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AND SOUTH AMERICAN COUNTRIES

CONTENTS

EDITORIAL, *Gerardo Meil Landwerlin*, 9

I. STUDIES

Spanish fathers benefiting from maternity leave: experience and policy demands. *Gerardo Meil Landwerlin*, 17

Reforms in Parental Leave Policies in France: Tensions between Budgetary Restrictions and the Promotion of Gender Equality. Reason for a decline *Jeanne Fagnani and Antoine Math*, 39

Leave policies in Italy: towards a new scenario? *Sara Mazzucchelli*, 57

Economic crisis and austerity, work-life balance policy for working parents and parental behavior in Greece. *Evi Hatzivarnava-Kazassi and Maria Karamessini*, 79

Ambivalent character of leave policies development in Croatia: between pronatalist and gender equality agenda. *Ivana Dobrotić*, 107

Maternity/paternity and and paid employment: progress in and obstacles to the exercise of the right to care in Uruguay. *Karina Batthyány and Valentina Perrotta*, 127

Time to care. Analysis of maternity, paternity and parental leaves in Latin America and the Caribbean. *Carina Lupica*, 149

II. DOCUMENTS

An initiative to support work-life balance for working parents and carers, 169

Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, 183

Monitoring the implementation of the European Pillar of Social Rights, 211

III. REFERENCES

On «Parental leave», 225

On «Work and family», 237

Revista del Ministerio de Empleo y Seguridad Social

Economía y Sociología

NÚMERO ESPECIAL SOBRE POLÍTICAS DE PERMISOS Y SU
APLICACIÓN EN PAÍSES DEL MEDITERRÁNEO Y SUDAMÉRICA

SUMARIO

EDITORIAL, *Gerardo Meil Landwerlin*, 9

I. ESTUDIOS

Padres que utilizan el permiso de maternidad. La experiencia de padres españoles y sus demandas de política pública. *Gerardo Meil Landwerlin*, 17

Reforma de las políticas de permisos parentales en Francia: conflicto entre las restricciones presupuestarias y la promoción de la igualdad de género. Motivos de su disminución. *Jeanne Fagnani y Antoine Math*, 39

Políticas sobre los permisos parentales en Italia: ¿hacia un nuevo escenario?. *Sara Mazzucchelli*, 57

Crisis económica y austeridad, políticas de conciliación de vida familiar y laboral para padres trabajadores y comportamiento parental en Grecia. *Evi Hatzivarnava-Kazassi y Maria Karamessini*, 79

Carácter ambivalente del desarrollo de las políticas de permisos parentales en Croacia: entre la promoción de la natalidad y la igualdad de género. *Ivana Dobrotić*, 107

Maternidad y paternidad en el trabajo: avances y barreras en el ejercicio del derecho al cuidado en Uruguay. *Karina Batthyány y Valentina Perrotta*, 127

Tiempo para cuidar. Análisis de las licencias por maternidad, paternidad y permisos parentales en América Latina y el Caribe. *Carina Lupica*, 149

II. DOCUMENTOS

Una iniciativa para promover la conciliación de la vida familiar y la vida profesional de los progenitores y los cuidadores, 169

Propuesta de Directiva del Parlamento Europeo y del Consejo relativa a la conciliación de la vida familiar y la vida profesional de los progenitores y los cuidadores, y por la que se deroga la Directiva 2010/18/UE del Consejo, 183

Supervisión de la aplicación del pilar europeo de derechos sociales, 211

III. BIBLIOGRAFÍA

Sobre «Licencia parental», 225

Sobre «Trabajo y familia», 237

MINISTERIO DE TRABAJO, MIGRACIONES Y SEGURIDAD SOCIAL

Editorial

Editorial

GERARDO MEIL LANDWERLIN*

Este año se cumple el centenario de la convención número 3 de la Organización Internacional del Trabajo sobre protección de la maternidad en el empleo, acordada en Washington el 29 de noviembre de 1919. Esta convención supuso un avance de gran importancia en los derechos laborales de las mujeres al servir para la institucionalización de la protección social de la maternidad en muchos países. Este monográfico tiene como objetivo rendir homenaje a tan singular acontecimiento con una revisión de las principales tendencias de cambio y debates que existen en la actualidad en torno a los permisos parentales, centrando la atención en los países del sur de Europa y América Latina.

La citada convención introdujo el derecho de las madres a un permiso remunerado tras el parto y unos tiempos de descanso tras su incorporación al trabajo para la lactancia, así como el derecho a asistencia médica durante la gestación y el parto, a financiar bien por la Seguridad Social o por el Tesoro Público. Así, se estableció, por un lado, el permiso de maternidad consistente en el derecho a la interrupción del trabajo durante las seis semanas posteriores y anteriores al parto, con una compensación económica por la pérdida del salario y la prohibición de despido por tal motivo. Igualmente, se estableció el permiso de lactancia concretado en el derecho a dos descansos de media hora durante la jornada laboral para permitir la lactancia una vez reincorporadas al empleo, debiéndose habilitar para ello un espacio específico en el lugar de trabajo. Los Estados signatarios de esta convención, entre los que se encuentran todos los casos analizados en este monográfico, estaban obligados a garantizar dichos derechos a las mujeres trabajadoras independientemente de su estado civil y origen. Las razones fundamentales de estas medidas eran proteger la salud de la madre trabajadora y la del bebé, así como unos derechos laborales básicos.

A lo largo del último tercio del siglo XX, con los profundos cambios en los roles y las relaciones de género, los objetivos de la política de permisos se han ido ampliando para incluir la facilitación de la conciliación de la vida laboral y familiar y cada vez más también con la promoción de la igualdad de género. Se introdujeron así permisos más allá del permiso de maternidad genéricamente denominados permisos parentales, que en el caso español corresponden a la excedencia por cuidado de hijos y a la reducción de jornada por guarda legal. El objetivo de estos permisos es facilitar la conciliación de la vida laboral y familiar. Inicialmente reconocidos únicamente a las madres, estos derechos se extendieron también a los padres en virtud del

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principio de no discriminación por razón de género. Hay muchos países que no han introducido estos permisos, aunque en la Unión Europea, la aprobación de la Directiva 96/34/CE (ampliada por la *Directiva 2010/18/UE*) estableció para todos los Estados miembros la obligación de reconocer a los trabajadores un derecho individual a un permiso parental de al menos cuatro meses por nacimiento o adopción de un hijo, debiendo ser al menos un mes intransferible al otro cónyuge y sin obligación de que sea remunerado. Esta directiva de la UE establece unos derechos mínimos que deben recoger la legislación nacional en la materia, pero las provisiones que se establecen en los distintos países son muy heterogéneas en cuanto a duración, compensación por la pérdida del salario, derecho a retornar el empleo previo y flexibilidad en su uso.

Comoquiera que la extensión de los derechos a los permisos parentales a los hombres no se tradujo en un uso generalizado de los mismos por los padres y ante la persistencia de la discriminación de la maternidad en el mercado de trabajo, las políticas de igualdad de género empezaron a reorientarse en dirección a promover mediante incentivos específicos el uso de los permisos por parte de los padres. Para ello se crean distintos instrumentos con un buen salario de sustitución como son el permiso de paternidad, cuotas específicas para los padres no transferibles a la madre dentro de los permisos parentales y/o ampliación de la duración del permiso si parte del mismo es utilizado por ambos progenitores. El objetivo que con ello se persigue es doble. Por un lado, se trata de desfeminizar el uso de los permisos, y más en general el uso de los instrumentos para facilitar la conciliación de vida familiar y laboral, con el fin de que los empleadores no discriminen la maternidad. Por otro lado, se trata de socializar a los padres en el cuidado de los niños y lograr con ello un reparto más equilibrado del trabajo no remunerado en la familia. Esta reorientación de la política de permisos parentales se ha traducido en el abandono de las demandas de ampliación del período reservado a las madres en favor de la ampliación del período reservado a los padres, haciéndolo intransferible a la madre para forzar de alguna manera a éstos para que asuman el cuidado de sus hijos según la lógica de no desperdiciar el tiempo que la legislación les proporciona. Este proceso no ha sido lineal, ni ha estado exento de ambigüedades. Buen ejemplo de ello es la propuesta presentada en abril de 2017 de reforma de la directiva de permisos parentales elaborada por la Unión Europea, y que se encuentra recogida en este número, que viene a sustituir a la fallida propuesta de ampliación del permiso de maternidad. Se trata de una propuesta mucho más ambiciosa que implica la obligatoriedad de la remuneración de los permisos parentales, la flexibilización de su uso y la ampliación de los derechos a los padres.

El presente número de la colección de Economía y Sociología recoge algunos aspectos y experiencias de cómo ha sido esta evolución, y cómo se ha visto afectada por la crisis económica registrada en los últimos años, en los países mediterráneos de la Unión y en América Latina. Estos trabajos han sido elaborados a partir de las comunicaciones que se presentaron al 13 Seminario Internacional de la Red de expertos en permisos parentales (www.leavenetwork.org) celebrada en Madrid en septiembre de 2016 y complementa el otro monográfico que ha editado el autor de estas líneas en la Revista Española de Sociología en el presente año (<http://www.fes-sociologia.com/bienvenidos-as-a-la-revista-espanola-de-sociologia/pages/234/>). Las autoras y autores de las mismas son reputados especialistas, miembros de dicha red, con una dilatada trayectoria investigadora en la materia. Con ello se pretende, además de rendir homenaje a la 3ª Convención de la OIT, contribuir al debate sobre la efectividad y futuro desarrollo que debería tomar la política de permisos parentales.

En la primera contribución, el autor de estas líneas analiza, a partir de entrevistas en profundidad, la efectividad de la posibilidad de ceder parte del permiso de maternidad al padre

prevista en la legislación española y aboga por la conveniencia de reformar el sistema de permisos para promover que los padres asuman en solitario durante un tiempo el cuidado de sus bebés. Esta medida introducida en 1989 con la justificación de facilitar la conciliación de la vida familiar y laboral, que no la de promover la igualdad de género, se ha evidenciado como escasamente eficaz, pues sólo una proporción muy pequeña de entre el 1 y el 2% de madres cede este permiso. Las razones que se han dado para ceder el permiso son que la madre no podía disfrutar del permiso completo por ser trabajadora autónoma, tener un contrato temporal o por presiones del empleador, pero además de ello el padre no solo debía querer asumir el reto de cuidar en solitario de un bebé, sino también no ver en peligro su empleo por utilizar esta opción. A la luz del escaso número de casos en que se da en comparación con la elevada proporción de mujeres autoempleadas y con contrato temporal, esta posibilidad no contribuye ni a la conciliación de vida laboral y familiar, ni a la desfeminización del uso de los permisos. A lo que sí contribuye, por el contrario, es a la socialización de los padres en el cuidado de niños/as y a un reparto más equilibrado de las responsabilidades familiares en aquellos casos en los que se ha producido. La conclusión que de ello se deriva es que la política de permisos parentales debería fomentar hasta normalizar la experiencia del cuidado en solitario de los recién nacidos por parte de los padres, pues ello 1. desfeminiza el uso de los permisos, 2. hace tomar conciencia a los hombres de que el cuidado de niños pequeños es un trabajo muy intenso, 3. les permite aprender a cómo cuidar y atender a sus hijos pequeños y 4. facilita el establecimiento de un estrecho vínculo con los hijos que se traduce en una práctica de la paternidad más comprometida y constructiva.

La segunda contribución, de Jeanne Fagnani y Antoine Math, analiza la evolución en Francia del permiso parental denominado inicialmente *Allocation Parentale d'Éducation* (redenominado posteriormente como *Complément de libre choix d'activité*) y que se corresponde en cierta medida con la figura de la excedencia y reducción de jornada en la legislación española, con la gran diferencia de que en el caso francés sí está remunerada. Este análisis se realiza atendiendo a los supuestos ideológicos que van configurando su evolución en el marco de la política más general de facilitación de la conciliación de vida laboral y familiar y a cómo las sucesivas crisis económicas condicionan su desarrollo. Una de las consecuencias de esta evolución es que al hacerse más restrictivo el acceso a este permiso y reducirse la compensación por la pérdida de salario, su potencial para fomentar el uso de los hombres de este permiso ha quedado erosionado, cuando no anulado, como lo evidencia el escaso uso que del mismo hacen los padres. Este trabajo proporciona además una comparación de gran interés con la evolución inversa que ha conocido la política alemana de permisos parentales, que gracias a la profunda reforma introducida en 2007, que introduce generosos incentivos para que los padres utilicen parte del permiso parental, ha conseguido un éxito notable en este sentido.

