlain, J. W. Kuhn in, *The Nature of Collective Bargaining*, McGraw Hill, New York, 1985. About the relationship between centralism and decentralism see G. P. Cella, T. Treu, *La contrattazione collettiva*, in *Le nuove relazioni industriali. L'esperienza italiana nella prospettiva europea*, Il Mulino, Bologna, 1998; L. Mariucci, *Le Fonti del Diritto del lavoro*, Giappichelli, Torino, 2003. See M. Tiraboschi, *Le relazioni industriali e di lavoro dopo il protocollo del 22 gennaio 2009*, in *GLav*, 2009, n. 6, 30-40; G. Olini, *L'accordo quadro di gennaio tra continuità e innovazione*, in *Quaderni Arel*, febbraio 2009, 32-35; P. Pirani, *Nuove regole per sindacati protagonisti e non antagonisti*, in *Quaderni Arel*, febbraio 2009, 36-37; M. Ricci, *L' accordo quadro e l'accordo interconfederale del 2009: contenuti, criticità e modelli di relazioni industriali*, in *RIDL*, 2009, III, 353; T. Treu, *L' accordo per il nuovo modello contrattuale*, in *GLav*, 2009, 5, 12; L. Bellardi, *Regole del conflitto e conflitto sulle regole. L'accordo separato sulla revisione del modello contrattuale*, in D. Carrieri, V. Nastasi (a cura di), *Spazio e ruolo delle autonomie nella riforma della contrattazione pubblica*, Il Mulino, Bologna, 2009).

The content of the Inter-con-federal Agreement of 15 April 2009, signed by Confindustria and by the Cisl and Uil trade unions, in the light of the previous Framework Agreement of January 22, 2009 was not signed by the Cgil trade (Framework Agreement of 22 January 2009 cfr. CNEL, *La contrattazione collettiva nel settore privato nel 2009*, 14 luglio 2010).

In recent years, another important legislative action on collective bargaining was art. 8 of Decree No. 138/2011, and spoke to rearrange the system of industrial relations (See the papers of F. Carinci, *Al capezzale del sistema contrattuale: il giudice, il sindacato, il legislatore*, WP CSDLE "Massimo D'Antona" IT, 2001, n. 133; S. Liebman, *Sistema sindacale "di fatto", efficacia del contratto collettivo (aziendale) e principio di effettività*, in *ADL*, 2011; A. Perulli, V. Speciale, *L'articolo 8 della legge 14 settembre 2011, n. 148 e la "rivoluzione di Agosto" del Diritto del lavoro*, WP CSDLE "Massimo D'Antona" – IT, 2011, n. 132; M. Magnani, *L'articolo 8 della legge n. 148/2011: la complessità di una norma sovrabbondante*, in *DRI*, 2012, n.1, 1; M. Tiraboschi, *L'art. 8 del decreto legge 13 agosto 2011, n. 138: una prima attuazione dello "Statuto dei Lavori" di Marco Biagi*, in *DRI*, 2012, n.1, 78; R. De Luca Tamajo, *Crisi economica e relazioni industriali: alcune riflessioni sull'art. 8 della legge n. 148/2011*, in *DRI*, 2012, n.1, 11; C. Pisani, *Una ricetta della BCE per l'occupazione: regole specifiche aziendali*, in *DRI*, 2012, n. 1, 67; A. Maresca, *La contrattazione collettiva aziendale dopo l'art. 8 del decreto legge 13 agosto 2011, n. 138*, in *DRI*, 2012, n. 1, 16; R. Pessi, *Ancora sull'art. 8 della seconda manovra estiva*, in *DRI*, 2012, n.1, 57; M. Del Conte, *La riforma della contrattazione decentrata: dissoluzione o*

*evoluzione del diritto del lavoro?*, in *DRI*, 2012, n.1, 24; M. Marazza, *La contrattazione di prossimità nell'art. 8 della manovra 2011: i primi passi della dottrina giuslavoristica*, in *DRI*, n.1, 41).

#### **4.1. The decentralized collective bargaining and implementation of policies to reconcile the joint notice of 7 March 2011**

The collective autonomy is an ideal tool for the management of policies of conciliation between private life and working time. The bargaining usually represents a means of initiating process of organizational innovation, business and the relationship between business and local authorities that, while recognizing women's right to work and to achieve professional and personal goals, can result in opportunity to revive and economic development.

In general, the bargaining may pursue to achieve personal well-being and production efficiency, as it moves in the logic of the search for the "mutual benefit" and "respect for the principles of equal opportunities"; increase in female employment and participation in the work; access to and improvement of the career paths of women; research and introduction of forms of organizational flexibility in order to facilitate the reconciliation of working and living, prevention of discrimination, improving the business climate and quality of work (On the role of collective bargaining for the reconciliation of work and family life, see: I. Senatori, *Il ruolo della contrattazione collettiva nella promozione del welfare aziendale*, Quaderni Fondazione Marco Biagi, Saggi, 2012, n. 2; S. Costantini, *Contrattazione collettiva nazionale e conciliazione fra lavoro e vita familiare: un rapporto difficile*, in *Lavoro e diritto*, 2009, n. 1, 121-142).

The synergetic action between the legislative and social policies and contracts moves, then, on the ground of bargaining, national and decentralized levels. On this line of action part of the 'roundtable' Actions in support of policies to reconcile work and family life of March 7, 2011 signed by the Government and the social partners, with which you start the technical course to introduce, at all levels of bargaining, corporate or territorial forms of family-friendly flexibility and reconciliation of working life and times with re-modulated time, part-time work, telework, parental leave, re-modulated and careful management of permissions (For the text of the agreement and for a discussion of the same see in R. Caragnano, *Nuove linee guida e buone prassi per la conciliazione vita-lavoro*, cit). The social partners rely on an additional task to collective bargaining that may be congenial in this area: to generalize the best practices established by the individual agreements "validated", with a view to benchmarking (See D. Del Fiacco, *Conciliazione vita lavoro*, UIL "Per saperne di più...", 2011, n. 22, R.

Caragnano, *Nuove linee guida e buone prassi per la conciliazione vita-lavoro*, Bollettino speciale, 2011, n. 11; Quaderni FOP, *Conciliazione vita-lavoro. Politiche, servizi e strumenti*, maggio-agosto 2011, numero3-4, 26; L. Calafà, D. Gottardi, *Famiglia, lavoro, diritto: combinazioni possibili*, in *LD*, 2001, n. 1, 161).

Second-level bargaining could be used as key element in the implementation of the business dynamics and a source of enrichment for the protection of the worker (See Rapporto Fondazione I-CSR, People First, *Le dimensioni del bilanciamento tra vita personale e professionale: le nuove prassi italiane*, March 2011, 57; Eurobalance, *Conciliazione Vita Lavoro: una guida per approfondire*, cit., 24-25; see, also, verbale di accordo Eni S.p.a. del 14 Maggio 2012. See C. Cofacci, *Accordo sul telelavoro in Enel*, in *Adapt Bulletin LIBRA*, Issue No. 6/2012, edited by R. Caragnano, L. Ricciardi, F. Pace). The agreement also states that telework as a tool to promote productivity, will also be used in new organizational processes, together with the improvement of work-life balance. There is also bargaining in small and medium-sized enterprises, the evolution and milestones of specific bargaining (See M. Dau, *La contrattazione nelle piccole e medie imprese: quali prospettive?*, Fondazione Imprese Italia, 17 febbraio 2011 Reconciliation and bargaining see [www.adapt.it/libra](http://www.adapt.it/libra)).

Decentralized bargaining plays an important role with respect to the implementation of business projects. In this sense, the law n. 53, 2000 was the real turning point, regulatory and cultural. It is a discipline that aims to rebalance the distribution of duties of care within the family financially supporting companies that want to develop flexible arrangements aimed at reconciling work and family life, in order to allow men and women a balanced distribution of family responsibilities. Art. 9 of Law no. 53/2000 provides for the payment of contributions, grants, in favor of companies that wish to make reconciliation measures. The labor agreement is a prerequisite for the funding of projects, the priority is to guarantee the flexible needs of workers and employees (arising from reconciliation needs), to meet the needs of business flexibility and can be concluded with organizations local union or corporate signatory of the Negotiable applied to or with the employers' associations of reference. In the absence of such agreement, the projects are considered eligible (On this issue, see: D. Gobbi, *Conciliare Famiglia e Lavoro: un aiuto dai Fondi, art. 9 della legge 53/2000*, Focus Isfol, 2009, n. 2, 4-8; R. Caragnano, S. Stefanovichj, *Il valore della conciliazione e le azioni per l'equilibrio famiglia-lavoro*, Dossier Adapt, n. 2/2011, R. Caragnano, *Nuove linee guida e buone prassi per la conciliazione vita-lavoro*, Bollettino speciale ADAPT, 2011, n. 11; M.V. Ballestrero, *La conciliazione tra lavoro e famiglia*, in *LD*, n. 2, 2009; F. Fazio, A. Stoccoro, *Contrattazione decentrata e produttività*, in *Boll. ADAPT*, 16 February 2010). In

Italy, the promotion of corporate policy of conciliation was also conducted by Law No. 125/1991 (and subsequent amendments, pursuant to Legislative Decree 198/2006) with its theme “Positive actions for gender equality in the workplace”. The Law No. 125/1991, in particular, through appropriations of funds aimed at public and private employers, trade unions, training centers and associations, has helped to convey a culture of reconciliation between all parties involved and represented legislation advances in favor of women (On this point see R. Bortone, *La normativa sulle pari opportunità nel lavoro*, in D. Garofalo, M. Ricci (eds.), *Percorsi di diritto del lavoro*, Cacucci, Bari, 2006, 441; C. Saraceno, *Che genere di conciliazione? Famiglia e lavoro in una prospettiva multidisciplinare*, in *Ec. Lav.*, 2006, 31; P. Donati, R. Prandini, *La cura della famiglia e il mondo del lavoro*, Franco Angeli, Milano, 2008; M. Marino, *La conciliazione dei tempi di vita e di lavoro: una “policy” per le donne e degli uomini in una prospettiva di maggiore occupazione per tutti*, in *Rivista giuridica del Mezzogiorno*, 2012, n.1-2, 295-318).

## **5. Reconciliation of view of productivity and flexibility and work organization**

The theme of reconciliation between life and working time is central in economic and political debates and is closely linked to the issue of flexibility. Flexibility and conciliation elements are interconnected and intertwined to make more conducive organization of work to meet the rapid changes taking place in the society and in particular in the labor market, where the former one is the main tools of conciliation. Overall, it is in the presence of a biunivocal relation where flexibility could be one of the main instruments of conciliation understood as a complex and flexible management of times of living and working; the other is conciliation that allows to balance the needs and demands for flexibility for companies in a general context of new organizational models (For further information read the J.-C. Barbier, H. Nadel, *l'emploi*, Flammarion, Paris, 2000). This is important in the current organizational models in which the social perception of time is changed by passing a measure “general” typical of the Fordist model where at a certain time corresponded to provide a qualitative and quantitative standard, a system in which the temporal dimension is decomposed giving rise to new organizational models with a variety of patterns of time (On this point F. Garibaldi, F. Sbordone, V. Telljohann, *Forme della divisione del lavoro e i processi di cambiamento*, in *Romagna*, Primo Rapporto Annuale dell’Istituto per il Lavoro, Collana IpL,

Milano, Franco Angeli, 2000). This should be read in conjunction with the concept of internal and external flexibility; the European Commission in the Joint Employment Report (the Joint Employment Report) addresses the issue of adequate flexibility for both workers and employers. The Commission's approach is to look for flexibility in terms of increased mobility and organization of time in the labor market (In this regard it is appropriate to refer to the distinction made by J. Atkinson e N. Meager (J. Atkinson, N. Meager, *Changing working patterns: how companies achieves flexibility to meet new needs*, NEDO, London, 1986) which distinguish between external numerical flexibility (contractual), internal numerical flexibility (working time), functional flexibility (organizational) and financial flexibility (wage). In this, read also PEPPER IV Report, Benchmarking of Employee Participation in Profits and Enterprise Results in the Member and Candidate Countries of the European Union, 2009).

Flexibility needs regulatory tools as it can affect the working time, as well as the organization. One of the regulatory tools that allow flexibility of working time in order to foster the work life balance is a part-time governed by Legislative Decree No. n. 61 of 28/01/2000, following the transposition of the European Directive No. 97/81/EC. Part-time work is a working time that provides a number of hours less than normal. It has three different configurations: horizontal, with hours of work corresponding to a part of the standard working week; vertical performance with full-time for a limited period of the week, month or year and mixed or a mixture of the previous configurations (On this point read F. Bergamante, *La modulazione dei tempi di lavoro, Uno strumento di conciliazione*, Osservatorio Isfol, 2011, n. 2, 87-88 and 96-98; V. Bavaro, U. Carabelli, G. Sforza, R. Voza, *Tempo comune. Conciliazione di vita e lavoro e armonizzazione dei tempi della città*, Franco Angeli, Milano, 2009; E. Riva, *Quel che resta della conciliazione, lavoro, famiglia, vita privata tra resistenze di genere e culture organizzative*, Vita e pensiero, Milano, 2009. On this point see also, which can be seen on the basis of Istat data processing ISFOL Rcfl 2000 and 2009). On the basis of Istat data-processing from 2000 and 2009 there has been an increase in the share of workers with part-time contract, a growth-related, no doubt, to the actual needs of equilibrium with the family sphere. The results of this survey show willingness of companies to meet the needs of employees, and the knowledge and productivity of employees may increase if the requirements are met by the worker (For a detailed analysis of the impact of part-time work between men and women in the banking and insurance sectors in Lombardy, see: I Quaderni FIBA CISL Lombardia, *Un futuro al femminile per la contrattazione aziendale – Il rapporto biennale per uno sguardo di genere sulle realtà aziendali*, 2012, n. 1; about the advantages and disadvantages of workers and employers from the use of part-time, sul tema dei vantaggi e svantaggi derivanti ai lavoratori

e ai datori dall'uso del part time, cfr.: Eurobalance, *Conciliazione Vita Lavoro: una guida per approfondire*, 14-18).

In addition to part-time businesses, depending on the sector in which they operate, and according to your production and organizational needs, companies can use other tools to ensure the flexibility of working with a view to bring work-life balance. One of the widely used tools is the time slider which gives the opportunity to the employee to vary the time of entry and/or exit, the start time or end time of the break, ensuring coverage of the number of hours specified in the contract. Therefore, workers can organize their working time and alternate periods of work with periods of greater freedom. Another tool to ensure the flexibility of working is banking of hours, an institutional agreement which provides the opportunity for the employee to “deposit” on a virtual account the hours worked (overtime) and then, during the ‘year, tap into it to enjoy compensatory rest in the manner prescribed by collective bargaining. The peculiarity of this instrument is not the monetization of overtime. In particular, these hours are to form a special number of hours (credit hours) from which to draw in case they need additional permits and rest (For a discussion on the practice of integrative collective bargaining in terms of work life balance, see: R. Caragnano, *Le prassi della contrattazione collettiva integrativa in materia di conciliazione vita lavoro*, in *Boll. ADAPT*, 8 March 2011; R. Caragnano, *Conciliazione: strumenti ed opportunità per aziende e lavoratori*, in *Boll. ADAPT*, 2 October 2012; R. Bortone, *Il tempo come fattore di conciliazione*, in *LD*, 2012).