El artículo de Sara Mazzucchelli analiza la evolución del conjunto de permisos parentales en Italia en el marco más amplio de las políticas fiscales, familiares y de conciliación de vida familiar y laboral en el que se inscriben. Este trabajo evidencia cómo, aunque más tarde y menos ambicioso que otros países de la Unión Europea, incluidos otros países del sur de Europa, también se ha producido un cambio de paradigma en dirección hacia una incentivación del uso por los padres del permiso parental, así como hacia la desfamiliarización de la oferta de recursos de conciliación. Su traducción práctica choca, sin embargo, con profundas barreras tanto estructurales como culturales, que se traducen en un uso muy limitado por parte de los padres y, por tanto, en una gran desigualdad de género en este ámbito.

El artículo sobre Croacia de Ivana Dobrotić pone de relieve la marcada diferencia en los objetivos perseguidos por la política de permisos en los países del este de Europa en las distintas

fases por las que han pasado estos países. En particular se evidencia cómo en este país, por razones de escasez de mano de obra, se fomentó durante la fase socialista el empleo de las madres, mientras que tras la caída del socialismo, y el consiguiente aumento masivo del desempleo, se cambia a un paradigma familista, que busca, sobre todo, promover explícitamente la natalidad para compensar la drástica caída de la fecundidad, a través de un reforzamiento de los roles tradicionales de género. Las aspiraciones a integrarse en la Unión Europea, introdujo la igualdad de género en la agenda de la política de los permisos, lo que se traducía en la necesidad de introducir también el derecho de los padres a un permiso parental. El resultado de las reformas, según la autora, es una amalgama ambivalente de medidas y provisiones que demuestran la ausencia de un diseño coherente de política de permisos, algo que, por otra parte, no es específico de dicho país.

El artículo sobre Grecia de Evi Hatzivarnava-Kazassi y Maria Karamessini analiza la política de permisos parentales en el contexto más amplio de la política de conciliación de vida familiar y laboral, centrado la atención en el impacto que la profunda crisis económica que ha sufrido este país en la última década ha tenido en esta dimensión de la política social. Las autoras ponen de relieve que esta política es la única que se ha salvado de los profundos recortes en el gasto social que se han dado durante este período, en parte debido a la reducción del gasto como consecuencia del masivo desempleo y la elevada emigración de la población más joven. No sólo no se han producido recortes en los derechos formales, sino que incluso se han producido algunas mejoras (como la extensión del permiso de maternidad a las mujeres autónomas o mejoras en los permisos no remunerados) derivadas de la necesidad de adaptar su sistema a las exigencias de la política de igualdad de la Unión Europea. No obstante, la precarización del mercado de trabajo ha debilitado profundamente la posición negociadora de madres y padres, lo que ha llevado a que no pudieran hacer valer sus derechos a permisos por miedo a perder el empleo, circunstancia que se ha visto en parte compensada por una mejora de la política de cuidados infantiles preescolares.

La evolución de la política de permisos parentales en América Latina ha tenido una lógica diferente a la que han seguido los países europeos mediterráneos, al carecer de una arena política como es la Unión Europea que impone determina dirección en las políticas nacionales, pero también porque el cambio en las representaciones de género en el espacio público, el trabajo y la familia es muy distinta de un país a otro. Los dos trabajos que se recogen en este número ilustran las pautas de reforma que se han producido en dos países pioneros en las reformas de los permisos parentales (Chile y Uruguay) y las dificultades para hacer efectivo el fomento de la corresponsabilidad, no sólo por las barreras culturales, sino también por el propio diseño de las políticas. Las autoras de ambos trabajos muestran, una vez más, cómo la posibilidad de transferir o compartir el derecho a los permisos no se traduce en una mayor corresponsabilidad, puesto que siguen siendo masivamente utilizados por las madres, pero también cómo el establecimiento de un permiso de paternidad no tiene por qué traducirse necesariamente en un uso generalizado del mismo.

El artículo sobre Uruguay, escrito por Karina Batthyány y Valentina Perrotta, analiza la reforma habida en 2015 y su impacto en términos de conocimiento y uso de las nuevas medidas. Esta reforma ha ampliado la duración de los permisos de maternidad (hasta las catorce semanas recomendadas por la OIT) y paternidad (hasta trece días), y ha introducido el derecho a una reducción a la mitad de la jornada laboral que los progenitores pueden repartirse hasta el sexto mes del recién nacido y que es retribuida. Con esta reforma se busca no sólo facilitar la conciliación, sino explícitamente fomentar la corresponsabilidad y en este sentido se encuentra entre las más ambiciosas de la zona. El impacto transformador en las prácticas de uso de estos permisos según el género ha sido positivo, pero limitado. Mientras que el uso del permiso de

paternidad se ha generalizado hasta igualarse al número de permisos de maternidad, la utilización del derecho a reducir la jornada ha tenido menos éxito. Por un lado, sólo una parte, aunque rápidamente creciente, de madres que han disfrutado del permiso de maternidad han utilizado esta posibilidad y, por otro, casi la totalidad de ellas no lo ha compartido con el padre. El principio de no transferibilidad de los derechos se evidencia en este caso como determinante en el comportamiento de los padres.

El artículo de Carina Lupica proporciona una visión de conjunto sobre la desigualdad de género en el cuidado y la legislación en materia de permisos parentales en América Latina y el Caribe, aunque discute en detalle el caso de Chile. Mientras la primera parte evidencia el desigual reconocimiento de los permisos parentales en la zona y la todavía amplia presencia de una concepción tradicional de los permisos parentales como fundamentalmente destinados a las madres, el caso chileno evidencia como reformas más ambiciosas que buscan involucrar más al padre pueden chocar contra una realidad social todavía muy refractaria a este tipo de cambios. En 2011, Chile introduce un permiso parental, a utilizar una vez concluido el permiso de maternidad, muy bien remunerado de doce semanas, donde la madre puede ceder parte del mismo al padre, como se previó en su momento en los países del norte de Europa y en una lógica similar al permiso de maternidad en España. Al igual que sucedió en los primeros hasta la introducción de la cuota reservada al padre o lo que sucede en España, la proporción de madres que han cedido parte de este permiso es testimonial y sin perspectiva de cambio, proporcionando un ejemplo más de que la transferibilidad no es un mecanismo eficaz para generar cambios en la corresponsabilidad de cuidados. Pero el caso chileno también evidencia que el permiso de paternidad de cinco días tampoco se ha demostrado excesivamente eficaz, principalmente por la resistencia de los empleadores, pero también por lo arraigado de las concepciones tradicionales de género en el espacio familiar.

MINISTERIO DE TRABAJO, MIGRACIONES Y SEGURIDAD SOCIAL

I. Studies

Spanish fathers benefiting from maternity leave: experience and policy demands

Padres que utilizan el permiso de maternidad. La experiencia de padres españoles y sus demandas de política pública

GERARDO MEIL LANDWERLIN*

INTRODUCTION

Parental leave policy has acquired growing significance as a way to further gender equality within families and at the workplace (Wall and Escobedo, 2013). Whilst a 1919 International Labour Organisation convention introduced maternity and nursing leave to protect mothers' and babies' health, in the interim the aims of such leaves have been broadened to encourage natality, favour the life/work balance and progress toward gender equality. Such wider horizons led to the institution of new leaves, including parental and paternity leaves, and/or their gradual extension to acknowledge both parents' individual right to job protection while caring for their children (Moss, 2018). In many countries the objective is no longer the mere non-discrimination on sex grounds, but the explicit furtherance of greater gender equality and less discrimination against maternity by promoting men's use of leaves. That is also one of the aims pursued by a draft European Commission directive launched in 2017 to modernise life/work balance in the Europe-

an Union (European Commission, 2017). Such policies have encouraged a growing number of fathers to use some manner of leave to care for their children for a given period of time. The type of leave, duration and whether or not it can be used simultaneously with mothers or after they return to work vary from country to country (Addati, Cassirer and Gilchrist, 2015; Blum, Koslowski and Moss, 2017; O'Brien and Wall, 2017).

The first provision that allowed Spanish fathers to care for their babies without forfeiting income was adopted in 1989, when the legislation was amended to enable mothers to assign part of their maternity leave to fathers. The first unpaid measure acknowledged fathers' right to use the childcare leave of absence set out in the Workers' By-laws in 1980. Today that approach is being questioned and its replacement advocated in pursuit of a model similar to the one in place in Iceland. In that country both parents qualify for equal, well-paid, non-transferable leaves, in addition to a well-paid leave that can be shared between them at their discretion (Meil, Romero-Balsas and Rogero-García, 2018b). Whilst a significant number of Spanish families have opted to assign part of maternity leave to fathers, no analysis has yet been conducted on

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the circumstances and characteristics of that experience.

Taking the articles in the O'Brien and Wall (2017) monograph on fathers' experience in caring for their children alone after their partners return to work as a starting point, this paper¹ focuses specifically on fathers who used part of maternity leave. The study explored the circumstances that prompted mothers to assign part of their right to maternity leave and the reactions generated in the fathers' workplace and the couple's families and circle of friends. An analysis was also conducted of the impact of the arrangement on fathers' involvement in reproductive work, in terms of both childcare and domestic tasks. An attempt was likewise made to identify the parental leave policy demands formulated by these fathers and their opinions about demands for equal and non-transferable leaves for both parents. The description of the methodology and databases used for this analysis is preceded below by a review of maternity leave provisions in Spain and the number of parents taking such them.

MATERNITY LEAVE AND ITS ASSIGNMENT TO FATHERS

In Spain, the earliest measures prohibiting mothers from working after childbirth to favour their physical recovery date from 1900, although a maternity subsidy to offset maternity-related loss of income and medical costs was not established until 1923 (Cuesta, 2012). The subsidy consisted in a flat amount for women who took 2 weeks off work after childbirth. The first maternity leave per se was not instituted until 1929, when maternity insurance was created (Wall and Escobedo, 2009). It consisted in paid leave based on the amounts paid into

social security, allowable for 6 weeks prior to childbirth where medically prescribed, and 6 uninterrupted weeks after childbirth. Salaried working mothers, excepting domestic workers, were eligible, irrespective of age, nationality and marital status provided they had been paying into social security for 18 months prior to childbirth. In addition to a sum of money to offset the loss of income while the mother was off work, the measure envisaged health care cover for her and the baby (Pons Pons, 2009). Outside of changes in logistic arrangements as social security cover was expanded, which included separating health care from financial benefits and deeming maternity as a special case of sick leave, the features of this benefit remained essentially unaltered until 1980. After that date, leave use provisions were gradually relaxed and envisioned not only to ensure mothers' recovery and babies' health, but also as a means of favouring life/work balance.

In 1980 the Workers' By-laws lengthened the duration of the leave to 14 uninterrupted weeks, allowing mothers to decide how to divide the time before and after the expected date of labour (Art. 48.4). The 6-week minimum after childbirth instituted in 1929 was discontinued, however. Legislation enacted in 1989 entitling fathers to use maternity and nursing leave to care for their children brought further flexibility.

Act 3/1989, adopted in the wake of the approval of the First Action Plan for Women's Equal Opportunities (1988-1990), introduced a series of amendments to the parental leave system to prevent childcare from having «an adverse effect on workers' careers». Maternity leave was extended to 16 uninterrupted weeks for single and to 18 weeks for multiple births and the earlier provision on a 6-week minimum after childbirth was re-instated. Mothers were granted the right to assign the last 4 weeks of the leave to fathers, providing it entailed no risk for their health and subject to the father's eligibility,

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based on social security payments. Fathers were also acknowledged the right to use the full leave, except the six compulsory weeks, in the event of decease of the mother. The same act introduced the right to maternity leave for adoption of children under the age of 5: for 8 weeks for babies under 9 months and 6 weeks if over that age. If both parents worked, either, although only one, was eligible for the leave. When both parents worked, fathers were acknowledged the right to nursing leave, which could consist in two half-hour breaks or a one-half hour shorter working day for the first 9 months (12 for public officials). Some collective bargaining agreements envisaged pooling the time into full days to be taken at the end of the maternity leave, which translated into a further 2 weeks (4 weeks for public officials).

Ten years later, Act 39/1999 on life/work balance extended the right to assign the leave to fathers and improved a number of other benefits. Under its provisions, the leave could be assigned to fathers for 10 uninterrupted weeks, which could be taken either after or at the same time as mothers. In the event of mothers' decease, fathers were acknowledged the right to take the entire leave and not only the 10 non-compulsory weeks as provided in 1989. Leave for multiple births, in turn, was extended by 2 weeks for each child in addition to the first. Leave for adoption was lengthened to 16 weeks for children under 6 and of any age for children with a 33 % disability or greater, as well as for international adoption where integration might pose difficulties. This right was also granted for pre-adoption or permanent foster parenting and, like the leave for adoption, could be exercised by mothers or fathers at their discretion, simultaneously or successively.

Under Royal Decree Act 1251/2001, rather than a specific case of temporary incapacity for work, maternity was deemed to be a specific social risk, with entitlement to 100 % of the base salary (as opposed to the

former 75 %). That act also established the right to use maternity leave part-time, further enhancing flexibility.

The latest significant reform of maternity leave was adopted under Act 6/2007 on effective equality between men and women. This act eased the social security eligibility requisites for younger women, with phasing by age, and instituted a 6-week leave for childbirth (but not adoption or foster parenting) for women unable to meet such requisites. In the latter case, assignment to the other parent is not allowed, for the duration covers only the compulsory time off (Meil, Lapuerta and Escobedo, 2017). One of the major changes introduced by this act was a 2-week paternity leave exclusively for fathers designed along the lines of the maternity leave and extended to 4 weeks in 2017 (Meil, 2017).

Until paternity leave was instituted, furtherance of life/work balance essentially adopted the form of the reinforcement of job protection and more flexible use of maternity leave, broadened to include fathers on a full or part-time basis. The introduction of paternity leave brought a significant change, for on the one hand it acknowledged men the individual right to take time off work to care for their new born or newly adopted children and on the other it was meant to constitute a tool for engaging fathers in childcare and reducing the inequitable distribution of unpaid work. The proposals to reform leave policy presently in the planning advocate not for extending maternity leave but for demanding longer paternity leave to establish «equal and non-transferable» leaves for both parents, eliminating the inter-spousal assignment of a specific leave to which one or the other is entitled (Meil, Romero-Balsas and Rogero-García, 2018). The general backdrop for maternity leave is given in Table 1, which summarises the main features of the childcare leaves available at this time in Spain.

TABLE 1. CHARACTERISTIC FEATURES OF CHILDCARE LEAVES IN SPAIN

Maternity leave
Sixteen weeks of fully paid (subject to a ceiling) leave for biological maternity, adoption or fostering, providing the mother is affiliated or similar and has been contributing for the specified minimum time. When contributory requisites are not met, the mother is entitled to 6 weeks of leave paid at a flat rate. A 6 week leave after childbirth is mandatory, whilst the remainder may be transferred to the father or converted to reduced hours.
Nursing leave
After maternity leave, either parent may opt for the nursing leave (although it may be taken by only one of them), consisting in two half-hour breaks or a one half-hour shorter working day till the ninth month after birth twelfth month for public officials. If stipulated in collective bargaining agreements or covenanted with the employer, this leave can be used to extend maternity leave by 2 weeks (4 weeks for public officials).
Paternity leave
Two days for the birth of the child and 13 consecutive days (4 weeks as of 2017) of fully paid leave (subject to a ceiling) for birth, adoption or fostering, providing the father is affiliated or similar and has contributed for the specified minimum time.
Full-time parental leave to care for children
Right of any worker to suspend their employment contract without pay until the child reaches the age of 3; the right to return to the same position is guaranteed for the first year and to a similar position through the third year. The leave may be taken intermittently.
Part-time parental leave to care for children
Right of any worker to reduce their hours by a minimum of 1/8 and a maximum of 1/2, with a proportional decrease in salary, until the child is 12 years old. The leave may be taken intermittently.
Other childcare leaves
Fully paid (subject to a ceiling) full-time leave for risk during pregnancy or nursing. Right to reduced hours to care for children with cancer or any other severe illness, with compensation for the concomitant reduction in salary.

Source: Compiled by the author from information in MEIL, G., LAPUERTA, I. and ESCOBEDO, A. (2017).

The possibility of assigning part of maternity leave to fathers is fairly uncommon in other countries, where specific paternity leaves are in place or where a certain amount of non-transferable parental leave time is reserved to fathers (Bloom, Koslowski and Moss, 2017). Such assignment is presently envisaged only in Croatia (16 of the 26 weeks of maternity leave, Dobrotic, 2107); Czechia (14 of the total 28 weeks, Kocourková, 2017); Poland (6 of 20 weeks, Kurowska and Michoń, 2017); and the United Kingdom (50 of the total 52, only 13 of which are well paid, O'Brien and Koslowski, 2017). Israel's 28week maternity leave can be transferred, but only where the mother is unable to assume care for reasons

of disease or disability (Perez-Vaisvidovsky, 2017).

This option has been scantily used in Spain, as Table 2 shows. The number of fathers taking maternity leave since the turn of the century ranged from around just 3000 to 6000 yearly. That notwithstanding, between 2007 and 2017 a far from negligible total of 58 857 fathers benefited from this option. The mean time taken for childbirth ranged from 68 to 72 days, which concurred with the maximum assignable 10week period, an indication that most men took the full time allowed. No information was available for adoption or fostering (around 5 % of all leaves).

TABLE 2. NUMBER OF BIRTHS AND MATERNITY LEAVES ACKNOWLEDGED TO MOTHERS AND FATHERS IN SPAIN, 2002-2017

Year	No. births	Maternity leave: mothers	Maternity leave: fathers	% of total leaves	% of total births
2002	418,846	221,107	3,312	1.5	0.8
2003	441,881	263,732	3,780	1.4	0.9
2004	454,591	279,519	4,591	1.6	1.0
2005	466,371	296,115	5,269	1.8	1.1
2006	482,957	317,318	5,282	1.7	1.1
2007	492,527	326,438	5,204	1.6	1.1
2008	518,967	353,585	5,575	1.6	1.1
2009	492,931	334,786	5,726	1.7	1.2
2010	486,575	326,752	5,805	1.8	1.2
2011	471,999	318,607	5,798	1.8	1.2
2012	454,648	293,704	5,028	1.7	1.1
2013	425,715	284,116	4,940	1.7	1.2
2014	427,595	276,239	4,912	1.8	1.1
2015	420,290	273,378	5,233	1.9	1.2
2016	410,583	273,032	5,706	2.1	1.4
2017	391,930	263,398	4,930	1.9	1.3

Source: Eurostat database and Ministry of Employment and Social Security, *Anuario de Estadísticas Laborales* [labour statistics yearbook] for several years.

METHODOLOGY

The analysis of fathers' use of maternity leaves and its impact on parenthood was based on 19 in-depth interviews conducted in 2014 and 2015 on the occasion of research on fathers of children under the age of 4 who had used a parental leave to care, singly, for their new born children after their partners returned to work (CSO2013-44097-R). Snowball sampling was used to choose the interviewees, who were located by means of several strategies². The sample consisted in 11 fathers who worked in the public and eight who worked in the private sector. The public sector included nine civil guards (rural police force) and two

university professors. The private sector occupations included teleoperator, television cameraman, clerical staff, project manager, operations manager, laboratory analyst and trainer. Ten of the fathers had a university degree and nine a secondary school diploma, whereas 11 of their partners held university degrees and the others secondary diplomas. They all lived with the person who assigned the leave, eight had one child, 10 two and one, three. The median age of the youngest child was 2. Nine lived in small towns, three in medium-sized cities and seven in large cities (Madrid, Barcelona, Valencia and Seville). The towns were located in 12 of Spain's 17 autonomous regions (administrative divisions). Interviewees' basic socioeconomic data are listed in the table in the annex.

The time assigned to fathers ranged from 4 to 10 weeks, taken consecutively in eight cases with nursing leave and/or holiday time

² The sources used were two polling survey companies' field data, the database of companies distinguished with the equality insignnia, personal contacts and the management of the Civil Guard's equality unit.

(four cases). All in all, the fathers interviewed cared for their children singly for 6 to 16 weeks when the babies were 2 to 6 months old.

Atlas.ti software was used to analyse the interviews. In the first stage, codes and code families were created in keeping with the aims pursued. In the second, the most prominent subjects addressed were coded for analysis.

CIRCUMSTANCES PROMPTING ASSIGNMENT OF MATERNITY LEAVE TO FATHERS

Given that, unlike mothers', fathers' use of maternity leave is not a routine option, the men taking it explained their decision in fairly detailed terms. Although the reasons given varied, they can be grouped under two major headings: instrumental, i.e., related to the parents' employment and financial status; or expressive, based on their notion of parenthood and the inter-parental distribution of family responsibilities. In no case was the decision based on the mother's physical inability to care for the baby, a circumstance envisaged in Israeli (Perez-Vaisvidovsky, 2017) and Croatian (Dobrotić, 2017) legislation. More implicitly than explicitly, the idea that maternity leave is a right that should not be «wasted» weighed heavily on the decision: the notion that if the mother could not benefit from it or if doing so was deemed to be detrimental to the family's financial status, it should be used by the father so the baby could be cared for by its parents for as long as possible.

In all but one of the cases analysed, the fathers had a steady job that was not jeopardised by their taking the leave. Employer sensitivity to or furtherance of employee work/life balance has been reported to favour the option (Escot et al., 2012). The transcripts quoted below exemplify the arguments given by fathers working in either the private or public sectors.

«I work for a company and my job is fairly steady, with... decent or semi-decent con-

ditions, which is why I could take a leave. As my partner is self-employed she receives a very small subsidy and if I worked we'd have had to use part of my salary, since her subsidy as a self-employed worker was so small, to pay for baby-sitters and such... or depend on our parents or friends to care for the baby. So we ran the numbers, more or less as if we were a company, and we started to think about how we could go about it». (PER 09)

«Because that way we could take turns and she would return to work earlier, because I work for the Government and, look, there things are more flexible than in private companies, where they always make it harder or are less tolerant of this sort of leaves and more now, with the economy as it is». (PER 013).

Whilst in most cases stable employment was one of the factors considered when evaluating the alternatives, in one case it was used as a strategy to maintain the family income when the father was unemployed. In case PER 04:

«When my younger son was born I was on the dole. I suspended the dole, my partner took the minimum 6-week legal leave and I took the other 10 weeks... then I went back on the dole and then I continued... to care for my younger child at home... In the final analysis she made the decision and she wanted to go back to work in 6 weeks. In fact, if she could have, since she was physically well, she would have gone back earlier». (PER 04)

In addition to fathers' employment circumstances, mothers' also played a significant role, for she was the one who formally had to assign the right to the leave. Based on earlier findings (Meil, Romero-Balsas and Rogero-García, 2017), mothers would be expected to assign this leave when they felt that using it for the entire time legally allowed would jeopardise their job or source of income. Women working on a short-term contract or none

at all or with a business of their own, with or without employees, would be in such a situation. The cases analysed showed that in addition to such circumstances, others, likewise job-related, informed the decision. The social- or employment-based reasons given can be divided into four groups.

1) The grounds for the first were the mother's self-employment as a free-lance professional, partner in a cooperative or company, or owner of a business with or without employees. Of the mothers at issue, one owned a coffee shop, another a beauty salon, one worked in a family business, one was a psychologist with several part-time employees, one a free-lance journalist and one a partner in a legal firm. The logic behind assigning the leave included factors such as the inadvisability of leaving their business unattended, high replacement costs or a significant loss of income (for most paid social security tax at the minimum rate). One example of this type of argument is copied below.

«one of the reasons for sharing the leave was that my wife, as self-employed manager of a small company, couldn't stay at home: she had to hold the fort, so to speak, no? She had to defend her business... because we both we have an income... between the two of us we have to make payments and well, with the crisis and all, well the business couldn't be left unattended, it was a matter... mostly of survival. In other words, that was the main question, that you... can't leave a business unattended». (PER 07)

2) A second type of reasons had to do with precarious employment, which affects younger people particularly. That reason was adduced when mothers had a short-term contract, but not when they had none, for in those cases they rarely had social security cover. The logic underlying leave assignment in these cases was not to risk contract non-renewal, as explained by father PER10.