Finally, would like to highlight the use of the instrument of Job Sharing (or job sharing). It is a special employment relationship in which two workers agree to take in the fulfillment of an identical solid job performance. The characteristic of solidarity allows workers to manage yourself and the discretionary allocation of work and make substitutions between them. The salary is calculated on hours actually worked by each worker.

Telework is considered by many as a useful tool for the improvement of working conditions and conciliation between professional and personal life. In 2002, a framework of agreement was signed at the European level on telework that identifies some general points to be implemented by each Member in accordance with procedures and practices of the social partners. The above framework of agreement defines telework as a form of organization and / or conduct of the work that makes use of information technology as part of a contract or employment relationship where work, which could also be done on the premises, is regularly performed outside the premises of the same.

In Italy, the transposition of the European Entente was the case with a 2004 agreement in which it was defined the framework for the regulation of telework, leaving ample room to bargain collectively and individually, although the

individual must meet the minimum standards of protection established in the agreement. In the private sector, most of the national agreements concluded at sectoral level established the voluntary nature of telework and the requirement that teleworkers have the same rights as those established by law and collective agreements for workers who carry out their activities in standard work places (For information on data produced by the survey ISFOL-PLUS on the spread of telecommuting in businesses in Italy, see: F. Bergamante, *op. cit.*, 99-100).

The classifications of the forms of teleworking differ according to time and space (For further discussion, see People First, *op. Cit.*, 57; Eurobalance, *op. cit.*, 24-25, which discusses the benefits and disadvantages resulting from the use of telework for both the employer and for the employee; see also verbale di accordo Eni S.p.a del 14 Maggio 2012). The agreement states that telework as a tool to promote growth in productivity, will also be used in new organizational processes, together with the improvement of work-life balance (On this point see M. D'Aponte, *Decentramento produttivo e flessibilità del lavoro: il fenomeno del telelavoro tra modernizzazione dei sistemi di impresa e tutele del prestatore*, in *Rivista Diritto ed economia dei mezzi di comunicazione*, 2003, n.1; M. Frediani, *Telelavoro ed accordo interconfederale*, in *Il Lavoro nella giurisprudenza*, 2004, fasc. 9, 824-828; A.M. Ponzellini, *Quando si lavora con le tecnologie. Donne e uomini nelle professioni dell'Information & Communication Technology*, Edizioni Lavoro, Roma, 2006; M. Cinelli, G. Ferraro, *Lavoro, competitività, welfare*, Utet, Torino, 2008).

### **5.1. Services to individuals and families**

Another tool that allows the reconciliation required by law, as a form of protection for women during her pregnancy and during the first months of a child's life or the entry of the latter in the family for adoption or foster care, is on maternity leave. The legislation on maternity protection is collected in the Act (approved by Legislative Decree No. 151/2001) of the laws relating to the protection and supports for maternity coordinates into a single measure all the old and new rules concerning the protection of motherhood and fatherhood. It confirms the centrality of the working mother and, at the same time ensuring equal treatment between mother and father, worker assistance and education of children.

Art. 16 of T.U (For a discussion of the reorganization of the rules and regulations concerning leave, expectations and permits, pursuant to delegated legislation No. 183/2010, art. 23, see: S. Facello, M. Tiraboschi, *Al via il riordino di congedi, aspettative e permessi*, in *Guida al Lavoro*, 2011, n. 26).



states that maternity leave is mandatory and has a total duration of 5 months. It is paid and you can choose between two options: to involve or absent from work by the two months preceding the birth up to 3 months, or 1 month before and 4 months after delivery. Maternity leave can be flexible in some cases, since it can be earlier or later if the pregnancy has complications or the working environment is not likely to ensure a smooth running of gestation (For a study on new flexible leave maternity, see: L. Cafalà, *Nuove flessibilità del congedo di maternità* (C. Cost. 7 April 2011, n. 116), in *DRI*, 2011, n. 3, 739). At the end of the period of maternity leave, you can ask for further periods of absence to assist the child (On this point see L. Calafà, *Congedi e rapporto di lavoro*, Cedam, Padova, 2004; L. Calafà, *Congedo parentale e cura del minore. Limiti funzionali al diritto potestativo del padre*, in *RIDL*, 2009, part II, 277; F. Torelli, *La difficile condivisione del lavoro di cura. Spunti sui congedi parentali*, in *LD*, 2010, 455; F. Barbieri, *Crescono i congedi parentali*, in *Il Sole 24Ore*, 2011, [www.ilssole24ore.com/art/norme-e-tributi/2011-06-27/crescono-congedi-parentali-064118.shtml?uuid=AapvjIjD](http://www.ilssole24ore.com/art/norme-e-tributi/2011-06-27/crescono-congedi-parentali-064118.shtml?uuid=AapvjIjD); R. Caragnano, *Le misure di sostegno della genitorialità: congedo obbligatorio di paternità e voucher*, M. Magnani, M. Tiraboschi (eds.), *La nuova riforma del lavoro*, Giuffrè, Milano, 2012).

Among the services for the family, however, are all initiatives that organizations implement to respond to the needs of workers with special reference to the family, such as the creation of nurseries, detections of play areas for children, creating Entertainment Center services, moments of socialization and integration of work and family (A recent survey sponsored by SACE, see: Speciale Work Life Balance excerpt from SACE Mag, *Quando lavorare non stanca*). The survey at the CSR Manager Network, an entrepreneurial reality, shows abuzz with many initiatives to establish itself as “friends of the employees”. The various initiatives taken by the sampled businesses were; in fact, stand out projects for the family as company nurseries (created by 42% of companies surveyed), the recreational summer camps for children, and the creation of ancillary services which are necessity for the quality of life: corporate gyms, the errands and expenses and support to domestic activities (See: project of De Agostini S.P.A Easy Dea illustrated by the Secretary of Policies for the family at the Press Conference of the Notice of funding 2011; Vedo Rosa, *L'energia delle Donne, la forza della Puglia – Gli interventi regionali per la Parità*, Bari, 7-8 March 2012, the offers of services for early childhood or service offerings and territorial home care for the elderly between 2005 and 2013; see, also, PROGETTO DALIA- Finanziamento FSE POR- OB 3- MIS E1- Provincia di Pistoia which has focused on objectives of the system can support and enhance actions in favor of women, spreading a culture of equal opportunities in business through the creation of local activities consistent and integrated with each other,

sometimes to build and test prototypes and models integration and to develop experimental measures of active employment policy).

Finally, the services provided for the employee are advice, support and information, as well as facilities that are derived from agreements and conventions that also entitle third parties. These services can be carried out directly by preparing an internal butler or out sourcing such activities to external companies specialized in Life Style Management, or inner doors to the company headquarters. For example, between services on site include: in the gym, relaxation areas, pick-up point, dyeing, tailoring, shoemaking, consulting services (tax, real estate); take away service from the restaurant business, on site shopping, newspaper library and the possibility to rent dvds, processing fees, bank and insurance, travel desk, etc. (For a discussion on the impact of these business initiatives between companies classified as the best places to work according to the classification of Great Planet Work or Italy, see *People First*, cit., 59-64).

## CHAPTER IX

### BELGIAN FRAMEWORK

*Summary:* 1. Social dialogue. – 2. Working time and individual flexibility. – 3. Collective reduction of working time. – 4. Time. – 5. The role of work and leisure. – 6. Work-life balance. – 7. Being parent, the effects on working time. – 8. Being parent, the effects on income. – 9. Public policies for parents. – 10. Childcare facilities. – 11. Parental leaves. – 12. Company policies for working parents. – 13. City life. – 14. Telework.

#### 1. Social dialogue

Belgium is internationally recognised for its well-developed social dialogue system, based on three negotiation levels: interprofessional, sectoral and enterprise level. The following papers analyse the various aspects of this model: P. Desmarez, 2008, *L'analyse des relations collectives de travail: examen d'une controverse*, in *Penser la négociation. Mélanges en hommage à Olgierd Kutý*, sous la dir. de D. Vrancken, C. Dubois, F. Schoenaers, Bruxelles, De Boeck, pp. 57-66; E. Martinez, *La négociation collective en entreprise*, in E. Arcq, M. Capron, E. Léonard, P. Reman (dir.), *Dynamiques de la concertation sociale*, Bruxelles, Editions du CRISP, 2010, pp. 275-289; E. Martinez, Verly J., 2010, *La négociation sectorielle*, in E. Arcq, M. Capron, E. Léonard, P. Reman (dir.), *Dynamiques de la concertation sociale*, Bruxelles, Editions du CRISP, pp. 257-272; R. Plasman, 2007, *Politiques d'emploi et négociations salariales*, in B. Bayenet, H. Capron, P. Liégeois, *L'espace Wallonie-Bruxelles. Voyage au bout de la Belgique*, De Boeck (éds.), Economie Société Région, pp. 227-246.

The presence of a three-tier negotiation system produces significant effects on wages, as well as on the country socio-economic performance. The following contributions deal with the issue both at the Belgian and at the European level: M. Rusinek, F. Rycx, *Quelle est l'influence des négociations d'entreprise sur la structure des salaires?*, *Reflets et Perspectives de la vie économique*, 2008, vol. XLVII, n. 3, pp. 101-114; R. Plasman, F. Rycx, *Collective Bargaining and Socio-economic Performance: A Review, Report to the Belgian Science Policy (SSTC/DWTC), Research Report: The Challenges of the Trade Unions at the Eve of the 21st Century*, 2000; R. Plasman, F. Rycx, *Décentraliser ou coordonner les négociations salariales pour réduire le chômage*, *Reflets et Perspectives de la vie*

*économique*, 2001, vol. XL, n. 1-2, 81-91; R. Plasman, F. Rycx, *Négociations collectives, performances macro-économiques et pauvreté: une perspective internationale*, in A. Martens, G. Van Gyes, P. van der Hallen (eds.), *Le mouvement syndical à la veille du 21ème siècle*, DWTC, 39-48, 2002; R. Plasman, F. Rycx, *Industry Wage Differentials and the Bargaining Regime in a Corporatist Country*, PiEP Working Paper, London School of Economics. (Published in *International Journal of Manpower*), 2002; R. Plasman, F. Rycx, *Négociations collectives et performances socio-économiques: une comparaison internationale*, in *La Revue de l'IREM (France)*, vol. 32, n. 1, 5-43, 2000; R. Plasman, F. Rycx, *Collective Bargaining and Poverty: A Cross-National Perspective*, in *European Journal of Industrial Relations*, vol. 7, n. 2, 175-202, 2001; R. Plasman, M. Rusinek, F. Rycx, I. Tojerow, *Structure et formation des salaires en Belgique*, Editions de l'Université de Bruxelles, 2008.

The following article analyses the link between gender and social dialogue: L. Damhuis, *Le genre dans les négociations collectives sectorielles: Les mesures concrètes dans les conventions collectives de travail (CCT)*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, September 2010.

## **2. Working time and individual flexibility**

During the economic crisis of the 1970s, the Belgian government promoted the recourse to working time reduction schemes and part-time work by introducing tax exemptions and special benefits. Employers, on their turn, attempted to achieve greater flexibility by reducing working time and by increasingly resorting to fixed-term employment arrangements. These anti-crisis measures changed profoundly the nature of work. The result was a marked reduction in the quality of work and workers' life, as they could no longer cover their everyday expenses with such low wages, turning to undeclared work to seek additional income. This trend was increasingly reinforced since 2005 with the introduction of the notion of "flexicurity", that made its way into continental Europe and was promoted by the Lisbon Strategy. However, this increase in flexibility does not have the same consequences for all workers. In some cases, it can even lead to workers' burnout. See N. Latteur, *Flexibilité & Organisation du travail, Formes d'organisation du travail et mise en péril des capacités de résistance des salariés*, CEPAG, October 2006; J. Cultiaux, *A la recherche de l'individu flexible: L'individu au travail face aux nouvelles formes d'organisation du travail*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, November 2006; E. Martinez, *Las condiciones de vida y trabajo: el*

*ángulo muerto de la flexiguridad*, Universidad de Sevilla; E. Martinez, *Les salariés à l'épreuve de la flexibilité*, Bruxelles, Editions de l'Université de Bruxelles, 247, 2010; L. Lesnard, *Flexibilité des horaires et inégalités sociales, Données sociales*, in La société française edition, 2006; O. Chagny, B. Ducoudre, 2008, *Evaluation du volume d'heures supplémentaires rémunérées des salariés des secteurs concurrentiels en 2006*, DARES, Premières synthèses - October 2008 n. 40.5, Paris; J. Thoemmes, A. Flautre, C. Thebault, G. de Tersac, 1998, *Conflit de disponibilités: vers une intensification du travail*, Actes du colloque "Recherche et ergonomie", Toulouse, February 1998; G. Valenduc, *Du travail flexible au travail sans bornes*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, December 2006; G. Valenduc, *Le travail flexible, dans "Face au choc des TIC"*, Cahiers de la Fondation Europe et Société, Paris, n. 49-50, December 2001; J. Vandewattyne, *De VW à Audi ou de la semaine des 35 et 32 heures à l'extrême flexibilité du temps de travail*, Politique, n. 67, 28-31, November-December 2010; B. Cockx, B. Van der Linden, *La flexicurité en Belgique. Une proposition basée sur des principes économiques*, in Regards économiques n. 73, September 2009, IRES – UCL.

Part-time work has become a reality for "an increasing number of workers. Some have no choice but to work part-time. In some areas, part-time work is also used to compensate for particularly demanding and tiring activities performed in difficult conditions. Other workers need or want to work part time (especially in the past), but the overall implications of part-time work remain largely unknown. According to a survey carried out by the FGTB, 90% of workers are unaware of the rights and implications related to part-time work. Some authors even argue that part-time work often implies low quality jobs. Lack of security, lack of flexibility and loss of dignity are the main characteristics of this form of atypical work. See J. Deumer, *Flexicurité et qualité de l'emploi: le cas du travail à temps partiel*, Courrier hebdomadaire n. 2074-2075, 82, 2010; Centre de Recherche et d'Information sociopolitiques – CRISP; *Le travail à temps partiel, les pièges à éviter*, FGTB, March 2012; R. Plasman, F. Rycx, M. Stocker, *New Forms of Employment and Working Time in Belgium: Review of the Literature, Report to the European Commission, Targeted Socio-Economic Research Project: New Forms of Employment and Working Time in the Service Economy (NESY)*, 1999; A. Vanheerswynghels, *Le temps partiel, tremplin vers l'emploi stable?*, in C. Vermandere, Vanheerswynghels, P. Van Der Hallen, *Een plus één is drie, Un plus un égale trois*, Bruxelles, Academia Press, 133-142, 2007; P. Vendramin, *Rythmes de travail, temps et genre: pour une approche collective et novatrice du temps*, dans "L'ère du temps", Actes de la Semaine Sociale du MOC, Editions Couleur Livres, 2005; V. Ulrich, *Logiques d'emploi à temps partiel et trajectoires professionnelles des femmes*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail*.

*Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; S. Rivaud, V. Ulrich, *Le poids du temps partiel dans les trajectoires professionnelles des femmes*, DARES, Document d'étude n. 127, July 2007, Paris; J. Bue, T. Coutrot, *Horaires atypiques et contraintes dans le travail: une typologie en six catégories*, DARES, Premières synthèses May 2009 n. 22.2, Paris; E. Martinez, H. Op Den Kamp, G. Van Gyes, *Proposition pour améliorer la méthodologie de calcul des indices des salaires et des durées de travail conventionnels*, Note finale 2 dans le cadre du projet «Optimisation et valorisation de la base de données 'Salaires et temps de travail conventionnels'», Programme AGORA du SPP Politique scientifique, SPF Emploi, Travail et Concertation sociale, 202 (KULeuven, Hiva), February 2008; E. Martinez, *La qualité de l'emploi et du travail. Etat de la recherche en Belgique*, Sociologia del lavoro, 2012.

Women and young people are particularly affected by these new types of employment arrangements, often characterised by instability and insecurity, see G. Valenduc, *La qualité du travail et de l'emploi des femmes: Focus sur les emplois atypiques*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, December 2011; P. Vendramin, *Le travail atypique, résultats d'enquête FTU- CSC*, Association pour une Fondation Travail-Université asbl, Bruxelles, 2001; G. Valenduc, *Les femmes et l'emploi atypique*, Etude réalisée pour les Femmes CSC, Association pour une Fondation Travail-Université asbl, Bruxelles, March 2012.

Certain sectors are particularly affected by changes in working hours and by the increasing recourse to part-time work. The following studies provide an update on the cleaning sector in Belgium: G. Lebeer, E. Martinez, *Flexibilité, santé des travailleurs et qualité du travail dans le secteur du nettoyage*, 2008; E. Martinez, *Les ouvrières du nettoyage: précarité d'emploi, inégalités de temps et division sexuée du travail*", Laboreal, 2012.

For this reason, some authors suggest that it may be better to negotiate – rather than impose – working time reductions, cfr. E. Martinez, *Pour une société à temps négociés*, Revue Politique n. 67, Temps de travail, temps de vie, November-December 2010; E. Martinez, *La société à temps négociés*, Politique, revue de débats, November 2010.

### **3. Collective reduction of working time**

Unlike in the case of *individual* working time reductions, Belgian trade unions have always supported *collective* reductions of working hours. The following papers provide an overview of the relevant issues in the field, of the

underlying analyses as well as an assessment of experiences in other countries: P. Feltesse, *La réduction du temps de travail: Rapport intermédiaire de la commission économique du M.O.C.*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, 1997; R. Plasman, *Forums Réduction du Temps de travail: en discuter pour en décider*, Rapport de synthèse, Ministère de L'emploi et du Travail, August 2000; R. Plasman, S. Bouquin, *Aménagement et réduction du temps de travail, synthèse des forums*, Ministère de l'Emploi et du Travail, Bruxelles, 75, 2001; R. Plasman, C. Soudan, *Aménagement et réduction du temps de travail: Pistes pour la Région de Bruxelles-Capitale*, rapport réalisé dans le cadre du Pacte Territorial pour l'Emploi en Région de Bruxelles-Capitale, February 1998; C. Soudan, R. Plasman, *Le cas de la Belgique*, in F. Ballesterro, R. Plasman (eds.), *Une ambition pour l'Europe – 32 heures en 4 jours: actes du colloque «Quelle stratégie pour le temps de travail» organisé les 27 et 28 mai 1998 à Liège par Europe et Participation*, Gerpennes, Quorum, 1999, 168-179; G. Valenduc, *La relation entre temps de travail et emploi (I): Travailler plus ou travailler moins pour travailler tous?*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, August 2007; G. Valenduc, *Les inégalités dans le temps de travail: La réduction des inégalités comme condition nécessaire à une redistribution du temps de travail*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, October 2010; G. Bouvier, F. Diallo, *Soixante ans de réduction du temps de travail dans le monde*, INSEE n. 1273, Paris, 2010; M.A. Estrade, D. Méda, *Principaux résultats de l'enquête RTT et modes de vie*, DARES n. 56, May 2002, Paris; L. Ciccia, *Réduire collectivement le temps de travail: pour une plus juste distribution des richesses pour travailler tous et pour vivre mieux !*, Econosphères, June 2012; E. Szoc, *Travailler moins pour aimer mieux*, Econosphères, December 2010; E. Lebeau, S. Robeet, *La RTT: fin de l'histoire ou début d'une nouvelle histoire?*, Econosphères, November 2010; E. Lebeau, *La réduction du temps de travail, un combat séculaire et plus que jamais actuel*, Econosphères, January 2010; P. Defeyt, *Réduire le temps de travail: oui, mais comment?*, Revue Politique n. 67, Temps de travail, temps de vie, November-December 2010; J. Vandewattyne, *Audi-VW: la RTT à l'envers*, Revue Politique n. 67, Temps de travail, temps de vie, November-December 2010; L. Vogel, *Un prisme européen*, Revue Politique n. 67, Temps de travail, temps de vie, November-December 2010; B. Van der Linden, *La durée du travail en Belgique: trop longue? trop courte?*, Regards économiques n. 25, November 2004, September 2009, IRES – UCL.

In France, the 35-hour workweek has been one of the key measures introduced by the “plural left”. While liberal economists continue with their gloomy predictions, the observation of reality reveals a much more nuanced economic effect: neither a disaster nor a panacea, the reduction of working time

has had contrasting effects, but definitely positive. See C. Bloch-London, T. Coutrot, *La réduction du temps de travail a-t-elle encore un avenir?* in *Un social-libéralisme à la française?*, Fondation Copernic, Collection Cahiers libres, La Découverte, 2001; C. Bloch-London, *Les normes de temps de travail à l'épreuve des négociations: le cas des lois Aubry de réduction de la durée du travail*, dans *Travail et Emploi*, n. 83, La Documentation française, July 2000; T. Coutrot, M. Husson, *Avenue du plein-emploi*, collection Attac, Mille et Une Nuits, Paris, 2001; G. Valenduc, *La relation entre temps de travail et emploi (II): Le bilan contrasté des 35 heures en France et ses leçons pour l'action syndicale en Belgique*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, August 2007.

#### 4. Time

An efficient time management is of paramount importance for the labour market, individual well-being and equality in employment. Several studies show that the organisation of work plays a much more decisive role than the individual condition of workers in increasing time management efficiency. At the same time, some authors have explored a growing trend, i.e. the blurring of traditional time boundaries between work and non-work. This blurring of boundaries is also related to the fact that free time, i.e. the time that each person spends away from work, business and domestic chores, tends to become “active” time. Some scholars invite us to rethink how we use our time, with a view to reducing stress and frustration caused by definitive and permanent choices (D. Vallade, *Mutations et effritement des frontières entre travail et hors travail: la productivité du temps libre*, 18 September 2009; P. Vendramin, *Temps, rythmes de travail et conciliation des temps sociaux*, Rapport de l'enquête “Temps et travail”, réalisée en collaboration avec la FEC-CSC, Association pour une Fondation Travail-Université asbl, Bruxelles, September 2007; P. Vendramin, G. Valenduc, *Les tensions du temps*, Document préparé dans le cadre d'une collaboration avec Formation Éducation Culture (FEC) et suite à une Semaine Sociale Wallonie Bruxelles, December 2005; L. Damhuis, *Le rapport au temps aujourd'hui: Des repères pour penser le temps*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, May 2008; D. Chabbert, *Re-prendre le temps*, in *Revue Politique*, n. 67, *Temps de travail, temps de vie*, November-December 2010; P. Vendramin, *Petits arrangements avec le temps*, in *Tempos* n. 1, Institut Chronopost, Paris, January 2004.



## 5. The role of work and leisure

Many studies aim at understanding the importance that work, family and relationships assume for each individual. Most investigations are based on surveys that measure the time dedicated to each activity, while others are based on more psychological analyses. All of them found significant differences between men and women as to their role in society (see L. Davoine, D. Méda, *Quelle place le travail occupe-t-il dans la vie des Français par rapport aux Européens?*, Revue Informations sociales n. 153, Paris, 2009; P. Vendramin, *La place du travail dans la vie: Valorisation du travail ou distance croissante?*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, March 2008; E. Martinez, *Disponibilidades de tiempo y género. Algunas reflexiones partiendo del caso belga*, in C. Prieto (ed.), *Trabajo, género y tiempo social*, Editorial Complutense, Madrid, 128-141, 2007; F. Dumontier, D. Guillemot, D. Méda, *L'évolution des temps sociaux au travers des enquêtes emploi du temps*, Economie et statistique n. 352-353, Paris, 2002; I. Glorieux, J. Vandeneeyer, *24 heures à la belge*, Etudes statistiques, n. 120, Institut National de Statistiques, 2002; M. Bunel, *Concilier travail et vie familiale: que cachent les déclarations des hommes et des femmes*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; E. Martinez, *Las disponibilidades de tiempo en la construcción de las normas temporales del trabajo*, in *Laboreal, volumen III, n. 2, 4*, December 2007, <http://laboreal.up.pt/start.php>; E. Martinez, *La disponibilidad temporal de los asalariados en las organizaciones flexibles de trabajo*, in C. Prieto, E. Martin Criado (ed.), *Luchas por el tiempo*, 2012.

## 6. Work-life balance

Work and family are not only two “values” or two important domains of our life, constituting to varying degrees the identity of individuals, but they are also two highly time-consuming “activities” and people often have to decide how to divide their time and attention between the two. Juggling work and family life can cause difficulties in terms of work-life balance, in particular to women. Inequalities between equally qualified men and women persist, caused by the different amount of time dedicated to work, or due to organisational issues and to old traditions. See D. Méda, *Le temps des femmes, pour un nouveau partage des rôles*, Flammarion, 2002; H. Garner, D. Méda, C. Senik, *Conciliation entre vie professionnelle et vie familiale: les leçons des enquêtes auprès des ménages*, Travail et emploi, n. 102, April-May, 57-67, 2005; P. Vendramin, *La conciliation*

*entre le temps de travail et les temps sociaux: Quelques résultats d'une enquête de la FTU pour la FEC*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, August 2007; P. Vendramin, *Temps, rythmes de travail et conciliation des temps sociaux*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, October 2007; P. Vendramin, *La conciliation entre le temps de travail et les temps sociaux*, Notes éducation permanentes n. 2007-15 & n. 2007-16, Fondation Travail-Université (FTU), August 2007; M.A. Barrere Maurisson, S. Rivier Matisse, C. Minni, *Le partage des temps pour les hommes et pour les femmes ou comment conjugué travail rémunéré, non rémunéré et non travail*, DARES Premières synthèses – March 2001 n. 11.1, Paris; G. Lebeer, E. Krzeslo, J. De Schamphelleire, *Temps de travail, charge de travail et conciliation entre la vie privée et la vie professionnelle*, Bruxelles: Union Générale Belge du Nettoyage (UGBN), 2009; J. Jacqmain, *Etats généraux des familles: Articulation entre la vie familiale et la vie professionnelle*, Rapport du groupe de travail “Articulation de la vie familiale et de la vie professionnelle”, Bruxelles, April 2004, 8-13; R. Plasman, *Modes d'organisation du travail et impacts sur les articulations entre sphères privées et professionnelles*, in collaboration with M. Durez, in *Sphère privée et professionnelle: vers une recomposition des rôles et des actions*, ed Istasse, Laffut, Plasman, Ruyters, De Boeck, *Economie Société région*, Bruxelles, 261-273, 2004; D. Meulders, S. O'Dorchai, *Reconciliation of Work and Private Life in Belgium*, External Report commissioned by the European Commission's DG Employment and Social Affairs, Unit G1 Equality between Women and Men, to the European Expert Group on Gender, Social Inclusion and Employment, Brussels, 55, 2005; R. Plasman, *Conclusions du colloque Sphères privées et professionnelles, vers une recomposition des rôles*, rapport pour la Ministre de l'Emploi de la Région Wallonne, Région Wallonne, November 2001; H. Garner, D. Méda, *La difficile conciliation entre vie professionnelle et vie familiale*, DARES Premières synthèses, December 2004 n. 50.3, Paris; N. Georges, D. Méda, D. Trancart, *Horaires de travail des couples, satisfaction et conciliation entre vie professionnelle et vie familiale*, Séminaire INED 14/06/2007, Paris; V. Lootvoet, *Les féministes et la “conciliation”*, in *Revue Politique n. 67, Temps de travail, temps de vie*, November-December 2010; A-M. Levreux, *Les résistances des hommes au changement social: émergence d'une problématique*, Cahiers du genre, n. 36, Les résistance des hommes au changement, 5-20, 2004; M. Bozon, *Comment le travail empiète et la famille déborde: différences sociales dans l'arrangement des sexes*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; D. Trancart, N. Georges, D. Méda, *Horaires de travail des couples, satisfaction et conciliation entre vie professionnelle et vie familiale*,

in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009.

## 7. Being parent, the effects on working time

Pregnancy, adoption of a child, taking a childcare leave are all events that give rise to changes inside and outside the couple. Although attitudes have changed over time, the attempt to strike a balance between private and professional life largely remains a concern of women. Working time and labour market participation are usually conditioned by family life. Despite the increased participation of women in the labour market over the last fifty years, there is still nearly one woman of working age out of four who is inactive, and there is still a significant difference in labour market participation between women and men. In particular, the participation rate of mothers with two or more children, and with at least one child under the age of three, is very low. Some authors have analysed the determinants of such a low rate, also taking into account employment conditions. Working time schemes appear to be determinant in affecting the perception of mothers in relation to the difficulties in balancing work and private life, together with the role (or “non-role”) of the father. See D. Tremblay, *De la conciliation emploi-famille à une politique des temps sociaux*, Presses Universitaires du Québec, June 2008; P. Vendramin, *Temps, travail et inégalités: les parents et les autres*, dans *Tempos* n. 2, Institut Chronopost, Paris, January 2004; S. Maublanc, *Horaires de travail et investissement des pères*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; J. Fagnani, M-T. Letablier, *S’occuper des enfants au quotidien: que font les pères?*, *Problèmes économiques*, n. 2809, 9-15, 2003; G. Julémont, *Les associations entre la préservation sociale et le changement de société: les services de conjonction de la famille et du travail*, in *Rapport préparatoire de la Commission 4 “Vie associative et fonctions collectives”*, *10e Congrès des économistes belges de langue française organisé à Mons les 26-27 novembre 1992*, 269-280, 1992; G. Julémont, *La famille en démocratie: Conjuguer travail et famille*, *Espace de libertés*, n. 299, March 2002, 6-7, 2002; S. Stefan-Makay, *Qui garde les jeunes enfants quand la mère travaille?*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; G. Valenduc, *La qualité du travail et de l’emploi des femmes*, Fondation Travail-Université (FTU), December 2011; M. Leturcq, M. Wierink, *Temps de travail et bien-être des mères de famille nombreuse*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des*

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## **8. Being parent, the effects on income**

In addition to the effects on labour market participation and time devoted to work, having a child also has repercussions on the purchasing power of households. It is still primarily women who pay the highest price. Income support allowances for families cannot fully compensate for this loss of income (S. O'Dorchai, S. Sissoko, *The wage effect for mothers of young children in the household – Mean and quantile regressions applied to ten EU-Member states*, Forthcoming, 2008; S. O'Dorchai, *Do women gain or lose from becoming mothers? A comparative wage analysis in 25 European Countries*, Brussels Economic Review-Cahiers Economiques de Bruxelles, Numéro spécial vol. 51-n. 2/3 Summer-Autumn, pp. 23-268, 2008; F. Büchel, A. Mertens, K. Orsini, *Is Mothers' Employment an Effective Means to Fight Family Poverty? Empirical Evidence from Seven European Countries*, Luxemburg Income Study Working

Paper n. 363, November, 31, 2003; J. de Henau, *Asymmetric power within couples. The gendered effect of children and employment on entitlement to household income*, Brussels Economic Review- Cahiers Economiques de Bruxelles, Numéro spécial vol. 51-n. 2/3 Summer-Autumn, 2008, 269-290; J. de Henau, D. Meulders, S. O'Dorchai, *Comparing Child Cash and Tax Benefits across EU-15*, in D. Del Boca, C. Wetzels (eds.), *Social Policies, Labour Markets and Motherhood: a Comparative Analysis of European Countries*, Cambridge University Press, 2007.

## 9. Public policies for parents

Public policies for families, where they exist, contribute to increasing citizens' satisfaction in terms of work-life balance. Various studies show that these policies are still very heterogeneous across Europe, although it is unanimous that women's participation in economic activity is a powerful means to improve the economic performance of developed countries, as it enables the labour market inclusion of new talents and increases the demands of local services as well as of cultural and recreational services. In Northern European countries, the presence of a developed welfare state helped restore a balance between work and motherhood, producing a rebound in the birth rate after the sharp decline of the mid sixties. Instead, fertility has fallen sharply in countries where the conflict between female employment and family obligations has not been resolved yet. See B. Majnoni D'Intignano, M. Aglietta, G. Cetta, *Egalité entre femmes et hommes: aspects économiques*, Ed. Odile Jacob, La Documentation française, Paris, December 1999; J. de Henau, L. Maron, D. Meulders, S. O'Dorchai, *Emploi des mères et politiques familiales en Europe*, in H. Hirata, M.R. Lombardi, M. Maruani (Eds.) *Travail et genre, comparaisons internationales – Regards croisés Europe – Amérique Latine*, La Découverte, 2008, 150-68; J. de Henau, D. Meulders, S. O'Dorchai, *The comparative effectiveness of public policies to fight motherhood-induced employment gaps in the former EU-15*, Bulletin luxembourgeois des questions sociales, vol. 20, 2006, 36-74; D. Meulders, S. O'Dorchai, *The role of welfare state typologies in analyzing motherhood*, *Transfer. European Review of Labour and Research*, vol. 10, n. 1, 2004, 16-33; J. de Henau, D. Meulders, S. O'Dorchai, *Maybe baby: Comparing mothers' employment and child policies the EU-15*. (Forthcoming), 2008; J. de Henau, L. Maron, D. Meulders, S. O'Dorchai, *Travail et maternité en Europe, conditions de travail et politiques publiques*, Brussels Economic Review-Cahiers Economiques de Bruxelles, vol.50, n. 1, Spring-Summer, 2007, 63-88; J. de Henau, D. Meulders, S. O'Dorchai, *The comparative effectiveness of public policies to fight motherhood-induced employment penalties and decreasing fertility in the former EU-15*, Working

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## 10. Childcare facilities

With a demand for childcare services that remains high and characterised by the increasing emphasis placed on flexible hours offered by childcare facilities, there is the political will to meet the expectations of parents and help them overcome the difficulties they face in striking a balance between work and family life. There is, however, great disparity in Europe in terms of childcare policies. In countries with a financially accessible, high quality childcare system, mothers are best positioned on the labour market. In countries where domestic chores are primarily carried out by women, no major progress was made in terms of gender equality especially in the cases in which governments do not offer high quality childcare services affordable to all. It is certainly a necessary step – although not sufficient – to promote the inclusion of women in the labour market. See H. Périvier, *Emploi des mères et garde des jeunes enfants en Europe*, Revue de l'OFCE, July 2004; J. de Henau, D. Meulders, S. O'Dorchai, *The childcare triad? Indicators assessing three fields of child policies towards working mothers in the EU-15*, Journal of Comparative Policy Analysis, special issue on Work/Family Reconciliation Policies in High-Employment Economies (guest editor: J. Gornick), vol. 8, n. 2, 2006, 129-148; J. de Henau, D. Meulders, S. O'Dorchai, *Making Time for Working Parents. Comparing Public Childcare Provision across EU-15*, in D. Del Boca, C. Wetzels (eds.) *Social Policies, Labour Markets and Motherhood: a Comparative Analysis of European Countries*, Cambridge University Press, 2007; M. Ruault, A. Daniel, *Les modes d'accueil des enfants de moins de 6 ans: premiers résultats de l'enquête réalisée en 2002*, Études et Résultats, no 235, April 2003, DREES; D. Meulders, S. O'Dorchai, *The provision of childcare services in Belgium*, report by the European Commission's Network of Experts in the fields of Employment and Gender equality issues (EGGE) for the Equal Opportunities Unit, DG Employment, 2008; D. Meulders, S. O'Dorchai, *Childcare in Belgium*, Working Paper DULBEA, Research Report, n. 08-08.RR, March 2008; J. de Henau, D. Meulders, S. O'Dorchai, H. Périvier, *The relative generosity of the EU countries' childcare systems*, in D. Del Boca, C. Wetzels (eds.), *Motherhood, Employment and Public Policies*, Cambridge University

Press, 2004; K. Scheinen, *La prise en charge des enfants et les inégalités de genres: des configurations institutionnelles dans une perspective comparative*, Lien social et politiques, n. 44, *L'enfant au cœur des politiques sociales*, 25-39, 2000; A. Eydoux, *Les incidences de la flexibilité du temps de travail sur le champs professionnel de la petite enfance*, CNAF, Paris, Dossiers d'études n. 76, January 2006.

## 11. Parental leaves

Since the introduction of the European Directive of 1996, all European countries offer parental leave. However, the conditions under which parents can take a leave (compensation, flexibility, duration and so on) vary greatly from one country to another, posing obstacles to the effective integration of mothers in the labour market in some cases (France), or giving mothers the opportunity to have an almost uninterrupted career (Sweden) in others. It is recognised that the efficiency of a childcare system is associated with a high participation of mothers in the labour market, although the way in which this relationship works is still debated. Some studies suggest that poorly designed policies can have a negative impact on the employment performance of low-skilled women. To be effective, parental leaves should not last too long, should be well paid and should encourage an equal distribution of parental duties between men and women. See J. de Henau, D. Meulders, S. O'Dorchai, *Parents' Care and Career. Comparing Parental Leave Policies across EU-15*, in D. Del Boca, C. Wetzels (eds.), *Social Policies, Labour Markets and Motherhood: a Comparative Analysis of European Countries*, Cambridge University Press, 2007; L. Maron, D. Meulders, S. O'Dorchai, *Parental leave in Belgium*, Working Paper DULBEA, Research series, n. 08-24.RS, November 2008; M.O. Simon, *L'allocation parentale d'éducation: une parenthèse de trois ans... ou plus*, in *Consommation et modes de vie*, no 136, CREDOC. *Revue Tempos* (2004), *Temps sociaux: entre conciliation et renoncements*, n. 1, January 1999; J. de Henau, D. Meulders, S. O'Dorchai and H. Périvier, *Policies to facilitate the work/life balance in the EU-15: the case of parental leaves*, in D. Del Boca, C. Wetzels (eds.), *Motherhood, Employment and Public Policies*, Cambridge University Press, forthcoming, 2005; B. Jeandidier, J.-C. Ray, A. Reinstadler, *Allocation parentale d'éducation et choix d'activité à temps partiel*, *Revue d'économie politique*, January-February 2002, 121-136; H. Martiskainen de Koenigwater, *Les congés parentaux en Finlande: un miroir pour la France*, *Cahiers du genre*, n. 30, pp. 121-146, 2001; D. Chauffaut, E. David, M. Vallet, *Les débuts du congé de paternité. Vécu et représentation*, DREES, Série Etudes, n. 29, Paris, April 2003, 57; L. Allain, B. Sédillot, *L'effet de l'APE sur*

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## 12. Company policies for working parents

It is mainly women, who, throughout their entire life, struggle to strike a balance between work and family. New forms of work organisation and labour market segmentation have sharpened this gender division. Employers can help resolve this conflict by promoting a more flexible work organisation. However, irrespective of their family situation, not all workers receive equal support from their employer: there are still inequalities between sectors and jobs. See C. Lefèvre, A. Pailhé, A. Solaz, *Les employeurs, un autre acteur de la politique familiale*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; P. Vendramin, *Organisation du travail et conciliation, dans Tempos n. 1*, Institut Chronopost, Paris, January 2004; D. Bauer, *Mesures et aides mises en place par les employeurs pour les parents de jeunes enfants*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; A. Eydoux, B. Gomel, M-T. Letablier, *Les salariés ont-ils un employeur "family friendly"?*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; D. Boyer, M. Nicolas, *La conciliation dans les entreprises: une mise en œuvre sexuée?*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; M. Nancy, J. Lanfranchi, D. Meurs, *Les femmes ont-elles de bonnes raisons d'aller dans le public et l'associatif?*, in A. Pailhé, A. Solaz (dir.), *Entre famille et travail. Des arrangements de couples aux pratiques des employeurs*, Paris, La Découverte, Coll. Recherches, 2009; A. Pailhé, A. Solaz, *Pourquoi les salariés*



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### **13. City life**

About city life see E. Martinez, *Etude prospective pour une politique des temps de la ville, Rapport final de la recherche dans le cadre du programme Prospective Research for Brussels*, IRSIB, February 2010, 161; E. Martinez, *Les politiques temporelles de la ville, Rapport de recherche dans le cadre de Prospective Research for Brussels*, January 2009, 92; C. De Wandeler, *Le temps des femmes en ville*, in *Chronique Féministe*, n. 86/88, September 2003-January 2004, 51-61 (Résumé d'un dossier paru dans *Territoires* 2020, n. 6, 47-96).

### **14. Telework**

Breaking with the notion of unity of time, place and action, telework disrupts the traditional organisation of work and modifies management practices. The notion of "despatialization", which refers to the physical and psycho-social distance caused by teleworking, is the central element of this necessary re-regulation that completely modifies the structure of work as well as control practices. See L. Taskin, *Télétravail: Les enjeux de la déspatialisation pour le management humain*, in *Revue interventions économiques* 34/2006: *Télétravail, travail nomade, e-work et travail à domicile: les enjeux actuels*, 2006; P. Vendramin, G. Valenduc, *Société de l'information, nouvelles formes de travail*

*flexible et nouveaux enjeux de négociation*, dans *Technologies de l'Information et Sociétés*, vol. 1999/1, Dunod, Paris; G. Valenduc, *Travail à distance et travail flexible dans la société de l'information*, dans *Socialisme / Réflexions*, Institut E. Vandervelde, n. 23; P. Vendramin, G. Valenduc, *Du télétravail au travail à distance*, dans *Wallonie n. 52*, CESRW, Liège, May 1998, 36-43; Espace Numérique Entreprises, *Le travail à distance dans les PME Rhodanienne*, Observatoire des usages des TIC – 3ème édition 2009, Paris, 2009.

In Belgium, telework is recognised and regulated by national collective agreements and company-level agreements. Various articles provide an update on the experiences of some sectors. See E. Krzeslo, E. Martinez (METICES-TEF-ULB), *Le Télétravail dans la fonction publique*, en collaboration avec Alexander De Becker (STBR-VUB), Jan De Schamphelleire (SOCO/TESA-VUB), pour SPF de l'Emploi, du travail, et de la Concertation sociale, service de l'humanisation des conditions de travail et Fonds social Européen, Bruxelles, February 2007, 120; G. Valenduc, *Le télétravail, quoi de neuf? Une pratique répandue, mais limitée à certains métiers*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, December 2009; E. Martinez, *Télétravail et négociation collective*, TEF, Lettre d'information, n. 4, déc. 2005, 3-9; E. Martinez, J. De Schamphelleire, E. Krzeslo, *Régulation et expérience du télétravail*, Communication aux XIèmes Journées de Sociologie du Travail, London, 20-22 June 2007, 11, Publié dans les actes; L. Taskin, *Le télétravail en manque de régulations*, Regards économiques n. 37, February 2006, September 2009, IRES – UCL; P. Vendramin, G. Valenduc, *Un cadre réglementaire pour le télétravail: Une nouvelle convention collective*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, December 2005; E. Martinez, avec M. De Troyer, J. Malchaire (prof. honoraire UCL), *Guide de concertation Déparis appliqué au secteur tertiaire avec télétravail a domicile*, SPF Emploi, Travail et Concertation sociale, Direction générale Humanisation du travail, publication prévue en December 2007; E. Martinez, J. De Schamphelleire, E. Krzeslo, K. Salomez, *Clés pour introduire le télétravail dans une entreprise*, SPF Emploi, Travail et Concertation sociale, Direction générale Humanisation du travail, September 2007, 44.

Today, telework always arouses a mixture of excitement and suspicion from both employers and workers. It may have a potential impact on the five dimensions of a work relationship, i.e. work activities, control practices, relationship with the working group, relationship with the company, and work-life balance. The sense of responsibility and self-control of workers can even intensify these effects. See L. Taskin, N. Delobbe, *Conséquence le pratique du télétravail: vers une "désocialisation" ou nouvelle forme de socialisation?*, Bien-être au travail et transformation des organisations, Acte du 12<sup>ème</sup> colloque de psychologie

du travail et des organisations, Presse Universitaire de Louvain, 2003; G. Valenduc, *Le télétravail rêvé, réel ou redouté*, Notes éducation permanentes n. 2011-66, Fondation Travail-Université (FTU), June 2011; G. Valenduc, *Le temps et les TIC*, dans “*L’ère du temps*”, *Actes de la Semaine Sociale du MOC*, Editions Couleur Livres, 2005; P. Vendramin, *Les TIC, complices de l’intensification du travail*, dans les *Actes de la conférence CNRS/CEPREMAP/CEE “L’intensification du travail”*, Paris, 21-22 November 2002; G. Valenduc, P. Vendramin, *La nouvelle saison du télétravail*, dans la *Revue Générale*, vol. 134/3, Bruxelles, March 1999; P. Vendramin, *Le télétravail: un concept à l’épreuve des faits*, dans *Tempos n. 3*, January 2005, Institut Chronopost, Paris; G. Valenduc, *Le télétravail rêvé, réel ou redouté: Le télétravail vu par ceux qui souhaiteraient le pratiquer et ceux qui le pratiquent*, Etude FTU, Association pour une Fondation Travail-Université asbl, Bruxelles, June 2011.