«Well one of the main reasons was... to ensure her job, because she was a temp

and if she took the whole leave her contract would have expired and she'd still have been on leave when renewal time came around, because she works school year by school year... and she wouldn't have been working, she'd have still been on maternity leave and unable to sign a new contract». (PER 10)

3) The third group of reasons stemmed from pressure, not necessarily explicit, for a rapid return to work after the compulsory period. That was associated with the difficulty to replace the worker, either due to her specific skills, the size of the company or department, or employer reluctance to hire a substitute during the leave. That argument is illustrated below.

«Because we have no other support, just the two of us to care for the baby and, besides, since her employer wasn't going to let her take the rest of the time and I had the option to take it myself, well that's what I did and why». (PER 14)

4) The Fourth group of reasons was related to the mother's career. In such cases the feeling was that the time allowed by the legislation is overly generous and would jeopardise her professional future as well as the family's earnings.

«since at the time Laura's career, let's say, was... taking off better than mine, we decided that she should try to not take too long a leave, no?. ... Because... in my work, it wasn't a problem for the company... And also to enable Laura to go back as soon as possible, we decided that I should take as much time off as allowed». (PER 12)

In addition to these economic-employment-based motives, a minority of interviewees justified their decision on the grounds of ideology only or used that argument to reinforce their economic-employment-related decision. The premises revolved around the idea of responsible fatherhood, the desire to experience («I wanted to») taking care of their

children alone and/or to be an affectionate, engaged father. Such reasons were an expression of an explicit definition of the father's role not only as family breadwinner and child-raiser, but also as carer from the time of birth. In addition to that notion of father-carer, these men invoked the equitable distribution of responsibilities and work between the spouses. Such motives prevail in Nordic countries, where fathers' use of parental leave has become routine (Lami-Taskula, 2017; Duvander, Haas, and Thalberg, 2017). They are mirrored in the following transcript.

«my partner and I have the same vision of... well, of responsible fatherhood, a fatherhood that's present, that equality is something that applies to us both, in the same way, and... well of course.... the leaves that we're given are mere morsels, say, it's very little time, and we have to manage... well, a ridiculous period of time to care for the children... I wanted to spend time alone with her, I wanted to be with her from the time she woke up until I put her to bed, I wanted to be responsible for it all and to have that time to be with her, by myself. And then to share the Christmas holidays and all. For me it was important to be able to have time alone with my daughter». (PER 08)

«We always thought that children should be raised by the two of us, not "your mother or your father", no, it should always be both, for better or for worse, the two together, I mean, we share everything practically equally, and that means housework, everything... we do everything 50-50.

«Because in addition to getting involved myself in his upbringing, it was a way to lighten the mother's load, because he needs someone around the clock and it's also, well, psychologically for us both, for me because I'm contributing as a father and for my partner because it's a way to alleviate that 24-hour duty, it's when the child needs you most, when you need to be on your toes more, you can't do anything else, only take

care of the baby, and well that's a way to help her too». (PER 11)

Fathers who emphasised gender equality and equitable distribution of responsibilities adopted different approaches to dividing the care time allowed under leaves. Some opted for dividing the maternity time equally, either the full duration (8 weeks each) or the transferable part (5 weeks each). When financial-professional factors came into play, mothers assigned from 8 to 10 weeks, in addition in some cases to their pooled nursing leave (2 weeks in the private and 4 in the public sector). None of the interviewees envisaged adding paternity leave (2 weeks at the time) to the total «father alone time», for taking that time off jointly was regarded as indispensable for transitioning to the family's new status.

As a rule, transferral of part of the leave was generally claimed to have been a joint occurrence, although in a few cases the possibility was suggested by the woman. Only one interviewee reported that as he was aware of the legal provisions involved, he proposed assignment. None of the interviewees mentioned disagreement or reluctance around the decision, nor did they find it troublesome. In other words, mothers assigned leaves not only when they wanted to, but when their partners expressed no objection.

REACTION IN THE WORK ENVIRONMENT AND SOCIAL CIRCLES

The reaction among superiors ranged across the full spectrum. As in other countries, more reluctance was found in the private sector than in workplaces where sensitivity to gender equality was more or less present, such as the public sector or charities (Wall and Leitao, 2017; Aunkofer et al., 2018). In such environments, the decision was accepted without question. Nonetheless, in one case the superior suggested the leave be taken part time and in another the interviewee reported that it «wasn't easy», with no further explanation.

When difficulties were anticipated, however, and in large companies, fathers preferred to adopt bureaucratic strategies instead of negotiating directly with their immediate superior, submitting the respective application online or by post. The following transcript exemplifies that approach.

«I notified (them) saying “I’m doing this because I’m entitled to”, period end... there was no bargaining, because if I sat down to negotiate, they’d say no. I explained it with all the relevant consequences... (When I went back) I was transferred to a workplace farther away from my home than stipulated in the collective bargaining agreement». (PER 06, private sector worker)

On the whole, the interviewees reported no out and out opposition, although they did find that their immediate superiors were generally unaware of this right, which is understandable given its scant uptake. Nonetheless, some interviewees mentioned adverse consequences upon their return to work, such as in the case cited above. Another interviewee had his schedule changed to less convenient hours. Adverse consequences were not a common complaint, however. A possible inference is that men who anticipated no significantly undesirable consequences for taking the leave are more likely to use it (Meil, Romero-Balsas, Rogero-García, 2018b).

The reaction among family and friends was generally positive, as observed in other countries (O’Brien and Wall, 2017). Friends and acquaintances were reported to be either surprised or puzzled or to react «normally». The surprise arose more around «the name» than the idea of caring singly for the baby, due to the widespread unawareness of the right to assign maternity leave to fathers. Only one interviewee reported criticism against the mother («she’s too anxious to go back to work,» PER 04). The prevailing attitude was non-interference, in keeping with the belief that interference in other families’ behaviour

is unacceptable (Beck-Gernsheim, 2002). The following excerpts illustrate friends’ reactions.

«Direct criticism, such as “you’re not doing the right thing”, “it’s not up to you, that’s the mother’s job”, anything that clear, no. Even very conservative friends didn’t come out with anything like that. More a certain inability to understand, or a certain... I don’t know how to put it. .. like they didn’t understand why you made that decision... but I can’t say I got any direct flak». (PER 08)

«It sounds odd to say that everything was all that positive, but it was. If anyone made some negative remark, I didn’t hear about it». (PER 15)

Similar reactions were found within families, although barely any of the interviewees mentioned the surprise factor, either because the father had taken maternity leave with an earlier child or, as one interviewee said, «we all know where everyone else is coming from». The sole surprise had to do with «the name» as in the case of friends, i.e., due to a lack of awareness of the possibility. The most common reaction was non-critical acceptance and support: «everyone thought it was great, nobody made any remarks or passed any sort of judgment, no». (PER 01) That reaction is attributable to the same attitude about the unacceptability of interfering in friends’ or acquaintances’ decisions about family matters. Nonetheless, some of the interviewees mentioned doubts around their ability to take proper care of such a young infant or a tendency to take the decision lightly («what an easy life you’re going to have’), which provoked their outrage. PER 08’s remarks are cited by way of example.

«the family, my family, fine, fine, great, no problem, they weren’t at all surprised that I decided to do that. And the in-laws. ...don’t criticise you openly either... I don’t know, they may be a little less sure that you’ll be able to do it... My mother-in-law

must have had her doubts, and maybe even my mother too. But they didn't say so openly, no». (PER 08)

These reactions are indicative of widespread cultural acceptance, at least outside the work environment, of the new model of more engaged paternity, in which fathers are carers (Doucet and McKay, 2016) in addition to their traditional roles of protector, provider and child-raiser (Pleck, 2010). They are the result not only of the approval of such decisions, but also of the prevalence among those not sharing the opinion of the principle of respect and non-interference.

At the workplace, however, the reactions among co-workers and colleagues were more heterogeneous and critical remarks not uncommon, although surprise predominated. No explicit opinions were expressed one way or the other, likewise in keeping with the principle of discretion or approval. Explicit criticism was levelled in only a few cases, to the effect that «women are supposed to raise the children» (PER 14), while in others fathers were the brunt of jokes or their efforts undervalued, such as in the following excerpt.

«I had to take a little rubbing, “oh yeah, you're going to get a 3-month holiday, just sitting around doing nothing,” that sort of thing». (PER 13)

The persistence of such reactions 10 years after paternity leave was instituted suggests that Spanish society is still a long way from seeing men's use of parental leave as a mechanism for sharing family responsibilities rather than as leisure time («holidays»).

FATHERING ALONE

Fathers assuming care for a baby on their own experienced concern around their ability to cope. That challenge was perceived most intensely by first-time fathers, who initially felt insecure or were even frightened by the responsibility involved. In the first few days

they missed the their partners' presence during paternity leave.

«(the first few days alone) was a strange sensation, I wasn't scared, but... nearly... Of course, you have to be constantly alert for a way long number of hours and you don't know if... any normal sort of thing is going to be difficult for you». (PER 10, one child)

«at first when you're going to be on your own a certain fear... the responsibility weighs you down a little... you're there alone with the baby and well... a little frightened you could say. But at the same time, it's very gratifying. You're all alone with her, you get her up, you bathe her, you heat her bottle, you go for a walk in the stroller... it's very gratifying. I remember feeling a little stressed, but mostly at first. Then you fall into a routine and you realise that it's not all that hard. I mean, you know that you can care for your daughter perfectly well. That period of my life brings back, yes, gratifying, happy memories». (PER 08)

Sooner or later, but mostly sooner, they found they could handle the situation. Thanks to the skills acquired in the first few weeks of joint care during paternity leave (an «internship» as one interviewee put it), they were no longer afraid to pick the baby up, change its nappies, bathe and feed it and so on. When the leave was used for a second child, fathers adapted much more quickly because those skills had been acquired with the first. Telephone calls and «whatsapp» messages to mothers, normally several a day, and on occasion assistance from grandparents, also reassured insecure fathers.

The tasks performed by fathers when left alone with their babies were those required by any infant: watching them, caring for them, calming them down, picking them up, changing their nappies, bathing and dressing them, playing with them, embracing them, feeding them, burping them, taking them for a

walk. In many cases, while gratifying, the experience was overwhelming for the amount of work involved, far from fathers' expectations. Similar reactions have been reported by other authors (Brandt and Kvande, 2017). In other cases, in contrast, the stress level was lower, although fathers felt they had insufficient time to do all that had to be done. The differences in how the experience was perceived were largely determined by individual caring skills, experience with other children and the work load, which depended on the difficulty in feeding or putting the baby to sleep or its health.

«the hardest part was the everyday routine, in fact it's hard work and overwhelming, yes, because there's no time to rest... When we were both there we could divide the tasks and responsibilities, and it's the same amount of work but divided by two». (PER 13)

One of the major challenges faced by the couple was feeding, whether or not the mother continued to nurse the baby. A number of solutions were implemented. In some cases breastfeeding was replaced with formula milk, either from birth or after the mother's return to work. In others, in contrast, the child continued to be fed with mother's milk using any of a number of strategies. If the mother's workplace was within a distance that made it feasible, the father brought the baby to her. If she came home on her lunch break, she used that time to nurse the baby, which depending on the circumstances, was combined with freezing her milk for other times of day. Feeding was not referred as a particularly significant problem, however, except when the baby had some manner of intolerance, which generated a good deal of anxiety. The following transcripts exemplify some of these practices.

«I would dress her and drive her to my partner's office so she could nurse her, I'd bring her there, wait for an hour or so and then drive home... At around two-thirty my partner would come home and we'd have dinner. In the afternoon she'd nurse the baby again, while she was there I felt a

little more free, but I had to fetch our other daughter. . at school». (PER 17, wife working in a family firm)

«When I was [caring] alone, she would extract the milk at night and I would feed the baby during the day». (PER 07)

In addition to caring for the baby, while home alone fathers performed household tasks as they had before the child was born. In some cases that was supplemented with outside help on a more or less routine basis. Couples in a more buoyant financial position had paid help, whereas others enlisted family members, who essentially did the housecleaning. Fathers mentioned doing the shopping, preparing meals, washing clothes and hanging them to dry, and tidying up. None of the interviewees claimed to have focused exclusively on childcare, as reported in other studies (Wall, 2014), although none said they did housework only. On the contrary, all said that these tasks were shared with their partners both during leave and after they returned to work.