## CHAPTER X

# ROMANIAN FRAMEWORK

*Summary:* 1. Introduction. – 2. Legal framework: legislation, collective bargaining (national and local) and agreement. – 2.1. Pregnant workers and systems of parental leaves. – 3. The assurance of equal opportunities between women and men at the workplace. – 3.1. Family friendly policies: activation policies. – 4. The labour market for the 25 to 49-year olds. – 5. Division of time, family responsibilities and care services. – 6. Flexible working time. – 6.1. Workplace flexibility: working at home or teleworking. – 7. Reconciling work and family-related responsibilities.

### 1. Introduction

Romania assumed for the coming decade the Europe's 2020 objectives and initiatives. In view to develop a smart, sustainable and inclusive economy, Romania continues the growth and flexibility enhancing structural reforms. The recent approach for work and life times balance in Romania in a smart, sustainable and inclusive economy' context is complex and integrated. The multi dimensions of collective bargaining, working relations and agreements of work and life times balances are integrated into the new ample recent reforms that aim to deliver high levels of employment, productivity and social cohesion.

The crystallisation of this perspective is strongly connected with the 2020 Europe's strategic vision (launched in 2010) and offers an opportunity to widen a much richer literature covering Romania's national vision. In the context of the severe imbalances induced by the crises, effectively Romania initiated and implemented an ample structural reforms based on the anti-crisis program during 2011 (IMF, Romania, *Seventh Review under the Stand-By Arrangement, Cancellation of the Current Stand-By Arrangement, and Request for a New Stand-By Arrangement*, Country Report No. 11/80, April 2011), supported by the International Monetary Fund (IMF), the European Union (EU), and the World Bank (IMF, Romania, *Letter of Intent, and Technical Memorandum of Understanding*, March 2011). This new labour market organising and functioning in Romania were materialised through "legislative changes to increase the flexibility of the labour market, improve the efficiency of collective bargaining (while protecting the rights of workers and employers), increasing labour force

participation” (IMF, Romania, *Letter of Intent, and Technical Memorandum of Understanding*, March 2011) sustained by increasing an “efficient social protection”. The main legislative changes were fixed on Labour Code, The Social Dialogue Code, The Social Assistance Law and the New Pension Law. The success of these reforms must cope with the accelerate tendency of decreasing the total number of population as a consequence of ageing and migration (especially the mobility for work in EU) on one side and of decreasing the employment on the other side in the conditions of the need to maintain and enhance the progress in the growth of productivity, in view to diminish the still important gap to European level of performance.

In January 2011 ILO published the Technical Comments on the draft Labour Code and the Draft Law on Social Dialogue of Romania (Memorandum of Technical Comments on the draft Labour Code and the Draft Law on Social Dialogue of Romania, Geneva, 17 January 2011 - ILO (2011a), Ianuarie 2011, BIT – Biroul Internațional al Muncii, <http://www.scribd.com/doc/47587744/Technical-memorandum-Romania-on-draft-Labour-Code-and-Draft-Law-on-Social>).

Considering that “the combination of social dialogue instruments and state intervention in many countries during the period 2008–2010 helped to accelerate recovery (ILO, *The global crisis: Causes, responses and challenges, Part II – The politics of economic adjustment in Europe: State unilateralism or social dialogue?*, 2011, 82) then the positive spill-over of social dialogue effective integration could enhance constructive effect on labour market of the labour and social protection laws reforms in Romania. The work and life balance in this context could contribute directly to increasing the employment using the new mechanism specific for the enterprise-level collective bargaining, in view to assure the security in the increasing flexible arrangements cases that are more and widely applied.

Partially, on each dimension there is for Romania a specific literature, with different history and development but, there is no literature to reflect the “intersection” of all dimensions with direct and/or indirect contributions in the effort to “identify and implement the best and new model to worker representatives on professional and private life balance, diversified management, equal opportunities and problems of flexibility in order to enhance the skills of workers’ representatives in collective bargaining process and improve industrial relations and social dialogue”.

## 2. Legal framework: legislation, collective bargaining (national and local) and agreement

Recently there are realised ample reviews and reaction regarding the restructuration of the Romanian Labour market's legal framework after the introduction of the National system of industrial relations, Social dialogue, Tripartite social dialogue, etc. (S. Bărbuceanu, *Regional Project for Labour Relations and Social Dialogue in South East Europe Tadeusa Koscuska 8/5*, Friedrich-Ebert-Stiftung on *Labour Relations and Social Dialogue in South East Europe: Romania*, Belgrade, Serbia, 2011. The text is available online: [www.fessoe.de](http://www.fessoe.de), January 2012) finds that “the social partners claimed that the Government had not followed the procedures concerning consultations established in the existing social dialogue law, [...] due to poor social dialogue, where the Government did not take into consideration the unions opinions, nor the fact that the new laws contravene with ILO conventions”. In the same study is emphasised that “Alongside with these drastic changes, Trade Unions pursued common actions. Therefore, as a reaction, Trade Unions have written about these issues to the International Labour Organization, placing Romania on the list of special cases. In their letter they've stipulated that the new Labour Code contravenes with ILO conventions no. 87, 98, 135 and 143, mainly related to the diminishing the role of the trade union (art. 224, 225, 226) and to the abolishment of the regulation that protected the work places of union leaders (art. 223). Also, the two major international trade unions, ITUC and ETUC, support Romania's trade unions in their approach to the new proposed laws”. Were registered national protests against changes to Labour Code. “The main trade union confederations organized a demonstration in Bucharest on 16 March 2011 in protest at changes to the labour code prepared by the government, in consultation with the IMF and the employers” (*Collective bargaining*, Issue 3/2011 March, Amsterdam Institute for Advanced Labour Studies Universiteit Van Amsterdam, ETUI, English: <http://www.epsu.org/cob/411Romanian>, <http://www.cartel-alfa.ro/default.asp?nod=20&info=47921>).

Following the initial version of the New Social Dialogue Code with the new structure of the Social and Economic Council without the presence of the Government and with nomination of representatives of civil society instead, the union and employers confederations signed together a National Agreement, which pushed the Government to create the National Tripartite Council.

It was found that on short term there are empiric estimations that “the employee's perception is that the Labour Code effect is to diminish the labour market flexibility” (L. Voinea, N. Mardari, V. Voineagu, V. Duma, L. Simionescu, P. Jifcu, N. Hrebenciuc Caragea, L. Sinigaglia, D. Telsoni, G.

Fiorani, F. Bettio, P. Villa, C. Solera, G. Damioli, S. Pisica, *Condiții de muncă, satisfacție și performanță la locul de muncă*, Proiect cofinanțat din fondul Social European prin Programul Operațional Sectorial de Dezvoltare a Resurselor Umane 2007-2013, *Fondul Social European*, Blocul Național Sindical, 2010) contrar to assumed objective of the legislation reform. In Romania the preferences for enterprise-level collective bargaining, raises the risk of accentuate the decline of security in the flexible arrangements cases.

The Romanian social dialogue is characterised as poor (R. Radu, *Social dialogue perspectives in Romanian road transports, sectoral activities program, Working Paper 258*, ILO, Geneva, 2008). After changing its system of economy in 1989, the social dialogue was reloaded in 1990. After more then 42 years of centralised market relationships the emergence was difficult, followed by extensive development between and with the accession of Romania in EU in 2007, was centred on enhancing the quality. Following 2008 it was found that social dialogue is wakened by the crises (S. Bărbuceanu, *Regional Project for Labour Relations and Social Dialogue in South East Europe Tadeusa Koscuska 8/5*, Friedrich-Ebert-Stiftung on *Labour Relations and Social Dialogue in South East Europe: Romania*, Belgrade, Serbia, 2011. The text is available online: [www.fessoe.de](http://www.fessoe.de), January 2012), the lack of participation of main labour market actors – employers and syndicates structures of representativeness, reflects the worrisome trend, like in others countries, from the democracy perspective, of using emergency procedures, bypassing next to social partners the Parliament.

Regarding the quality of the syndicates activities was found that the union density in Romania stood at 33.7% in 2007, calculated as the net union membership as a proportion of salary workers (W. Eichhorst, M.J. Kendzia, B. Vandeweghe, *Cross-Border Collective Bargaining and Transnational Social Dialogue*, Iza Research Report No. 38, July 2011, 30; based on a study conducted for the European Parliament under contract. Copyright remains with the European Parliament) Single-employer bargaining represents the predominant level of bargaining (see *Table 1: Union density and bargaining level in the European Union 2008*, in W. Eichhorst, M.J. Kendzia, B. Vandeweghe, *Cross-Border Collective Bargaining and Transnational Social Dialogue*, I Z A Research Report No. 38, July 2011, 31) and “the arrangements for workers’ representation at workplace level are governed by legislation in the labour code. «From the same study is emphasised that “currently, there are 13 nationally representative employers’ organizations in Romania. The official statistics do not provide data regarding the number of companies and employees for each employer representative organization» (S. Bărbuceanu, *Regional Project for Labour Relations and Social Dialogue in South East Europe Tadeusa Koscuska 8/5*, Friedrich-Ebert-Stiftung on *Labour Relations and Social Dialogue in South East*



*Europe: Romania*, Belgrade, Serbia, 2011. The text is available online: [www.fessoe.de](http://www.fessoe.de), January 2012) “Collective bargaining coverage is generally far lower in Central and Eastern European states than in Western European ones” – the cited study indicates 60% of workers covered by any collective agreement at all in total number of workers for the Romania’s Collective bargaining coverage in 2005”. The low coverage in these countries is due to the decentralised structure of collective bargaining and, in addition, the low level of organisation of both employees and employers. Usually this is explained by a strong legal intervention of the state, an absence of social partners as well as by the single employer bargaining (A. Trif, *Collective bargaining practices in Eastern Europe: Case study evidence from Romania*, MPIfG Working Paper 05/9, cited by W. Eichhorst, M.J. Kendzia, B. Vandeweghe, *Cross-Border Collective Bargaining and Transnational Social Dialogue*, Iza Research Report No. 38, July 2011, 30; based on a study conducted for the European Parliament under contract. Copyright remains with the European Parliament, 2005, 29).

Before 2011 the National Collective Bargaining Systems in Romania was characterised by a Multi-level bargaining system with dominance of tripartite intersectoral bargaining and complementary bargaining at sectoral and company level. A large proportion of employees were covered only by intersectoral bargaining. The relationship between intersectoral/sectoral and company bargaining is described by a “strict hierarchy of bargaining levels, with no ‘opt-out’ options for lower-level bargaining”. Another relatively recent new topic of bargaining in Romania is the introduction of the variable payment schemes (performance-related pay and profit-related bonuses) on the bargaining agenda in the operations of some MNCs (EIRO, *Changes in national collective bargaining systems since 1990*, Dublin, May 2005 (<http://www.eiro.eurofound.eu.int/2005/03/study/tn0503102s.html>)).

It was found by (P. Marginson, G. Meardi, *EU enlargement and the FDI channel of industrial relations transfer*, *Industrial Relations Journal*, 37:2, 2006, 92–110, cited in *European Foundation for the Improvement of Living and Working Conditions*, 2009; P. Marginson, F. Traxler, *After enlargement: Preconditions and prospects for bargaining coordination*, *Transfer: European Review of Labour and Research*, 2005, vol. 11, n. 3, 423-448) that the “predominant private sector collective bargaining arrangement, for Romania is multi-employer bargaining for manufacturing and single-employer bargaining for Services”. The presence of multinationals in Europe as well in NMS, including Romania was characterised by the an report of the European Foundation for the Improvement of Living and Working Conditions as “have been a major source of pressure for decentralisation of bargaining arrangements by introducing greater scope for company negotiation within sector and inter-sector agreements”

(European Foundation for the Improvement of Living and Working Conditions , *Multinational companies and collective bargaining, This report is available in electronic format only*, website: [www.eurofound.europa.eu](http://www.eurofound.europa.eu), 2009). Thus, social partnership and collective bargaining at the sectoral level are still fragile in Romania, as they are in most CEECs... A central problem is the weakness of the employers' associations in Romania; trade unions are faced with a social partner incapable of deciding on what kind of relationships they wish to engage in. Collective bargaining at sectoral level provides an opportunity for the trade unions to bargain collectively, but conflicts, particularly in the public sector, have decreased due to the poor economic performance of Romania and the decline of union membership. Research findings show that strategic choice at this level, by the central actors in the trade unions, has been changing from over strikes towards co-operation with employers (A. Trif, K. Koch, *Strategic Unionism in Eastern Europe: The Case of Romania, MPIfG Working Paper 05/7*, London South Bank University, July 2005. This paper is a modified and updated version of a chapter published by the authors in Huzzard/Gregory/Scott's (2004) book. An earlier version of the paper was presented to the IIRA 7th European Congress "The Future of Work in Europe" held in Lisbon in 2004, 28).

Social Dialogue Code (*Law 62 from 10<sup>th</sup> of May 2011, entered into force on 13 of May 2011*) was abolished the collective bargaining at national level, and elimination of the automatic *erga omnes* extension at sectoral level" (IMF, Romania, *Letter of Intent and Technical Memorandum of Understanding*, June 2011).

The number of collective labour agreements (collective agreements and additional agreements) concluded at the company level, 2011 by regions and counties and by type of ownership, is presented in *Statistical Bulletin of Labour Ministry MMSSF (Condiții de Muncă / Working Conditions, Third Quarter 2011, Statistical Bulletin of MMSSF*, [www.mmuncii.ro/pub/imagemanager/images/file/Statistica/Buletin%20statistic/2011/conditii%20de%20munca%20%20anul%20%202011.pdf](http://www.mmuncii.ro/pub/imagemanager/images/file/Statistica/Buletin%20statistic/2011/conditii%20de%20munca%20%20anul%20%202011.pdf), 76-77).

## **2.1. Pregnant workers and systems of parental leaves**

On the background of the Social Assistance Law (Law 292 from 20 December 2011, entered into force on 23<sup>rd</sup> December 2011) there is to emphasise that the parental allowance, the maternity (pregnancy and nursing) allowance, parental monthly allowance for raising a child, maternal risk allowance, are calculated in a new correlated unique system using the IRU the Social Reference Indicator (ILO, Report V, *Maternity protection at work Revision of the Maternity*

*Protection Convention (Revised), 1952 (No. 103), and Recommendation, 1952 (No. 95) Fifth item on the agenda, Geneva, 1999, <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/rep-v-1.htm#>.*

The continuous process of harmonisation of the Romanian legislation with the European framework is illustrated by the study of EU Directive Transposing in Romanian Labour Legislation (R.R. Popescu, C. Jura, L. Voinea, *The EU Directive Transposing in Romanian Labour Legislation. The Labour Market, between the Romanian chaos and European equilibrium*, Bucharest, 2011) that points the parental leave as a problem of the “professional responsibilities conciliation with family responsibilities of the parents” object for settlement treated by Directive 93/34/CEE. Starting with 1 March 2012, for each parent is mandatory to spend with his/her baby child at least 1 month following of the adoption of [Hotărâre-Decision 30 January 2012, n. 57] that make the transposition of the mentioned Directive in the Romanian Legislation.

Relations of work regime resulted from the professional responsibilities conciliation with family responsibilities of the parents.