Consequently, gender roles were not reversed during these leaves. Rather, fathers were induced to engage in caring for their children, a task they continued to perform after returning to paid work. While fathers were on leave, in addition to losing their fear of babies, they learned to identify and meet their needs and organise and perform the many tasks required for harmonious home life, which they assumed as part of their routine. As argued in an earlier paper (Meil, Romero-Balsas and Rogero-García, 2017), having acquired the habit, fathers continued to do the tasks assumed during leave after returning to paid work, adjusting as necessary to the time available and the child's age. Caring for the child alone favoured greater involvement in childcare in general, as shown quantitatively in an earlier study (Meil, 2017).

«I believe that I learned something every day... Specifically I couldn't tell you, but about caring for babies, or simply what

they like and what they don't. You learn a lot day by day... That I learned: that I had to get better organised». (PER 10)

«During the shared leave time the baby was much closer to her mother, but when I was alone with her, as the days and weeks went by, she grew much closer to me than to her mother, I understood the baby better than my wife did, I knew when she was hungry or too warm, or when she wanted a little affection. At first it was the other way around, the baby was a new born and wholly attached to her mother, after that she missed her mom, but as the days went by she got used to it and recognised us both». (PER 19).

In addition to generating greater fatherly involvement in childcare and consolidating a more equitable distribution of domestic work, eluding the reversion to traditional gender roles after the transition to parenthood (González and Jurado-Guerrero, 2015), assignment of maternity leave to fathers contributed to personal gratification stemming from more engaged fatherhood. All the fathers interviewed assessed the experience very positively, overall, although as the foregoing transcripts show, they worded it differently: «happiness», «enjoyment», «peace», «very gratifying».

APPRAISAL OF THE EXISTING LEAVE SCHEME AND DEMANDS FOR REFORM

The fathers interviewed were highly critical of the leaves presently available in Spain, particularly as regards the duration of paid leave, which they deemed to be too short. That applied to the 15 day paternity leave in effect when the interviews were conducted and more generally to all paid maternity, paternity and nursing leaves. Unpaid leaves of absence, while sometimes used to fill the gap between the end of maternity leave and the beginning of the nursery school year, were not deemed to be a suitable solution. All the

interviewees felt that babies just 5 months old are too small to be left in a «nursery» and should be able to spend more time with their parents, although they were unwilling to criticise the policymakers responsible for such decisions. Several interviewees also justified the need for longer leaves on the grounds of the World Health Organisation recommendation to breastfeed babies up to the age of 6 months. Such demands were not specific of fathers, but made by both parents. According to an online survey of members of a parents' club conducted by the IESE Business School (Chinchilla, Jiménez and Grau, 2017), 98 % of the respondents called for longer maternity leaves and 96 % for longer paternity leaves, in addition to other forms of assistance for families.

The fathers who divided leaves equally with their partners also criticised the unequal duration of leaves for mothers and fathers. They pointed out the inconsistencies between actual leave policy and gender equality objectives. The same opinion was held by fathers who used the leave for instrumental reasons, as noted in the following transcript.

«inequality exists between men and women, there's an obvious imbalance (in leave duration...). On the one hand, the law calls for equality but on the other such equality doesn't exist, the weight is shouldered by the mother. I wouldn't have been able to take weeks off if my wife hadn't assigned them to me, it was actually her times, all she did was transfer it over... I think leaves to care for a child should be balanced, not borne primarily by the mother, providing at least some minimum is reserved to her because there are undeniable biological differences. And when children are born they bond very specifically to the mother, they seek her aroma, they cling to her for dear life. They need to be with heir mother for a minimum guaranteed time, but fathers shouldn't be left out altogether. Fifteen days of paternity leave is like giving you a candy bar and only letting you eat the wrapping». (PER 19)

No ideal model emerged from the interviewees' comments although they unanimously deemed paid leave time to be too short. The proposals ranged from 8 to 18 months, with around 12 cited most frequently. In this study, reference was often made to northern European countries, Sweden in particular, as a benchmark whose application in Spain is neither utopian nor impossible to implement. Respondents were nonetheless aware that the economic situation is not presently the most propitious for making the change.

«you see the Scandinavians, no? who have, I don't know, a full year at 80 % of their salary or something like that, of course I think. .. I don't know if a year... Minimally, I think that the minimum... would be one year, but I understand the country's position, the country we live in. But I'm not saying a year at 100 % of your salary, but 6 or 7 months at 100 % and then... you could lengthen it to a year and a half at 70-80 % and downward from there, it depends a little». (PER 09)

Some of the interviewees, especially those who also used the leave for reasons of in-family equality, called for equal and non-transferable leaves for both men and women. That demand has been taken up by several political parties (Meil, Romero-Balsas, Rogero-García, 2018) and echoed by society at large. In the aforementioned IESE Business School survey, 81 % of the respondents made that demand (Chinchilla, Jiménez and Grau, 2017). There the argument revolved around equality and requiring fathers to use the leave.

«ideally... I don't know, extending paternity leave so it wouldn't be something that men have to share, or time that the couple has to share, but... If instead of 6 months of paid leave to be shared you have maybe a compulsory 3 and 3 or 6 and 6, so that the man who doesn't want to doesn't take it would lose the option, instead of automatically adding it to the woman's leave, that we could say might change this (mentality) a little». (PER 01)

Nonetheless, some of the interviewees deemed that mothers should have more time than fathers, primarily on the grounds of breastfeeding, but in a few cases because they held more traditional views of parents' gender roles. The following excerpt exemplifies that opinion.

«in my mind, women shouldn't have to work for a year, paid of course or otherwise it would be good for nothing. If they give you a lump sum of 2000 euros, OK, so you spend it, but what you really need is to keep on getting your pay at the end of the month and when you go back your job is waiting for you... Fathers one month, to be able to organise household tasks a little. At first they're sick more, 1 month for fathers to care for babies is fine». (PER 17)

The idea of requiring fathers to use the leave was not shared by all, however. While believing that involving fathers is beneficial and that paternity leave is useful as support in the first few days, some men felt that in certain circumstances it might not be possible because of the type of work or because the man might be risking his job. Freedom of choice was also invoked.

Paternity leave, highly valued by all the fathers interviewed, was not viewed as a period to be used by fathers alone after mothers' maternity leave to lengthen the time the baby is in the family's care. None of the fathers interviewed used it that way, nor did they suggest its use under those terms. The period was regarded as indispensable to adapt to the new personal and family situation, to support hospitalised mothers, meet bureaucratic requirements and help mothers during recovery at home, enabling them to devote all their time to the baby by relieving them of household chores. The leave was also seen as a learning period highly valued with a view to subsequent caring for the baby when the mother returned to work. The following transcript illustrates this opinion.

«at first we both did everything, first together, which is what I think gave us more self-assurance, and then... and then I believe

it was good for the later experience, no? In the first few days, we actually tried to do as much as we could together». (PER 12)

The deduction drawn from these fathers' experience is that paternity leave needs not only to be extended substantially, but rendered more flexible. In line with the European Commission's (2017) directive on the subject, such flexibility could consist in taking part of the leave together with the mother after the child was born, adopted or accepted for fostering. A second part could be used later, either after the end of maternity leave to lengthen the time the child is cared for at home, or even farther into the future to meet other family needs (illness, for instance) or adjust to work circumstances (difficulty or inability to take several weeks off). Fathers' use of the leave alone should also be fostered in light of its substantial impact on their enhanced engagement in childcare. The incentives could consist in improvements in leave use through additional time when taken under those arrangements: in Portugal 30 extra days (Wall and Leitao, 2017b) and in Germany (Reimer, Erler and Blum, 2017) 60 extra days are allowed when leave is so shared. Sensitisation campaigns would also be required as in other dimensions of gender equality policy to heighten awareness and further the use of this option.

CONCLUSIONS

Allowing mothers to assign part of their maternity leave to fathers to reinforce life/work balance policies, a strategy attempted in Spain, has proven to be less than useful for families, judging by the short number of women who have done so. Even lengthening the duration and providing for more flexible use, enabling both parents to take the leave simultaneously part-time, has failed to substantially raise uptake. Over time, however, the number of fathers benefiting from the possibility has not declined and according to this analysis of their experience, paid leave taken by fathers alone can potentially change gender relations and the exercise of fatherhood.

Such leaves have been used by fathers primarily although not exclusively for reasons related to mothers' employment. Their experience stands as proof that Spanish society is ripe for the institution of well-paid leaves for fathers of the same duration as mothers' to enable them to care for their babies on their own. Although superiors at work may not approve of such decisions and in some cases they had adverse consequences or were even unthinkable, as a legal right it is accepted, just as maternity leave has been accepted. Even where co-workers, family and friends did not approve of the decision, they did not feel entitled to criticise it openly for reasons of non-interference in other's private lives. Most of the interviewees in fact claimed that reactions had been supportive and approving. Their public policy demands around leaves did not always focus on a longer paternity leave, but they did unanimously call for more time for families to care for their babies in the form of substantially longer well-paid leaves to postpone taking infants to a nursery school.

Leaves for fathers that involve caring for their baby alone for more than 1 month proved to be a powerful incentive for involvement in childcare, smoothing the ground for engaged fatherhood defined as much more than merely «helping» their partners. Having to assume care on their own, fathers became aware of the work load involved and learned to identify and satisfy new born infants' needs while establishing a close and highly satisfying bond with their children. In other words, they learned that they were capable of and enjoyed childcare, which favoured their active and ongoing involvement, much to their children's benefit (Pleck, 2010). Prerequisite to assuming care alone was having had time off jointly with their partners to share responsibilities, overcome their insecurity and learn to interact with the baby. The experience also favoured deeper involvement in other domestic tasks, redounding to greater gender equality within the family, whilst the de-feminised use of parental and childcare leaves furthers such equality in the working world.

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ANNEX
Interviewees' socioeconomic characteristics

Reference	Profession	Age	Schooling	Partner's profession	Children
PER01	University professor	35	PhD., physics	University researcher	1
PER02	Trainer	36	Associate university degree	Clerical staff	1
PER03	Physicist, operations manager	49	University degree	Attorney	1
PER04	University professor	38	PhD., economics	Technical manager, small company	2
PER05	Laboratory analyst	35	Vocational training	Public elementary school teacher employee	2
PER06	Clerical staff	33	University degree	Psychologist	3
PER07	Clerical staff	44	University degree	Hair stylist	1
PER08	Project manager	44	University degree	Social worker	2
PER09	TV cameraman	40	Vocational training	Journalist	2
PER10	Civil guard	32	Secondary school	Clerical staff	1
PER11	Civil guard	35	Secondary school	Entrepreneur with 8 employees	2
PER12	Teleoperator	35	Associate university degree	NA	1
PER13	Civil guard	35	University degree	Dental assistant	2
PER14	Civil guard	32	Vocational training	Land surveyor	1
PER15	Civil guard	42	Secondary school	Bakery owner	2
PER16	Civil guard	33	Secondary school	Clerical staff	2
PER17	Civil guard	36	Secondary school	Business owner, 3 employees	2
PER18	Civil guard	49	Secondary school	Partner, company with 20 employees	1
PER19	Civil guard	43	University degree	Co-owner of a business	2

ABSTRACT

Parental leave legislation, originally designed to guarantee mothers' and babies' health, has evolved in recent decades to form part of work/life balance and gender equality policies. In a few countries, Spain included, that reorientation has translated into allowing fathers to take part of the maternity leave. When introduced in 1989, the measure was limited to the four last of the total 16 week duration, but in 1999 it was extended to 10 weeks and made available to both parents simultaneously if taken part-time. This study analysed the circumstances that induced mothers to assign part of their leave, the timing, the reactions in fathers' social and professional environments and the experience from their perspective, particularly in terms of their involvement in unpaid work, as well as their demands in connection with public policies in support of the work/life balance. The analysis was based on Spanish Ministry of Employment and Social Security statistics and 19 in-depth interviews with fathers of children under the age of 4 who cared for a 2- to 6-month-old infant alone for at least 4 weeks under maternity leave assigned by their partners.

Although only around 2 % of mothers assigned part of their maternity leave to their partners, the pattern followed a slightly upward trend. In absolute numbers, most of the nearly 60 000 fathers benefiting from this option in the last decade took the full 10 weeks legally allowed. The in-depth interviews showed that while the reasons for the decision varied, they could be grouped under two headings: expressive, linked to gender equality, and work-related. The most frequent work-related reasons revolved around mothers' status as self-employed workers or business co-owners; employees with short-term contracts or subject to more or less explicit employer pressure to return to work sooner or to a personal desire to advance their careers. The pre-requisite for assignment, however, was that it would not jeopardise the father's job. Leave transfer was generally an option jointly considered and none of the respondents reported disagreements or reluctance around the decision, nor was it experienced as troublesome.

Work environment reactions varied and attested to widespread lack of awareness of the possibility. Inasmuch as it is a legally acknowledged right, superiors did voiced no straightforward objections. Nonetheless, when difficulties were anticipated, one common strategy was to inform the employer of the decision in writing with a reference to the legislation in place, rather than in person. Some interviewees claimed that taking the leave had an adverse effect on their employment conditions upon return to work, although this was not the general pattern. Co-worker reactions were supportive or neutral, in accordance with the principle of non-interference in others' private lives, although the decision was sometimes referred to sarcastically as «paid holidays». Fathers' circles of family and friends tended to support the decision, which was never openly criticised further to the principle of non-interference, although some doubts were expressed about fathers' ability to care for a new born alone. These reactions denoted a cultural context favourable to the policies encouraging fathers to care for their children by themselves, in line with the ongoing debate in today's political arena.

The experience of caring for a child alone for at least 2 months is an excellent avenue for advancing toward gender equality through a more equitable distribution of domestic work and engaged fatherhood. For first-time fathers, caring for a baby alone generated fear and anxiety, although joint care with mothers during paternity leave served as helpful training. Whilst anxiety declined as fathers gained self-confidence, they also realised that the «hard work» and constant attention involved left scant free time for other activities. Fairly frequently, a lack of acknowledgement of the workload by family and friends induced fathers' outrage. Throughout this period they learned to perform the tasks entailed in caring for their babies and to communicate with them, developing a deep af-

fective relationship. Feeding was solved in a number of ways, depending on the distance to mothers' workplaces and their working hours, among others. A posteriori, the leave was generally associated with satisfaction and happy memories. While caring for babies, fathers also shared domestic tasks with their partners, as they often had before the baby was born. In other words, gender roles were not reversed. Rather, the potential to change gender relationships inherent in parental leave that favours fathers' assumption of care on their own is attested to by men's more active engagement in childcare.

The fathers interviewed were highly critical of Spanish leave legislation, deeming that the duration of paid leave (maternity, paternity and nursing) is too short and that the time babies are attended to by their parents should be extended. Unpaid leave of absence was not regarded as a suitable solution. Although no ideal duration could be gleaned from the interviewees' opinions, ideas ranged from 8 to 18 months, with around 12 cited most frequently, in keeping with the regulations in place in northern Europe.

Keywords: Maternity leave; fatherhood; childcare; work/life balance; gender equality; co-responsibility; Spain.

RESUMEN

La política de permisos parentales originalmente diseñada para garantizar la salud de la madre y del bebé ha ido evolucionando en las últimas décadas hacia su inclusión dentro de la política de conciliación de vida familiar y laboral y de la política de igualdad de género. En un escaso número de países, entre los que se incluye España, esta reorientación supuso introducir la posibilidad de que parte del permiso de maternidad pudiera ser cedido al padre. Introducida en 1989, inicialmente se limitó a las cuatro últimas semanas del permiso de 16 semanas de duración, pero en 1999 este período se amplió a diez semanas y se permitió disfrutarlo al mismo tiempo que la madre y a tiempo parcial. El objetivo del presente trabajo es analizar el alcance y circunstancias que llevan a la madre a ceder parte de este permiso, las reacciones en el entorno sociolaboral del padre y su experiencia de cuidado, sobre todo en términos de su socialización en el trabajo no remunerado, así como las demandas que estos padres formulan en términos de políticas públicas de apoyo a la conciliación de vida familiar y laboral. Para ello se han analizado las estadísticas disponibles del Ministerio de Empleo y Seguridad Social, así como 19 entrevistas en profundidad realizadas a padres con hijos menores de 4 años a los que se les ha cedido al menos 4 semanas de este permiso para cuidar en solitario del recién nacido, cuando sus parejas se reincorporaban al empleo. Los bebés cuidados tenían entre dos y seis meses de edad.

El número de madres que han optado por ceder parte del permiso de maternidad es bajo, situándose alrededor del 2%, aunque con tendencia ligeramente creciente. En valores absolutos, no obstante, la proporción de padres que se ha beneficiado de esta posibilidad en la última década llega casi a 60.000, siendo la práctica más frecuente que se cedan las 10 últimas semanas legalmente permitidas. Las entrevistas en profundidad permiten observar que las razones para esta cesión son heterogéneas, pero cabe agruparlas en razones expresivas, vinculadas a la igualdad de género, y razones laborales. Entre las razones laborales, que son las más frecuentes, se encuentran el hecho de que la madre sea 1) autónoma o copropietaria de un negocio, 2) empleada con un contrato temporal, 3) se sienta presionada más o menos explícitamente para retornar antes al empleo y 4) por motivos de carrera profesional. Precondición para esta cesión es, no obstante, que el padre no vea peligrar su empleo por utilizar el permiso. La idea de transferir parte del permiso, en general, ha surgido conjuntamente y en ninguno de los casos se refieren desavenencias o resistencias para tomar la decisión, ni ésta se ha vivido como problemática.

Las reacciones en el entorno laboral han sido variadas y evidencia una extendida ignorancia de esta posibilidad legal. Al tratarse de un derecho legalmente reconocido, no ha habido un rechazo frontal por parte de los superiores jerárquicos, pero cuando se preveen dificultades, una estrategia frecuente es la comunicación burocrática de la decisión, a través de escritos que invocan la legislación vigente más que a través de la comunicación directa cara a cara. En algunos casos, los entrevistados refieren consecuencias negativas para sus condiciones laborales una vez se reincorporan, aunque no es lo más frecuente. La reacción de los compañeros de trabajo suele ser de apoyo o neutras, según el principio de no intromisión en la vida de los demás, aunque también se refieren reacciones irónicas y de falta de reconocimiento de la decisión calificando el periodo de cuidado como “vacaciones pagadas”. En la familia y entre las amistades, la decisión suele ser apoyada y nunca criticada frontalmente, en virtud del mismo principio de no intromisión en la vida ajena, aunque puedan albergar dudas sobre la capacidad para cuidar en solitario del recién nacido. Estas reacciones evidencian un contexto cultural favorable para que pueda tener éxito una política de promoción del cuidado de los padres en solitario, tal como se discute en la arena política en la actualidad.

La experiencia del cuidado en solitario durante al menos dos meses se evidencia como un excelente contexto para avanzar en la igualdad de género a través de un reparto del trabajo doméstico más igualitario y de una paternidad más comprometida. Entre los padres primerizos, el tránsito al cuidado en solitario se vive con miedo y ansiedad, aunque el

período de cuidado conjunto con la madre durante el permiso de paternidad sirve de entrenamiento y formación para facilitar la asunción del cuidado en solitario. A medida que se adquiere seguridad la ansiedad disminuye, pero en cualquier caso se toma conciencia de que se trata de un “trabajo” que es “duro” y que requiere de mucha atención, dejando poco tiempo libre para otras actividades. No es infrecuente que los padres se indignen ante la falta de reconocimiento de la carga de trabajo que representa por parte de sus allegados. Durante todo este período los padres aprenden a realizar las diferentes tareas de cuidado del bebé y a comunicarse con él, desarrollando un profundo vínculo afectivo. La alimentación del bebé se resuelve de distintas formas, según sea la distancia al lugar de trabajo de la madre y la ordenación de su jornada laboral, entre otros factores. La experiencia es generalmente descrita *a posteriori* como altamente satisfactoria, asociada a la idea de felicidad. Al mismo tiempo que cuidan también realizan tareas domésticas, que en general ya realizaban con anterioridad, y lo hacen de forma compartida con la pareja. En este sentido, no se produce una inversión de los roles de género, sino ante todo una socialización del padre en el cuidado de los hijos, evidenciando así el potencial de cambio en las relaciones de género que tiene un permiso parental que promueva el cuidado en solitario.

La valoración que los padres entrevistados hacen de los permisos disponibles en España es muy crítica, porque consideran que la duración de los permisos remunerados (maternidad, paternidad y lactancia) es excesivamente corta y que los bebés deberían poder estar más tiempo con sus progenitores. La excedencia no es percibida como un permiso, ni como una solución suficiente, al no existir un salario de sustitución. No hay un modelo ideal que emerja claramente de los discursos de los padres entrevistados. Las propuestas oscilan entre los 8 meses y el año y medio, siendo alrededor de un año la que con más frecuencia se cita, poniendo como ejemplo las regulaciones existentes en los países del norte de Europa.

Palabras clave: Permiso maternidad; paternidad; cuidado de niños; conciliación vida familiar y laboral; igualdad de género; corresponsabilidad; España.

Reforms in Parental Leave Policies in France: Tensions between Budgetary Restrictions and the Promotion of Gender Equality

Reason for a decline

Reforma de las políticas de permisos parentales en Francia: conflicto entre las restricciones presupuestarias y la promoción de la igualdad de género

Motivos de su disminución

JEANNE FAGNANI*

ANTOINE MATH**

By the early 21st century, most high-income countries had put into effect a host of measures to help parents to balance family life and paid work (Morgan, 2008, Morgan, Zippel, 2003). France, however, had begun its move away from the breadwinner model already in the 1970s and, along with the Nordic countries, and today leads the European Union in the provision of childcare and benefits aimed at reducing childcare costs for families. These developments have gone hand in hand with the progressive implementation of parental leave policies encouraging parents, principally women, to opt to stay-at-home or to work part-time after the birth of a child (Fagnani, Math, 2009). In this domain, however, France remains a laggard country compared with the Nordic countries and Germany.

Moreover, in recent years, in the context of economic uncertainties, policy makers have been confronted with pressures as new challenges have emerged. While over the last decade France has continued to progressively con-

solidate and enhance its promotion of policies to support the work-family life balance, the introduction of new laws in the domain of early childhood education and care (ECEC) has mirrored the growing hold of employment policies over parental leave policies (Fagnani, 2012).

Among the questions which will be addressed and partially answered in this article are: What were the rationales that have underpinned reforms since the creation of the child-rearing benefit CRB in 1985? What are the key drivers of change and what is at stake? What are the implications of the changing, more insecure economy on the take-up rates of child rearing benefit? And, what are the reasons for the decrease in the number of beneficiaries since 2007?

The first part of this paper will offer an overview of the successive changes to parental leave policies since the creation of the CRB in 1985. The paper will highlight rationales which underpinned these changes at various stages as they were being introduced. Then this paper will describe the most recent reform implemented in 2015, putting emphasis on the main drivers of change, as well as exploring the stakes involved. A comparison between France and Germany will set forth why

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France is still a laggard country in this policy field. Then the spotlight will be turned on the decrease in the number of beneficiaries of the French parental leave scheme since 2011, and some possible reasons for this phenomenon will be provided.

1. HISTORICAL BACKGROUND: PERIODIC CHANGES SINCE THE CREATION OF THE CHILDREARING BENEFIT (CRB) IN 1985

Since the 1970's, a concerted effort has been made by successive French governments to promote social policies designed to enable mothers to combine both family responsibilities and full-time employment (Fagnani, 1998). In particular, at the beginning of the eighties as the Socialists swept into power, there was a marked increase in the level of funds being allocated for the construction of crèches (childcare centres) by both local authorities and the *Caisse Nationale des Allocations Familiales* (CNAF, the National Family Allowance Fund)¹.

Note that where parental leave policies are concerned, the government has always been a key actor in the decision making processes related to any change.

1.1. Two different schemes: the Parental leave and the child rearing benefit

First of all, it is important to take into account that there are two parts to the parental leave schemes. Thus, *Congé parental d'éducation* (CPE) and the child-rearing benefit

should be understood as two distinct measures.