The tendency to flexibilise the work regime is emphasized by (R. Dimitriu, *Tendințe de flexibilitate a raporturilor de muncă, St. De Drept Romanesc*, an 20 (53), Bucuresti, Ianuarie-Iunie 2008, nr. 1–2, 241–255) as a result of the main atypical contracts of employment analysis. (I. Stegăroiu, M. Velciu, *Using diverse workforce in Romania, in the perspective of flexible working, Analele Universitatii din Craiova, seria Stiinte Economice*, 2010, [http://feaa.ucv.ro/annals/v3\\_2010/0038v3-000.pdf](http://feaa.ucv.ro/annals/v3_2010/0038v3-000.pdf)) points out that, in Romania, at company level, the temporary employment scheme is less used. This leads us to the idea that temporary employment is regarded more as a lack of employment alternative for an indefinite period rather than as an opportunity.

Changes of paradigm regarding the working time flexibility induced by the imperative to strengthen productivity and competitiveness

Eurostat includes also Romania in the comparative typology of working time flexibilities and of working time arrangements (C. Makó, M. Illéssy, P. Csizmadia, *New Member States, The transformation of work?, WP 15 – A quantitative evaluation of changes in work in the New Member States*, ISB, March, 2008, 19) that reflects the specific interest and needs for the working hours adaptation (“Businesses are mostly interested in adapting working hours to variations in workload, whilst employee demands are associated with the wish for an improved work-life balance”).

Changes of paradigm regarding the working time flexibility induced by the imperative to strengthen productivity and competitiveness is emphasized by studies like (M. Keune, *Collective bargaining on working time: recent European experiences*, European Trade Union Institute for Research, Education and Health

and Safety (ETUI-REHS), Brussels, 2007,15; V. Ciucă, D. Pașnicu, L. Son, C. Sipos, M. Iordan, *The Romanian Flexicurity – A Response to the European Labour Market Needs*”, publicat în *Romanian Journal of Economic Forecasting*, publicație a Institutului de Prognoză Economică (IPE), 2009, vol.10, trimestru 2, 161-183; V. Ciucă, D. Pașnicu, *Flexibilitate și securitate pe piața românească a muncii*, studiu realizat în cadrul proiectului PNCDI-II-PARTENERIATE, Nr contract : 91-038/2007 « Mecanisme de promovare a politicii de flexibilitate și securitate (flexicurity) și de reducere a segmentării pieței muncii », INCSMPS, Editura Agora, 2009; D. Pașnicu, V. Ciucă, *Flexisecuritatea – un răspuns la criza economică actuală*”, articol indexat in baza de date internațională recunoscută în domeniu RePEc – Research Papers in Economics, [http://econpapers.repec.org/paper/rissphedp/2009\\_5f061.htm](http://econpapers.repec.org/paper/rissphedp/2009_5f061.htm), 2009, Paper 61; V. Ciucă, D. Pașnicu, *Definirea flexisecurității din perspectiva strategică a Uniunii Europene și armonizarea cu punctele de vedere ale partenerilor sociali*”, broșură elaborată pe proiectul, *Mecanisme de promovare a politicii de flexibilitate și securitate (flexicurity) și de reducere a segmentării pietei muncii*, finanțat pe PNCDI-II-Parteneriate în domenii prioritare, Editura Agora, Tipografia Mediaprint-Calarasi, 2008, 91).

Under the perspective of Work organisation and restructuring in the Knowledge Society (C. Makó, M. Illéssy, P. Csizmadia, *New Member States, The transformation of work?*, WP 15 – A quantitative evaluation of changes in work in the New Member States, ISB, March, 2008, 19) are compared the Post-socialist countries, including also Romania, regarding the Different Cycles of the Transformation Process conducted by different generations of reforms and their Global Value Chains impacts.

Changes in work organization with impact on the productivity models position Romania with an overrepresentation of the lean production and Taylorist work organisation forms (C. Makó, M. Illéssy, P. Csizmadia, *New Member States, The transformation of work?*, WP 15 – A quantitative evaluation of changes in work in the New Member States, ISB, March, 2008, 19; B. J. Krings, L. Nierling, M. Pedaci, M. Piersanti, *Working time, gender and work-life balance*, Changes in work, European Commission, 2009, 41), respectively out from the discretionary learning forms of work organisation, traditional or simple structure forms of work organisation (FSE, *Working conditions*, Proiect cofinanțat din fondul European prin Programul Operational Sectorial Dezvoltarea Resurselor Umane 2007-2013, BNS, 2006, 16).

It was finding that the flexible working time schedules, working time allocation and work life balance (L. Voinea, N. Mardari, V. Voineagu, V. Duma, L. Simionescu, P. Jifcu, N. Hrebenciuc Caragea, L. Sinigaglia, D. Telloni, G. Fiorani, F. Bettio, P. Villa, C. Solera, G. Damioli, S. Pisica, *Condiții de muncă*,

*satisfacție și performanță la locul de muncă*, Proiect cofinanțat din fondul Social European prin Programul Operațional Sectorial de Dezvoltare a Resurselor Umane 2007-2013, *Fondul Social European*, Blocul Național Sindical, 2010) are demanded by the family and personnel responsibilities, the necessity of life-long learning and the need to increase the income and job security.

### **3. The assurance of equal opportunities between women and men at the workplace**

Among other effects of the crises (L. Popescu, *Exchange of good practices on gender equality, Reducing the gender pay gap, Comments paper – Romania*, European Commission- Justice, Insituto per la ricerca sociale, OSB consulting, Berlin, 5-6 December 2011, <http://www.ured-ravnopravnost.hr/site/images/pdf/najave/berlin-05-12/Romania-Commentspaper.pdf>) proofs that in this period” priority was given to austerity measures without any consideration for their effects on the gender pay gap. Moreover, the gender equality principle is marginalised or relegated to ceremonial statements rather than actively translated in policy measures”.

The topic of assurance of equal opportunities between women and men at the workplace in Romania is also described by in a comparative manner from the gender gaps in profession, career and pay perspective (D. Pașnicu, L. Mladen, *Analysis of gender gaps in profession, career and pay*, Annals of Spiru Haret University, Economic Series, vol. 2(11), issue 3, 2011, <http://ideas.repec.org/a/ris/sphecs/0144.html>) and also from the efficiency in working and pesonel life perspective (D. Petrovai, *Eficiență în viața profesională și în cea personală*, Acest material a fost creat în cadrul proiectului “Să asigurăm șanse egale pentru femei și bărbați la locul de muncă”, inițiat de CPE – Centrul Parteneriat pentru Egalitate și derulat în parteneriat cu Inspecția Muncii.Proiectul este finanțat de Uniunea Europeană prin Programul Phare 2003 – Consolidarea Societății Civile în România, Componenta 1 – Dezvoltarea Sectorului ONG și de către CPE din fonduri primite de la Fundația pentru o Societate Deschisă, 2006, pg. 8 /English translation: *Efficiency in professional and personal life*, This material has been created within the project „To ensure equal opportunities for women and men at work”, initiated by the CPE - Center for Partnership and Equality in partnership with Muncii.Proiectul inspection is funded by the European Union under the Phare 2003 - Strengthening Civil Society in Romania, component 1 - Development of NGOs and the CPE of funds received from the Open Society Foundation, 2006, 8).

Reconciliation of work and family life is presented as a condition of equal participation in the labour market (J. Reingarde, I. Borza, I. Burkevica, M. Paats, G. Kyriacou, *Review of the Implementation of the Beijing Platform for Action in the area F: Women and the Economy. Reconciliation of Work and Family Life as a Condition of Equal Participation in the Labour Market*, Report, European Institute for Gender Equalit, 2011) “in the context of various policies and measures for the advancement of gender equality promoted and implemented in the European Union Member States, women still remain the main carers of children and the elderly. Today, in Europe, women between the ages of 25 to 44 spend three times longer than men in childcare per day. Likewise, care responsibilities account for the main reason women work far longer hours than men. As a result this limits women’s prospects to a balanced working and family life”.

### 3.1. Family friendly policies: activation policies

We signal also the recent activation policies implemented through the reglamentation, recently initiated, regarding: reinsertion back to work incentive, parental leave and the monthly allowance for raising a child (L 111, 2011), family allowance that eliminates family complementary allowance and the monoparental family allowance support (OU 148, 2005, L277, 2010 and OU 124, 2011), the guaranteed minimum income (L416, 2001, O 124, 2011) are actualised their values and expressed as proportions of ISR and the payment is conditioned by legal obligations payment to the local budget (taxes payments) for the goods holds in property by the applicants (according with the law 571/2003) Code Fiscal and with modifications and following completions.

Social Indicator for Reference ISR was fixed (according with the Art. 5, IX from the Law 76/2002, modified by emergency Ordinance OU 108/2010 is pointed out by Ristea, *Modificări la Legea nr. 76/2002 privind sistemul asigurărilor pentru șomaj și stimularea ocupării forței de muncă*, *Noutăți Juridice*, 2010, <http://www.inlege.ro/2010/12/13/modificari-la-legea-nr-762002-privind-sistemul-asigurarilor-pentru-%C8%99omaj-%C8%99i-stimularea-ocuparii-for%C8%9Bei-de-munca/N>).

Monthly amount granted in form of nursery tickets (L193, 2006, O148,2005) distributed by employer, following the internal regulations for granting set up by the employer together with the legal constitute syndicate organisations or the salaried representatives (CPE, *Project “Fii family friendly”*, formation and consulting for the companies from Bucharest and Ilfov county”, Spania, 2006). Through (O124, 2011) is recently stipulated that the treatment for parental leave

for children period of time as working as continuity experience at the job [seniority], as well as in speciality – new legal provision, active since 1 January 2012.

The Law of Social Assistance n. 292/2011 creates the legal and unitary and coordinate institutional framework that establish the general principles and rules for granting the social assistance measures, as well as the organising and functioning criteria's in view to adequate conditions assurance for sectoral public policies creating and implementing from the field of social assistance.

#### **4. The labour market for the 25 to 49-year olds**

In view to assure the comparability at European level, Eurostat considers in the case of reconciliation between work and private life is highly relevant for the population aged 25-49 (ECSB, *Reconciliation between work, private and family life in the European Union*, Eurostat, 2009). In this study is included Romania also and are provided values for the main indicators of labour market for this age group, like: the employment rates, unemployment rates, part-time employees as a percentage of same age total population, main reason for part-time employment as a share of total persons employed, fixed-term working as a percentage of the total number of employees of the same age group, main reasons behind temporary employment in the EU-27. Eurostat provides other indicators for the *Age group 25-49*, in relation to the presence of children in the household and their relation with the employment, including Romania like: employment status according to the household type, employment pattern of singles, employment rates by level of education and household type, impact of parenthood on employment rates.

There is a study (M.S. Stănculescu, I. Berevoescu, *Households, Work and Flexibility*, Project Households, Work and Flexibility. Research report 3, Editor C. Wallace, May 2003, Chapter 8, 433) that makes the Romanian household economic profile. The main profile is represented by (employment + non-employment) as the standard one-earner family and (pensioners) the standard couple of pensioners.

#### **5. Division of time, family responsibilities and care services**

Childcare and the domestic division of labour, is presented for Romania more as an cultural model in the study (C. Cousins, N. Tang, *Working time, gender and family: an east-west European comparison*, Project Households, Work and Flexibility. Research report 4, Editor C. Wallace, 2004, Volume 2, Chapter 8,

211) where “young men in families without children play a greater role in domestic tasks but once children are present their wives take on more domestic responsibilities and earning more money becomes more important to the men.

Employment and child care arrangements are presented in the Country survey Report (M.S. Stănculescu, I. Berevoescu, *Households, Work and Flexibility*, Project Households, Work and Flexibility. Research report 3, Editor C. Wallace, May 2003, Chapter 8, 433). In this report is illustrated that there, is consensus between men and women regarding child care responsibility, which mainly belongs to household women. In nuclear families with children under 15 years, mothers are mainly responsible for taking care of the child / children both daily and when they are sick. Less than 5 per cent of them receive help from others or pay someone in this respect. In families with all children over 15 years, enrolled in education (recorded as households without children mothers are still defined as mainly responsible for taking daily care of them, particularly in nuclear families. In larger households, which include families with children and other members, child-care is shared by the women in the household. According to the mothers/fathers of the children, in these larger households child-care responsibility mainly belongs to them in a share of about 85 per cent. When the respondent is a member of the household, other than children’s parents, most often it is a grandparent who declared child-care mainly the grandmother’s responsibility in a share of 40-56 per cent. The same pattern is recorded for other domestic tasks too, such as cooking, cleaning the house, and washing the laundry”. In the same study concludes that ‘irrespective of the economic standard of the household, a significantly larger share of mothers are not employed in nuclear families due to the multitude of tasks related to children and home. In compensation, under the pressure to provide for the family, significantly larger shares of fathers are employed compared to the other types of households.’

Satisfaction with the work–private life balance in the study mentioned before, (C. Cousins, N. Tang, *Working time, gender and family: an east-west European comparison*, Project Households, Work and Flexibility. Research report 4, Editor C. Wallace, 2004, Volume 2, Chapter 8, 211) finds that in Romania as well as in UK, Czech Republic and Hungary fathers are more likely than mothers to state that work makes it difficult to do household tasks or fulfil family responsibilities.

From the perspective of work and family integration there are some findings for Romania in the cited study (M.S. Stănculescu, I. Berevoescu, *Households, Work and Flexibility*, Project Households, Work and Flexibility. Research report 3, Editor C. Wallace, may 2003, Chapter 8, 433) women are more flexible than men, Childcare and the relation with work are managed by rich and poor in a similar manner, conflicts are higher in urban areas, the employment in rural areas represents the most successful model from the satisfaction criteria, non-flexible



working time / place offers grater satisfaction especially for women, situation since it allows them to integrate work and family and the sole earners in one income households consider work to be a permanent source of pressure upon the completion of household tasks. Informal workers particularly poorly educated and from large households declared responsibilities towards significant others frequently prevented them from doing work adequately, thus they preferred rarely or sometimes to spend more time at work than to spend more time at home.

Use of formal child care services in Romania is described in the study provided by (J. Plantenga, C. Remery, E. Zamfir, Romania (RO), *The provision of childcare services A comparative review of 30 European countries*, European Commission's Expert Group on Gender and Employment Issues (EGGE), European Commission Directorate-General for Employment, Social Affairs and Equal opportunities G1 Unit Manuscript completed in March 2009) as being in a huge deficit and with low coverage, difficult to be analysed on the shortage of data background. In addition the quality of the services causes problems. The services offered to children have been seriously reduced in Romania as well in comparing with the beginning of '90 ties.

## **6. Flexible working time**

The changing nature of work is strongly connected with flexible working arrangements changing presented in the paper of (S. Lewis, I. Roper, *Flexible working arrangements: from work-life to gender equity policies*, Cartwright et al / *The Oxford Handbook of Personnel Psychology* 17-Cartwright and Cooper-, 2008, chapter 17, 423). The idea that outcomes are more important than input of hours in the workplace, indicates a paradigm changing and also in describing the employment as well.