1) The first part is the *Congé parental d'éducation* (CPE), the entitlement to take leave. Established in 1977, this falls within the provisions of the *Code du Travail* (Labour Code), which sets out the regulations all employers and companies must comply with, although they can make their own provisions so long as they are more favourable. This CPE is not paid, but currently allows all employees, regardless of gender, who have worked for the same employer for at least one year preceding the birth of their child, to cease employment totally or continue working on a part-time basis, in order to care for a new-born child. This one year long leave (renewable twice), follows the end of maternity leave. It may be taken until the child reaches 3 years of age, or at any time until this stage. Since 1994, all employers must provide this leave, whatever the size of the firm. According to employment legislation, the employee who is on leave is protected against dismissal. After this leave, an employee must be reinstated without a reduction in pay in the same position or a similar one, and is eligible for retraining with pay. During parental leave, the work contract is suspended but employees continue to be entitled to work-related social benefits (health insurance). Half the period of the leave is credited to length of service for retirements benefits.

2) The second part is the childrearing benefit (CRB)², established in 1985, provided by the Family branch of the Social Security (CNAF) to parents under certain conditions.

Eligibility conditions differ between the parental leave (CPE) and the child-rearing benefit, which means that some parents

¹ The present social security system officially came into being with the Ordinance of 4 October 1945 which aimed to cover all the so-called «social risks». In 1967 social security was separated into four branches: health insurance (which represents the largest share of expenditures devoted to social protection), pensions, family allowances, and insurance for work-related accidents and occupational illnesses.

² This CRB was periodically renamed after any change to parental leave scheme because the government wanted to show that it had taken a stronger stance in favour of paid care leaves than the previous one: *Allocation parentale d'éducation* (from 1985 to 2004), *Complément de libre choix d'activité* (from 2004 to 2015), *Prestation partagée d'éducation de l'enfant* (since 2015)

may be on leave but cannot be provided with this benefit and, conversely, some beneficiaries may receive the benefit without being on leave. In some cases the two measures overlap but it is neither possible to know the number of employees on parental leave, nor to know how many beneficiaries of the CRB are on leave.

1.2. The emergence of parental leave policies

The law passed in 1977 on parental leave (CPE) stated that its goal was to increase the opportunities of choice for the «woman who wishes to raise her child.» As this wording suggests, the values underpinning the scheme were still very traditional and mother-oriented and, in line with France's long standing 'maternalist' approach, only mothers were eligible. For some members of Parliament on the right, the CPE was conveniently perceived to serve two purposes: it would encourage mothers, «the proper care-givers for their young children,» to stay at home and, thereby, it would also create job vacancies for others to fill (Jenson and Sineau, 1995). The government also paid lip service to the *Union Nationale des Associations Familiales* (UNAF, National Union of Family Associations) who had long been urging the 'right for mothers' to care for their own children. With the abolition in 1978 of the *Allocation de salaire unique* (Single Salary Allowance) –established in 1945 in order to promote the male breadwinner model through generous assistance to families where only the man was in paid work– the demands of the UNAF became more vehement (Martin, 1998).

From its very beginnings parental leave was perceived by the feminist movement and the proponents of 'modern' values as a means to encourage mothers to stop working while political mobilization of women and women's organizations played a significant role in demands for public childcare services. In this context, the main political actors increasing-

ly used their support for childcare provision as a means to attract female voters (Fagnani, 1998, Morgan, Zippel, 2003).

Following the arrival of the Socialist Party in government in 1981, the CPE came up for reform with the law of January 1984. The Socialist's more egalitarian view of gender relations was evident, (Jenson and Sineau, 1995) and fathers now became eligible: parental leave was now genuinely «parental.» Parents working in the private sector gained the option to work part time after the birth of their child, seen as a way of promoting 'work-sharing,' which was an issue just emerging into the political agenda at the time.

Despite the gender neutral language, however, the decision-makers admitted that this scheme would affect mostly women. Additionally, an employer of fewer than 100 employees could refuse, until 1994, to grant leave if, after obtaining the opinion of the *comité d'entreprise* (a worker-management committee or works council), or the staff labour representatives, he or she believed the employee's absence could adversely affect the proper functioning of the firm.

1.3. The creation of the child-rearing benefit in 1985: restricted to large families

The first CRB –called APE (*Allocation parentale d'éducation*, Allowance for parents to raise a child)– was initially provided only to those parents having at least three children, the youngest being under 3 years of age, it was later extended to two-child parents in 1994 and finally to single-child parents in 2004.

In 1985, in the context of an increase in the unemployment rate, the Minister of Social Affairs, Georgina Dufoix, known for her sympathy to strongly Catholic elements on the left, and despite withering criticism from the members of her own governmental majority (Fagnani, 1998), created the *Allocation Parentale d'Education*. Denounced by feminist

groups as a 'mother's wage' in disguise, this benefit – a low flat rate benefit – was allocated to the parent, mother or father, who interrupted their employment following the birth of a child, but only in large families (with three or more children) and if the youngest child was under 3 years of age. To appear more politically correct, legislative bodies paid lip service to gender equality discourse when drafting the APE. This benefit was paid up until the child's second birthday. In an effort to specifically target women in the workforce, the legislation stipulated that the beneficiary must have been employed for a minimum of two years in the 30 months preceding the child's birth.

1.3. The change introduced in 1986: pro-natalist concern and limiting public expenditure

The return of the Right to power in 1986, along with a persistently low birth rate, resulted in an increase in the pressures being exerted by the pro-natalist lobby. At the same time this was also a period in which women's rights had moved to the forefront of the policy agenda following equal opportunities legislation introduced by the previous Left government (Lanquetin and Letablier, 2003). Although women continued to be poorly represented in the political arena (in 1986, they occupied 5.9 per cent of seats in the National Assembly), they were actively participating in pressure groups and their voices were raised to demand more high quality childcare provisions in order to realise the promise of increased access to the labour market for women.

It was within this context that Michele Barzach, the Minister of Family Affairs developed and voiced the rhetoric of «freedom of choice» while disingenuously declaring to the Senate, «We would like to encourage families to have more than two children»³. But due

to the government's search for ways to limit the deficit of social security, the Minister's initial ambitions (providing all families with a child-rearing benefit) had to be restricted. The eventual reform, therefore, resulted in piecemeal measures that specifically targeted large families – defined again as having three or more children. They became entitled to a low flat-rate child-rearing benefit (set at half of the statutory minimum wage) for a three year period of time after the birth of a child. Smaller families were still excluded. Some requirements were later relaxed, enabling a parent to become eligible if she (or he) had worked for at least 2 years at any time in the last 10 years before the birth of the third child.

1.4. The family law of 1994: social and employment goals

In the 1990s, in response to high unemployment, which grew from 8 per cent of the workforce in 1990 to 12.3 per cent in 1994 and reached record highs of 14.5 per cent for women, the right-wing government of Premier Balladur decided, in 1994, to exploit the job-creating potential of the childcare sector. The result was a dramatic increase in both childcare allowances and tax concessions aimed at helping families meet the costs of 'individualised' childcare arrangements, among which parental leave was included (Math and Renaudat, 1997).

At the same time, and in the face of heavy criticisms from the feminist movement, the government took still further measures to use childcare as a policy tool for fighting unemployment (Fagnani, 1998). Economically active mothers having a second child, who opted to 'stay-at-home' after the birth or maternity leave, were to be provided with the APE on condition that they stopped working or seeking work and had worked for at least 2 years out of the 5 preceding the birth. If both parents were working on a part-time basis, they could each receive APE, but the combined amount could not exceed the full rate of the APE allowance.

³ National Assembly, Session of 8 December 1986, *Journal Officiel* n° 119 S

The option of part-time work was made available from the time when APE was first taken up where previously it had only been available when the child was aged between 2 and 3 years. Unemployed women were removed from the register of those actively seeking work during the period when they receive the APE, with the effect of reducing the unemployment rate. This rule still exists.

In the context of the unemployment crisis, the traditional model of the 'stay-at-home mother' who spends all her time caring for the family after the birth of a child made a strong re-appearance (Fagnani, 2010). Simone Veil, the centre-right oriented Minister of Social Affairs in charge of family policies, took a stand and made clear her preference for promoting part-time jobs in order «to help families reconcile family and professional life».

Simone Veil had a background in promoting the advancement of women, most notably as the driving force behind the Law of 17 January 1975 authorizing abortion in France. Nevertheless, she failed to convince her colleagues in government of her views as they were primarily concerned with placating family associations and fighting unemployment. She was, however, able to effectively block the wishes of the most conservative elements in the government who desired the creation of nothing less than what amounted to a 'mother's wage.' The conditions for receiving the APE were softened and from this time onwards, from the moment the benefit was granted it became possible for parents to continue working part time while still receiving the benefit, though at a correspondingly reduced level.

This new scheme was perceived by its opponents –in particular the trade-unions and the women's movement– as being designed to address the unemployment crisis, rather than to meet the needs of families and children. Dissatisfaction was also expressed by those large companies who relied on a largely female workforce as well as small and medium sized businesses that feared an increase

in red tape and the effect this would have on overstretched Human Resource departments.

1.5. Reforms since 2001: the decisive influence of the family associations

Official rhetoric in France on family issues began to come closer to the reality of social changes taking place. With their return to power in 1997, the Socialists placed more emphasis on the right of both parents to be present with a new-born baby. In an effort to do more than pay mere lip service to gender equality, the Minister of Family Affairs, Ségolène Royal, led the movement that resulted in the decision in 2001 to extend paternity leave from three days to two weeks. Payment was to be made at full salary up to a certain ceiling and was to be funded from health insurance, like the maternity leave. This measure was a clear indication that the Socialist government intended to encourage 'real parental parity' and promote a less unequal division of child-rearing tasks within couples.

When it came to parental leave, however, the government found itself with rather less room for manoeuvre due to the powerful interests of the family associations as represented by the UNAF (the Organisation that regroups French family associations). Despite numerous studies clearly indicating the detrimental effect on gender equality caused by the existence of a three year long leave, (Fagnani 1998; Math and Renaudat, 1997; Périvier, 2004) and, in spite of numerous criticisms being voiced from trade unions and women's organizations, the government resisted change in fear of the opposition it might provoke within these family associations.

1.6. Extension of the child rearing benefit CLCA) to parents of a single child

In 2004, under the right wing government of President Chirac, a change was

announced. The benefit, renamed *Complément de libre choix d'activité* (CLCA, 'Supplement for the freedom of choice to work or not'), roughly equivalent to the former child rearing benefit (APE), was extended to working parents of a single child (under 3 years of age) who interrupted or reduced their employment. To limit public expenditure, the duration of the scheme was limited to 6 months after the end of maternity leave (except for parents having 2 or more children in which case it continued to run until the child reached the age of 3 years). To receive this benefit mothers or fathers with a single child needed (and still need for the *Prepave*, see below) to have worked continuously for the two years preceding childbirth and unemployed periods were not taken into account.

The reasons for this extension are numerous. First, right-wing governments have traditionally taken a benevolent position toward family issues and were more than happy to reap the political rewards that such announcements were sure to make. These moves had the additional effect of partly satisfying the vocal demands of family associations for '*allocations familiales*' –cash payments roughly equivalent to Child Benefit– to be extended to parents with only a single child who until this point had been excluded from both this entitlement and the child rearing benefit. Second, the measure was seen as a way to reduce the high demand for places in *crèches*.

The decision was also made to significantly increase the amount of the child rearing benefit (CLCA) provided to parents who work part-time. The rationale behind this decision was to encourage mothers to remain in the labour market on a part-time basis rather than stopping work completely. This financial incentive has proved to be very effective, with a dramatic increase in the number of recipients working part-time: from 2003 to 2006, it increased by over 50 per cent –from 139,000 to 212,000–

while the number of recipients who stopped work completely (and received the benefit at full rate) remained stable –at 374,000.

At the same time as the parental leave system was being revised, the fiscal code was also being updated through the *Crédit Impôt Famille* (CIF, family tax credit), which was established in 2004. Provided as a financial incentive to encourage companies to develop family-friendly initiatives for their employees, the CIF stipulates that 25% of related expenses are deductible from taxes paid by the company up to a ceiling of €500,000 per year and per company (Finance Law of 2004, art. 98). Within this regulatory framework, training programmes for employees on parental leave and supplements paid to employees on maternity or paternity leave or on leave to care for sick children are included⁴.

Under the Socialist government of President Hollande, a law was passed in 2014, which as of January 2015 introduced changes in the design of certain child support benefits. These changes mirrored the increased tensions between, on one hand, the goal of policy makers to restrain public expenditures, and on the other hand, the need to pay heed to demands coming from both their electoral constituency and from women's associations.