Work flexibility as atypical forms of work in 2001 was found by (C. Wallace, *Work Flexibility in Eight European Countries: A Cross-national Comparison*, *Sociologický časopis/Czech Sociological Review*, 2003, Vol. 39, No. 6: 773–794) that the Romanian workers prefer a standard job with a permanent contract, normal working hours and a regular schedule located within the locality but not at home.

Also, in it's study (M.S. Stănculescu, I. Berevoescu, *Households, Work and Flexibility*, Project Households, Work and Flexibility. Research report 3, Editor C. Wallace, May 2003, Chapter 8, 433) proves that place flexibility is highly correlated with highly flexible working time; 18 per cent of workers accumulate these characteristics, mostly for men based in rural areas. Ten percent of employees are compelled to have high flexibility (place and time), namely people

who work in agriculture or in the informal sector because they could not find other jobs”.

National Syndical Block provided a recent study (realised by L. Voinea, N. Mardari, V. Voineagu, V. Duma, L. Simionescu, P. Jifcu, N. Hrebenciuc Caragea, L. Sinigaglia, D. Telloni, G. Fiorani, F. Bettio, P. Villa, C. Solera, G. Damioli, S. Pisica, *Condiții de muncă, satisfacție și performanță la locul de muncă*, Proiect cofinanțat din fondul Social European prin Programul Operațional Sectorial de Dezvoltare a Resurselor Umane 2007-2013, *Fondul Social European*, Blocul Național Sindical, 2010) pointing that in the last year, the flexibility of the working program in Romania is diminished expressed through the increasing the share of workers with fixed work program from 87.5% 2010 to 89.7% in 2011. The shifting program decrease from 5.8% in 2010 to 4.6% in 2011, the variable programme decrease from 4.6% in 2010 to 4.1% in 2011.

Romania as an Eastern European country is described by (J. Plantenga, C. Remery, *Flexible working time arrangements and gender equality A comparative review of thirty European countries*. This report was financed by and prepared for the use of the European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, Draft June 2009, final document November 2009; J. Plantenga, C. Remery, *Flexible working time arrangements and gender equality*, Paper voor de Nederlandse Arbeidsmarktdag, 14 oktober 2009) that “combines low flexibility with high levels of gender equality”. In the context of assuming the flexibility increasing of the Romanian labour market as an instrument to overpass the crises in a competitive manner, there is a challenge and opportunity to maintain the progress towards family friendly labour market also”. The study advertises that both flexibility in working time arrangements and gender equality should be identified as important preconditions of economic recovery.

### **6.1. Workplace flexibility: working at home or teleworking**

Romania registered the lowest shares of teleworkers among the population in employment aged 25-49, with less than 1% (Eurostat, LFS, Table 6.6. Teleworking in the European Member States, 2006, cited by Antonia Margherita (SOGETI Luxembourg), Sile O’Dorchai (Université Libre de Bruxelles), Jelle Bosch (SOGETI Luxembourg), *Reconciliation between work, private and family life in the European Union*, Statistical Books, 2009, 126).

The excess of flexibilisation, is described (by S. Clauwaert, I. Schömann, *The crisis and national labour law reforms: a mapping exercise*, Working Paper 2012, n. 4) especially through the working time and atypical employment development,

as response to economic and financial crisis, overpass the temporary/short term initial framework and becomes permanent, with dangerous effects on labour market. Under this perspective, is increasing the risk of losing competitiveness and impinged the growth with continuous and accentuated erosion of the labour market efficiency that “undermine the protective role of both individual and collective labour law, thus putting workers in a more precarious and unprotected situation both in general and in the workplace”.

## **7. Reconciling work and family-related responsibilities**

A synthetic image of the stage of development of work life balance in Romania before the labour market reform from 2011 was realised by (C. Ciutacu, L. Chivu, corresponding author J. Hurley, *Work-life balance in Romania. A comparative approach, the national report “Quality of work and employment in Romania”, in extenso*, was published on the European Foundation for The Improvement of Living and Working Conditions, 2008, website: [www.eurofound.europa.eu/publications/htmlfiles/ef0737.htm](http://www.eurofound.europa.eu/publications/htmlfiles/ef0737.htm)). They provided an analyse of the data provided by Romanian National Institute of Statistics INS Complementary Survey ‘Reconciliation of work and family life’ (*Reconcilierea vieții profesionale cu cea familială*) made as a module attached to the Household Labour Force Survey (LFS) – Anchetă Forței de Muncă în Gospodăria (AMIGO) in second quarter 2005 among those aged 15–64 years applied in households. Among the findings of the study we mention NIS survey also shows that 47% of Romania’s employed population had the possibility of at least one hour’s flexibility in their working schedule for family reasons; 64.2% of employed persons in rural areas had this possibility, while 67.2% of people living in urban areas were unable to alter their daily working schedule. At the same time, 54% of the total numbers of employed persons were able to take one or several days’ leave for family reasons, without interfering with their vacation. Over 37% of those who stated that they were unable to alter their daily or weekly working schedule indicated that they had responsibilities for dependents. Based on levels of education, flexible working hours are only possible for 62% of those with a lower education, 40.7% of workers with a medium level of education, and 35.4% of people with a higher education. Generally, only 30% of employees enjoyed this possibility, compared with 85% of other categories of employed persons. Just 27% of workers in industry and construction have the possibility of flexible working hours, compared with about 37% of workers in services and 81% of those in agriculture.

Quality of life for single parent families in Romania are discussed by (A. Matei, B. Sanduleasa, M. Ghenta and N. Racoceanu, *Quality of life for single parent families in Romania, aspects of reconciling work and family, life, International Journal of Arts & Sciences*, 2011, 237–247 ) The team conclude that “what really has negative impact on children’s growth and education in the case of working mothers is, as in the case of working fathers, the fact that parents need to work harder in order to compensate the lack of income from the missing parent on the expense of time spent with their children” and also make the advertisement that “more than one third of the investigated single parents did not have a paid job at the time of the survey, being at great risk of marginalization”.

In a sociological approach regarding the gender equality on labour market and work-life balance policies (B. Sanduleasa, A. Matei, *Gender Equality on Labour Market and Work-Life Balance Policies - A Sociological Approach – in publishing process Proceedings for the Conference Gender Studies in the Age of Globalization - Ramona Mihaila, Efstratia Oktapoda, Nancy Honicker (eds), Gender Studies in the Age of Globalization, Addleton Academic Publishers, New York, 2011*) finds that “the designed types of measures had little regard to promoting gender equality, the measures themselves are often passive and ineffective and even less implicit or integrated with other sectoral policies, despite the fact that the Romanian state, as a Community Member State, took into the national legislation the principle of gender equality, assuming the task of ensuring compliance with it (by transposing it into practice) and ensuring equality between women and men on labour market”.

From the perspective of gender approach (A. Dragolea, A. Iancu, C.Mocanu, *Șanse egale prin concilierea vieții de familie cu cariera*, SNSPA FILIA centrul de dezvoltare Curriculară și Studii de Gen, Proiect finanțat de Camera Deputaților prin programul, Parteneriat cu societatea civilă, 2008, 12) conclude in their book that “in Romania the working – family and private life conciliation is missing from the public and policy agenda, and the actual regulation doesn’t cover / do not fully support the citizens in view to harmonise the professional life with the family one”. There are also presented the selected desirable measures commune from the parliamentary, syndicate, private environment and academic one that need to be included in the legislation, at first step.

Under these tendencies becomes a strategical priority the improving of the balance of work and family life Romania in a smart, sustainable and inclusive economy. Considering the recent developments and future perspectives of the working life-balance in Romania, the objectives of this project effectively contribute to identify and implement the best and new model to worker representatives on professional and private life balance, diversified management, equal opportunities and problems of flexibility in order to enhance the skills of

workers' representatives in collective bargaining process and improve industrial relations and social dialogue.

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## CHAPTER XI

### HUNGARIAN FRAMEWORK

*Summary:* 1. Social dialogue structure: national level. – 2. OÉT and other Hungarian institutions. – 3. Sectoral level of social dialogue. – 4. Collective bargaining: general aspects. – 5. Company level-double channel. – 6. Works councils. – 7. Rights of women, equal treatment. – 8. Reconciliation between work and family life.

#### **1. Social dialogue structure: national level**

Social dialogue in Hungary consists of three levels: national, sectorial and workplace level. The institutions of the social dialogue are based on legal regulations. National level is traditionally the consultation forum for social partners and the government, where a tripartite body, the National Interest Reconciliation Committee, was set up and regulated by the first Labour Code adopted after the political and economic changes (Act XXII of 1992). However tripartite cooperation at national level goes back to 1988, when the first Interest Reconciliation Council (ÉT) was created, which were renewed in 1990. This new body had more participants and broader competence, and it was the first real tripartite consultation body which real social partners. The structure, the operation and the tasks and rights of this body have got legislative recognition in 1992 Labour Code. Over the years, the role and the scope, as well as the name of this body have varied considerably. From 2002 it was named again National Interest Reconciliation Council (OÉT), which provided the institutional framework to social partners and the government for tripartite negotiation. Its competence covers all issues related to the world of labour, including any major economic policy issue that has an impact to the workers' and employers' interests. Social partners were granted the right to be informed, the right to give their opinion and the right to consent in selected labour issues (level of minimum wage and the level of wage increase.) Social partners were involved in the preparation of the new law concerning to the labour and social issues.

## 2. OÉT and other Hungarian institutions

The OÉT was constituted of the national level workers' and employers' organisations and the government. The workers' side of the OÉT was composed of the six national trade union confederations, while the employers' side was represented nine national organisations. Until 2009 the composition, the participation, the structure and the procedure of the OÉT was determined by the self-regulation of the OÉT. From 2009 a special act regulated the criteria of representativeness of national trade unions and employers' organisations which became the condition of membership in this body (Act LXXIII of 2009). All of the previous members of the OÉT met the prescribed criteria, so the members of the body remained the same actors after the new act, too. In 2011 the OÉT has been terminated and was replaced by a new consultation body (Act XCIII of 2011), named National Economic and Social Council (NGTT), consisted of five sides of representatives (workers, economy, including the employers' organisations, the side of the church, side of the academic area and the side of the NGOs). Government is not member of the body. This body is not a real tripartite body, as the OÉT was. Its competence goes beyond the interest of workers and employers. The right of this body is limited to give opinion and consult with each other on different social and economic topics without the possibility of concluding meaningful agreements. Consultation on the level of minimum wage is the right of this council, but the minimum wage is regulated by the Government. This body is not involved to the preparation of the new labour and social law. The only real tripartite body is still operating is the National ILO Council, which was set up in 1998 as one of the specialized committees of the OÉT. The setting up of this Council is based on the ILO Convention No 144, this is the reason of its operation after the termination of the OÉT (G. László, *Munkaerő-piaci politikák*, Pécsi Tudományegyetem, Közgazdaságtudományi Kar, Pécs, 2007; T. Pruberger, *Foglalkoztatáspolitikai és munkanélküli ellátás az EK országokban*, Európa Fórum, 1992/2, 1993/1; G. László, *A foglalkoztatáspolitikai befejezetlen paradigmaváltása*, Munkügyi Szemle, 2009, év II. szám 5. 2010, augusztus 25).

## 3. Sectoral level of social dialogue

Sectoral level social dialogue has not existed in Hungary before 1990. This level was created by the assistance of the EU PHARE project from 2000. The result of this project was the establishment of the so called Sectoral Social Dialogue Committees. The aim of the project was to bring closer the Hungarian social dialogue structure to the European industrial relations system to be able to



involve to the EU social dialogue procedure. Today more than thirty sectoral committees are operating (M. Ladó, *Szociális Párbeszéd az Európai Unióban*, I. és II. Rész, Munkaügyi Szemle 2000, április 44-47, old, és május 48-51 old). The structure, the composition, with the criteria of representativeness, the procedure and the rights of these committees are regulated in the law (Act LXXIV of 2009). These committees are bipartite bodies mainly for the consultation of sectoral social partners with each other about the most important issues of the different sectors. The sectoral social partners are also entitled for concluding so called multi-employers collective agreements which can be extended by the minister of labour to the whole sector or subsector in the case of their meeting with the regulated criteria. In spite of this legal possibility there were rather few collective agreements concluded in the sectoral social dialogue committees. Sectoral bargaining still couldn't be the main level of the Hungarian collective bargaining system however their representatives can take part in the EU sectoral social dialogue which is really with good effect to our industrial relations. See more in: I. J. Czuglerné, *Az atipikus munkaviszonyok szabályozása a nemzetközi jogban*, Munkaügyi igazgatás, munkaügyi bírászkodás. Ünnepi Tanulmányok Radnay József 75, születésnapjára, Bíbor Kiadó Miskolc, 2002, 115-140 old.; J.I. Czugler, *The Prospects of Autonomous Sectoral Dialogue in Hungary*, *Annales, Univeritatis Scientiarum Budapestinensis de Roando Eötvös Nominata, Studio Iurida*, Tomus XIV, Budapest, 2004; M.R.J. Rombours, *The Essence of Social Dialogue in (South-East) Europe*, Hungarian Report, Antwerpen-Oxford, Intersentia, 2006, 157-190 old.; I.J. Czuglerne, *Sztrájkjog a gyakorlatban*, Munkástanácsok Évkönyv, Budapest, 2009, 15 old.; I.J. Czuglerne, *A munkavállalók tájékoztatáshoz és konzultációhoz való joga az Európai Unióban és Magyarországon*, Munkástanácsok Országos Szövetsége, 2010, 26 old.

#### **4. Collective bargaining: general aspects**

The area of collective agreements is characterised first by a relatively small number of sectoral agreements and second by a marked preference among employers for negotiated at company level. At the legal level, labour legislation in principle creates favourable formal conditions for development of bargaining practice, both in companies and at sectoral level. Another particular feature of bargaining practice concerns the content of sectoral agreements. It should be pointed out that they very often contain provisions from the labour code relating to industrial relations. Thus, the social partners undertake to comply with the principles or clauses which they are in any event obliged to comply with by virtue of the law. Also, sectoral agreements often remain very vague or particularly

flexible regarding employee issues (E. Hanti, *Participants in interest reconciliation – employee organisations and debates concerning participation*, on *Industrial relations after the change of the regime*, Munkaügyi kapcsolatok a rendszerváltás után, Bp. 1999, 33; B. Nacsa, L. Neumann, *The system of Collective Bargaining in Hungary*, Tripartite conference organized by the National ILO Council of Hungary and ILO-CEET, Budapest, 2002.

In Hungary, although company-level bargaining is the dominant level, the company-level agreements say little about the employer's strategy regarding human resource development. Instead, the majority of agreements contain only the employer's general intentions to support training and broad prescriptions as well as framework rules, omitting the details for the individual 'study contract'. At company level, the Labour Code stipulates that plans regarding the training of employees should be reviewed by the works council; nonetheless, no data are available about the frequency and contents of such consultations. No significant collective bargaining can be found in the area of equal opportunities. At workplace level, the equal opportunity related activities of works councils and trade unions are mostly confined to the scope of 'equality plans', the development of which has been obligatory for public sector workplaces (budgetary institutions and publicly owned companies) employing more than 50 people since 2004. The law (Act CXXV of 2003) defines the equal opportunity target groups on the basis of factors such as gender, ethnicity, colour of skin, nationality, mother tongue, disability, health condition, religion, political orientation, marital status, parental status, sexual orientation, age and social background. It obliges employers to conduct a survey on the employment situation of such vulnerable groups – with special attention to wages, working conditions, promotion, training, childcare and maternal allowances – and to develop measures to improve their position. See in K. Arató, *Szociális párbeszéd az Európai Unióban*, Rejtjel Kiadó, Budapest, 2001; D. Boda, L. Neumann, *Az EU csatlakozás munkaügyi vonatkozásai a szociális partnerek szemszögéből*, Európai Tükör 2 szám, OMKMK, Bp., Kézirat, 2000, T. Prugberger, *A magyar munkajogi érdekegyeztetési rendszer továbbfejlesztése*, Gazdaság és Jog 1999, szám 18-19 old.; T. Prugberger, *Európai és magyar összehasonlító munka-és közszolgálati jog*, KJK-Kerszöv, Budapest, 2000; S. Lenia, *Alapvető Szociális Jogok, Az Európai Szociális Karta esetjoga*, Európa Tanács, Strasbourg, 1997; T. Prugberger, *Európai és magyar összehasonlító munka-és közszolgálati jog*, KJK-KERSZÖV, Budapestz 2000; M. Weiss, *Enlargement and Industrial Relations: Building a Nes Social Partnership*, in *The International Journal of Comparative Labour Law and Industrial Relations*, 2004, Vol. 20/I, 5-26; C. Welz, *The European Social Dialogue under Articles 138 and 139 of the EC Treaty*, Kluwer Law International, BV. The Netherlands, 2008; I.J. Czuglerne, *Social Dialogue and Democratic Development*.

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## 5. Company level-double channel

At the company level in Hungary the workers' representation system is so called a "double channel" system that means that not only trade unions, but also works councils (shop steward) can operate in parallel. Main task of the trade union is collective bargaining, while the works councils' practices the participation rights of the workers. Only trade unions have the right to go on strike, works councils protect workers interests mostly by the means of right to information and consultation. Trade unions The Hungarian collective bargaining structure has always been "decentralised". Company level is the traditional and dominant collective bargaining level in Hungary. The Labour Code stipulates that only one collective agreement can be concluded at an employer. The new Labour Code (Act I of 2012), come into force in 1st of July 2012, modified the entitlement for collective bargaining. According to the new legislation a trade union shall be entitled to conclude a collective agreement if its membership of workers at the employer reaches ten per cent of all workers employed by the employer. (Art. 276.) Trade unions who reach this measure may do conclude the agreement only collectively (C. Lehoczkyné Kollonay, *The changing face of labour law in Hungary*, in *The International Journal of Comparative Labour Law and Industrial Relations*, 1991, Vol. 7, 57-70 old.; I.J. Czuglerné, *Kollektív szerződés az Európai Unióban*, Gazdaság és Jog, 2003; I.J. Czuglerné, *Az Európai Unióhoz történő csatlakozás hatása a közúti közlekedés vállalkozóira és dolgozóira*, Budapest, MKF, 2003, 79-103 old.; I.J. Czuglerné, *Az európai szociális partnerek*, A Munkaadó Lapja, 2003, 12; I.J. Czuglerné, *Képlékeny sztrájkjog I-III*, A Munkaadó Lapja, 2003, 5-7; I.J. Czuglerné, *Results of Trade Union Lawyers meeting in Zagreb*, The Community Social Acquis is Labour Law in the CEECs and Beyond, Fighting deregulation, Report 75, Brussels, ETUI, 2003; I.J. Czuglerné, *Az információs és konzultációs jogok szabályozása*, Magyarországon, Liber Amicorum, Studia Stephano Kertész Dedicata, Ünnepi gondolatok Kertész István tiszteletére, ELTE ÁJK Munkajogi és Szociális Jogi Tanszék Budapest, 2004, 59-81 old.; I.J. Czuglerné, *The Prospects of Autonomous Sectoral Dialogue in Hungary*, Annales Universitatis Scientiarum

Budapestinensis de Rolando Eötvös Nominatae, Sectio iuridica, 2004, 211-224 old.; I.J. Czuglerné, *Settlement of Labour Disputes in Hungary*, ETUI, Brussels, Report 86, 2004, 47-58 old.

The collective agreement can derogate from the provisions of the Labour Code concerning the regulations of employment relationship both for the benefit and disadvantages of the workers, unless otherwise provided in the Code. (Art. 277). The collective agreement shall enter into effect when published. The collective agreement may be terminated by giving at least three months' notice. A collective agreement that was concluded by more than one trade union may be terminated by either of those trade unions. Neither of the parties shall be entitled to exercise the right of termination within six months of the conclusion of the collective agreement. A fixed-term collective agreement shall cease to exist upon the expiry of the fixed term. (Art. 280.) Collective agreements are usually concluded at large enterprises, while the SME sector is largely unregulated by collective agreements. The coverage rates of workplace agreements in the private and public sector in 2008 were 28.5% and 29.4%, respectively. In terms of the sectoral distribution of collective agreements, the highest overall coverage rates were reported in transport, telecommunications and postal services (98%) and in the energy, water supply and sewage sector (90%). Less regulated by collective agreements were the construction sector (7%), the hospitality industry (8%) and private services (11%) (L. Neumann, *A kollektív szerződéskötést elősegítő munkaügyi politika*, Munkaügyi Kutatóintézet, Kézirat, Budapest, 1998; B. Pernecky, *A kollektív munkaszerződés*, Grill Károly Könyvkiadó vállalata, Budapest, 1938). Collective agreements at sectoral level are particularly important for the publicly owned enterprise sector and major public utility companies – such as public transport, energy and water utilities, and postal services. However, they are less significant in manufacturing and the private service sectors, where their role is limited to setting minimum conditions. Both company level and sectoral level collective agreements are legally binding. However, national-level agreements of the social partners are not enforceable by legal means (I. Hágelmayer, *A kollektív szerződés alapkérdései*, Akadémia Kiadó, Budapest, 1979; M. Ladó, *EU Enlargement, Reshaping European and National Industrial Relations*, in *International Journal of Comparative Labour Law and Industrial Relations*, Spring 2002, Vol. 18, Issue 1, 101-124).

## 6. Works councils

A shop steward, or a works council shall be elected if, during the half-year prior to the date when the election committee was established, the average number

of employees at the employer or at the employer's independent establishment or division (hereinafter referred to as "fixed establishment"), is higher than fifteen (shop steward) or fifty (works council), respectively. Works councils are elected for terms of five years. The justified expenses incurred in connection with the election and operation of the works council shall be borne by the employer (Art. 236) New right of works councils is to conclude works agreement replacing collective agreement. Such agreements may be concluded on condition that the employer is not covered by the collective agreement it has concluded, or there is no trade union at the employer with entitlement to conclude a collective agreement (Art. 268.) See more in L. Bruszt, *Magyarország tárgyalásos forradalma*, in Kurtán Sándor, Sándor Péter és Vass László (szerk.): *Magyarország politi-kai évkönyve*, Budapest, Aula-OMIKK, 1990; R. Girndt, *Hungary's Trade Unions: Division and Decline*, in *Labour Focus on Eastern Europe*, 1996; L. Héthy, *Az érdekegyeztetés és a táguló világ*, FES és, *Közösen a jövő munkahelyeiért* Alapítvány, Budapest, 2000; S. Kisgyörgy, L. Vámos, *Az üzemi tanácsok választásának és működésének tapasztalatai*, Kézirat, ÉT-PHARE Szociális Dialógus Program, 1994; C. Lehoczkyné Kollonay, M. Ladó, in U. Carabelli, S. Sciarra, *New Patterns of Collective Labour Law in Central Europe. Czech and Slovak Republics, Hungary, Poland* (eds.), Giuffrè Editore, Milano, 1996; E. Szalai, *A civil társadalomtól a politikai társadalom felé*, *Munkástanácsok 1989–1993*, TTwins Kiadó, Budapest, 1994.

## 7. Rights of women, equal treatment

Statutory background for equal opportunities in the Labour Code and in the separate equal opportunities legislation Act XXII of 1992 (old Labour Code) regulates the possibility of the approval of *equal opportunities plans* for employers that come under the effect of the law. The employer and the trade union with representation at the employer (or in the absence of a trade union, the works council) approve the equal opportunities plan together. The plan may serve to regulate the objectives set to improve the employment situation of and to provide equal opportunities for disadvantaged employee groups (women, employees over the age of forty, Roma, handicapped individuals and employees raising two or more children under the age of ten years) and to determine the means by which those objectives may be achieved. The new Labour Code no longer stipulates a statutory obligation with respect to the drafting of equal opportunities plans.

The 1992 law only prescribed the prohibition of discrimination, while the details were regulated in a separate law. The new legislation, too, merely

pronounces the general rule and principle of the requirement of equal treatment when it prescribes that the requirement of equal treatment must be observed in the context of employment, with special regard to remuneration. The remedying of any breach in violation of this requirement cannot result in the violation or curtailment of the rights of other employees. The law only regulates the criterion related to the discrimination-free remuneration of work (Section 13), while the rest of the requirements related to equal treatment in employment are regulated in a separate law. The separate law on equal treatment and equal opportunities (Act CXXV of 2003) regards as discriminatory and therefore prohibits measures which differentiate between employees with regard to e.g. family status, motherhood (pregnancy) or fatherhood. According to this law, any direct discrimination, indirect discrimination, harassment, unlawful isolation, retribution or any instruction given to any of the above effect constitutes a violation of the requirement of equal treatment. A measure qualifies as indirect discrimination that does not amount to direct discrimination and seemingly satisfies the requirement of equal treatment if it places the individuals or groups with the attributes referred to in Section 8 at a disadvantage in substantially larger proportions than other individuals or groups in a comparable situation, whether in the past, present or future. Harassment is an act of a sexual or other nature in violation of human dignity which is related to the attributes defined by law of the individual concerned and the purpose or effect of which is to create an intimidating, hostile, humiliating, degrading or aggressive environment against that individual. All measures qualify as unlawful isolation which isolates certain individuals or groups of individuals on the basis of their attributes defined by law from other individuals or groups in a comparable situation without this being expressly permitted by law. A practice qualifies as retribution which causes an injury of a legal nature, is aimed at causing or threatens to cause an injury of a legal nature to an individual who raises an objection, institutes proceedings or participates in proceedings on account of the violation of the requirement of equal treatment on that score. In addition to the sanctions prescribed by law, the upholding of the requirement of equal treatment is guaranteed by the establishment of a separate authority, the *Equal Treatment Authority*, which investigates any employment-related complaints filed with respect to discrimination. As part of the *institution of proceedings of public interest*, trade unions, too, may proceed directly before the Authority in the interest of the employees concerned. In the context of the investigation of complaints related to discrimination, the law also regulates the reversal of the burden of proof in harmony with the relevant EU directive. See more in I.J. Czuglerné, *Munkaértékelés, bérezés, Nemek esélyegyenlősége a munkaerőpiacon*, A 2004. március 26-án tartott nemzetközi konferencia előadásai, Esélyegyenlőségi Kormányhivatal – Napvilág Kiadó, Budapest, 2004,

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## 8. Reconciliation between work and family life

The protection of employees returning from maternity leave and therefore work and family life have always been a significant issue, have been the center of debate for a long time. In this contest social considerations and employment law questions inevitably overlap. Indeed, there are many efforts to resolve the tensions and we have to redefine the responsibilities and certain obligations. As in so many

areas, effective legislation must balance the different interests of the parties involved. The experiences of many practitioners in this field reveal problematic aspects of the legal regime which tend to be ignored when they should be urgently resolved. The Hungarian legal system has a number of laws working on employment specific legal protection of families including parents, mothers, fathers, young people, older people. The families are protected and promoted by the social security and social legislation, as well as some specific legislation, such as tax laws (family benefits on tax credit), or the judicial enforcement of the provisions (incomes and benefits which except from enforcement, as well as the alimony as child maintenance deduction in the governing provisions). See more in B. Nacsa, *Munkajog és Jogharmonizáció*, A részmunkaidős és a határozott idejű munkaszerződés problematikája, Európai Tükör, 2003, 3 szám; J. Radnay, *A határozott idejű munkaviszonyok korlátozása*, Gazdaság és JOg, 10/1998, 18-19 old.; I.J. Czuglerné, *A határozott idejű foglalkoztatás munkajogi kérdései*, Munkaügyi Szemle, 7-8/1998, 43-49 old.; Z. Bankó, *A határozott idejű munkaszerződések az Európai Unióban és Magyarországon*, Cég és Jog 12/2001, 44-46 old.; T. Gyulavári, *A nők és férfiak közötti esélyegyenlőség az Európai Unióban*, Esély, 1998/5 szám; I.J. Czuglerné, *Az atipikus munkajogviszonyok szabályozása a nemzetközi jogban*, Radnay József- jubileumi kiadvány, 2002; B. NACSA, *Munkajog és jogharmonizáció*, A részmunkaidő és a határozott idejű munkaszerződés problematikája, Európa Tükör, 2003/3 szám; I. Horvát, *A részmunkaidő és a részmunkaidő*, Radnay József - jubileumi kiadvány, 2002; B. Nacsa, *Az atipikus munkaviszonyok, szabályozása Nyugat-Európa egyes országaiban*, EU Tükör, 2003, 25 szám, 47-48 és 54-62. old.; I.J. Czuglerné, *A részmunkaidős foglalkoztatás – felemás jogharmonizáció*, A Munkaadó Lapja, september 2004; T. Pongrácz, S. Molnár, *Kisgyermekes apák és anyák szülői, családi attitűdjei négy európai országban*, KSH NKI Kutatási jelentések, Budapest, 1994, 52; T. Pongrácz, *Opinions on Gender Roles. Findings of an International Comparative Study*, in *Changing Roles Report on the Situation of Women and Men in Hungary*, Edited by I. Nagy, M. Pongrácz, I.G. Tóth, TÁRKI, Budapest, 2006, 71-85; T. Pongrácz, *Nemi szerepek társadalmi megítélése Szerepváltozások*, Jelentés a nők és férfiak helyzetéről, Szerk: Nagy Ildikó Pongrácz Tiborné, Tóth István György, TÁRKI-ICSSZEM, Budapest 2005, 73-87; T. Pongrácz, *Gyermekvállalás – munkavállalás*, in Spéder Zsolt (szerk.): *Törések és kötések a magyar társadalomban*, Budapest, Andorka Rudolf Társadalomtudományi Társaság – Századvég, 2000; T. Pongrácz, S. MOLNÁR, *A gyermekvállalási magatartás alakulása*, in Lévai Katalin –Tóth István György (szerk.), *Szerepváltozások, Jelentés a nők helyzetéről*, TÁRKI Munkaügyi Minisztérium, Budapest, 1997; M. Pongrácz, S. MOLNÁR, *Birth out of wedlock*, Demográfia, 2003, vol. 46 (special edition); M. Pongrácz, Z. Spéder, *Marriage*



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