2. CHANGES TO LEAVE POLICY IN 2014: LIMITING THE NEGATIVE OUTCOMES OF LONG LEAVES OR RESTRICTING PUBLIC EXPENDITURE?

In the run-up period to the reform, numerous women's organizations and feminist NGOs had put under pressure policy makers and the socialist government as they wanted them to adopt a Nordic approach to the

⁴ In the public sector employees receive their full salary as a statutory right.

parental leave scheme, with a shorter but better paid leave. Indeed the long duration of the French parental leave needed to be considered against the background of widespread research showing that returning to employment is more difficult after extended absences (even when the working contract is maintained).

Moreover, encouraging fathers to take a more active role in their children's upbringing and education had been an issue high on the policy agenda for the last few years. The government therefore decided to make use of these arguments to legitimize its reform so as to proclaim its commitment to gender equality.

Duration of the leave was shortened while the 'father's quota' (a take-it or lose-it approach) was extended to six months and the benefit became income-related. Eligibility conditions, however, remained the same as for the previous child-rearing benefit (CLCA)⁵.

2.1. Shortening of the duration of the leave

In case the couple has at least two children, the duration of the time during which parents are provided with the *Prepare*⁶ was shortened to 24 months, extended by 12 months if the other parent (generally the father) takes it up (within the limit of the 3rd anniversary of the youngest child). If the parents have a single child, the duration is six months for each of the parents within the first anniversary of the child (only six months before the reform).

2.2. For the first time, the amount of the benefit is income-related

The amount of *Prepare* (not taxable) is dependent on whether the recipient is working or not during the leave. If she (or he) works part-time the amount is dependent on the number of working hours (see Table 1).

TABLE 1. AMOUNT OF THE CRB BENEFIT (CLCA AND *PREPARE*): EVOLUTION 2014-2018

	2014* <i>Complément de libre choix d'activité (CLCA) 'Supplement for the freedom of choice to work or not'</i>	From 1 st 2018 Parents eligible for the <i>Prepare</i> but not eligible for the means-tested supplementary allowance** (<i>Allocation de base</i>)	From 1 st 2018 Parents eligible for the <i>Prepare</i> and the means-tested supplementary allowance at full rate*** (<i>Allocation de base</i>)
The recipient does not work during the leave	575.04	398	569.56
The recipient works part-time (less or equal to half-time)	437.08	257.29	428.35
The recipient works between 50% and 80 % of full-time	330.25	148.41	319.97

Source: CNAF, 2017 and HCFEA (2017).

* Parents with a child aged under 3 and born before April 1st, 2014 who received the previous CRB benefit (CLCA).

** 15 per cent of the beneficiaries are not eligible for the supplementary allowance (*Allocation de base*).

*** At full-rate (one of the parents does not work), the amount of the supplementary allowance is dependent on the number of children, the number of earners in the couples and the net monthly income which must not exceed a ceiling set by the national government.

⁵ With two children the eligibility condition is to have worked for two out of the four years preceding birth, two out of the five years for parents with three children and more; with a single child it is necessary to have worked without break for the two years preceding birth.

⁶ The revised benefit was renamed '*Prepare*' (*Prestation partagée d'éducation de l'enfant*, Shared benefit to raise a child)

Parents with earnings lower than an income ceiling set by the national government are also provided with a supplementary means-tested allowance, *Allocation de base*

(see Table 2). As a result of this change, beneficiaries with earnings higher than the income ceiling have, therefore, lost 182 euros per month that is a reduction of nearly one third.

TABLE 2. RESOURCES (NET MONTHLY INCOME) CEILING TO BE ELIGIBLE FOR THE MEANS-TESTED SUPPLEMENTARY ALLOWANCE AT FULL-RATE OR PARTIAL-RATE* (*ALLOCATION DE BASE*) IN DECEMBER 2017 (IN EUROS)

Number of children	Net monthly income ceiling to be eligible at full-rate*	Net monthly income ceiling to be eligible at full-rate*	Net monthly income ceiling to be eligible at partial-rate**	Net monthly income ceiling to be eligible at partial-rate**
	<i>Couple with a single earner</i>	<i>Couples with two earners</i>	<i>Couple with a single earner</i>	<i>Couples with two earners</i>
1	2683	3409	3206	4073
2	3167	3893	3784	4651
3	3651	4377	4362	5229

Source: CNAF, 2017 and HCFEA (2017).

* 85 Euros (reduced to 171.56 Euros from 1st April 2018).

** 92 Euros.

Both parents can benefit at the same time from the *Prepave* but the total amount of payment cannot exceed 398 Euros (if they are not eligible for the *Allocation de base*, see Table 1). They can also work part-time and take up parental leave simultaneously.

2.3. Explicit and implicit objectives: what was at stake?

The official aim of the decision to shorten length of leave for couples with two or more children (the youngest child under 3 years of age) was to limit the career penalty of motherhood and the deleterious effects on women's employment. But, against the background of a huge public deficit, another objective was to contain public spending. This was effectuated by restrictive eligibility conditions (in particular for couples with a single child) that excluded mothers who held a precarious and unstable job before the birth. The

decrease in the amount of the CRB which affects a significant share of the beneficiaries, resulted in a decrease in the amount of public expenditure⁷. The point was to encourage young women –in particular those with higher qualifications– to enter and remain in the workforce. Indeed, there are numerous economic sectors such as ICT, financial services and tourism that are crying out for qualified staff.

Another explicit objective was to create an incentive for fathers to take up the leave for at least six months to promote gender equality both at home and at the workplace. To make this measure more efficient, the amount of the benefit remains, however, far too low. Actually, the government was and still is unreceptive

⁷ Public expenditures devoted to this benefit decreased by 7 per cent in 2015, 8 per cent in 2016 and it is expected to be by 18 per cent in 2017, «*Cour des comptes*» (Court of accounts), 2017.

to any measures that could contribute to the already huge public deficit⁸.

It comes, therefore, as no surprise that the number of fathers who have taken up *Pre-pare* has stalled since the creation of the APE (see above) and that their share among the beneficiaries remains very modest (4.4 per cent at the end of 2016, Boyer, Crépin, 2017). Moreover, 74 per cent of the fathers who avail themselves of this option work on a part-time basis. They are mostly blue-collar workers or employees who held a stable job beforehand. Compared with fathers who do not take up parental leave, they are more likely to work in female-dominated sectors and to have partners with a higher level of education, a higher status job and higher earnings (Boyer, 2016).

There are two main explanatory factors for this:

- First, there is a cost-benefit consideration. Among couples where the partners are both aged between 20 and 59 years (students not included), 75 per cent of the women earn less than their partner. And the income gap is even stronger among couples with children (Morin, 2014). From a financial point of view, it is therefore more rational for the mother than the father to leave paid employment for a while or to work part-time and be provided with the *Prepare*.

- Second, there is the enduring influence of the norms that a mother should be the primary care giver in the family even if she is employed.

As far as recent statutory reform is concerned, the French government did not really match its words with action, as a blind eye was turned to the crucial role played by the level of payment in the decision-making process of fathers with regard to parental leave. In this field, French policy is still behind, and France could learn from Germany and the significant

strides forward it has made through the adoption of new regulations on parental leave.

3. A COMPARISON WITH THE GERMAN PARENTAL LEAVE SCHEME: A STARK CONTRAST

Until the 1990s, there were marked differences between France and Germany in this domain, which can be traced back to differences in family policy frameworks and to a diversity of normative expectations as to the role of women and mothers (Fagnani, 2002, Morgan, 2002, Ruckdeschel, 2012). Since the 2000's, however, Germany has been undertaking a significant turnabout in its family policy paradigm through the introduction of new laws in the domain of parental leave and child care provision.

Using the Swedish model for inspiration, since January 2007, Germany has made a dramatic policy shift in its leave policy (Fagnani, 2012, Erler, 2009, Spiess, Wrohlich, 2008). The rationale behind these policies was to encourage fertility while limiting the career penalty of motherhood. In view of the shortage of qualified workers on the labour market, a second purpose was to encourage mothers to resume their work just after the one-year leave. Another explicit aim of the reform was to increase the use of leave by fathers.

The length of the Parental leave (*Elternzeit*, «Time for parents») is up to three years after childbirth for each parent, of which 24 months can be taken up to the child's eighth birthday. This is an individual entitlement and it is non-transferable. Similar to the French parental leave, *Elternzeit* provides parents with employment protection rights during this leave⁹.

⁹ With permission from the employer one year of the leave can be deferred to be used when the child is between the ages of three and eight. For parents in the public sector deferral can be extended until the child's 18th birthday if they

⁸ Spending by the CNAF is tightly controlled by the Ministry of Finance and the 'Cour des comptes' (Court of accounts).

At the same time, parents receive an income-related childrearing benefit (*Basiselterngeld*)¹⁰ for a period of 12 months, at a replacement rate of 65 per cent of the recipient's average earnings during the 12 months preceding childbirth. While no means test applies, there is a ceiling of €1,800 per month on the benefit payment and the minimum payment is €300, even for parents without prior income (Reimer and al., 2017).

Both parents are equally entitled to the *Basiselterngeld* but if the father takes at least two months of leave the overall length of benefit payment is extended to 14 months. In line with its pro-natalist policy objective, if another child is born within 24 months the childrearing benefit is increased by 10 per cent.

Flexibility in use is the key here and in this respect the *Elterngeld* can facilitate a wide range of arrangements between parents. They could for example share the time during which they receive the benefit either simultaneously (in which case each would receive seven months parental leave) or successively with one parent following the other. Instead of 12 months, the period of payment may be spread over 24 months (plus 4 months if the other parent takes it up) but the monthly benefit level is reduced so that the overall payment remains the same.

Parents receiving the benefit may work up to 30 hours a week. However, if the company they work in has less than 15 employees, they need their employer's consent. Income from part-time work is taken into account for the calculation of benefit entitlements. The final year of Parental leave may be taken up to a child's eighth birthday (with the employer's agreement).

have more than one child and often up until the age of twelve in the private sector.

¹⁰ Funded by the Federal government, through general taxation.

3.1. Unlike France, Germany exhibits a sharp increase in the take-up of the Parental leave by fathers

The introduction of the fathers' quota in Germany in 2007 caused a sharp increase in the take-up of Parental leave by fathers (Reimer and al., 2017). Data by the Federal Statistics Office (Destatis, 2017a) show that the proportion of fathers taking leave has risen more than five-fold from 3.3 per cent in 2006 to 18.6 percent in 2009. For births in 2014, parental benefit was taken up by 34.2 per cent of fathers (compared to 3.5 per cent of fathers in 2006, before the new legislation) although a large majority, i.e. 73 per cent, took no more than their individual two-month entitlement. The reform has also reduced the number of people taking more than one year of paid leave, a clear objective of the new law¹¹.

Taking stock of the changes made to leave policy in Germany may help us understand the decline in the use of the child-rearing benefit in France.

4. REASONS FOR THE DECREASE IN THE NUMBER OF BENEFICIARIES IN FRANCE OVER THE LAST DECADE

By 2016, 410,200 families received the CRB (*Prepave*) representing a public expenditure of 1.6 billion Euros. After a dramatic increase in the number of beneficiaries following the reform in 1994 (see above), a reduction in the number of *beneficiaries* (144,400 *over the period* 2006-2015) has taken place from 2007 onwards, in particular since 2004. The decrease in the number of births since 2011¹² accounts for a modest part of this phenomenon, according to a public report (HCFEA, 2018). In contrast, three factors seem to have been playing a key role:

¹¹ Just 10 per cent of parents made use of the option (*ElterngeldPlus*) to prolong their paid leave to two years at 33.5 per cent of prior income. For more details see Reimer and al., 2017.

¹² -2.7 % in 2015, -2.1 % in 2016 and -2.2 % in 2017 (BELLAMY, BEAUMEL, 2017).

4.1. Consideration of cost-benefit: the impact of the reduction in the amount of the *Prepave* (CRB)

In 2014 the socialist government decided to reduce the amount of *Prepave* provided to upper-middle class and well-off families. Until 2014, all parents received a flat-rate benefit, named *CLCA* (see above), whatever their income level (see Table 1). Since then, only families with incomes at or below an income ceiling defined by the government (Table 2) are also provided with the *Prepave* and a means-tested supplementary allowance (*Allocation de base*)¹³.

This means that beyond an income threshold, parents only receive the flat-rate benefit *Prepave*: 398 euros per month compared to 576 euros in 2014. According to the National Family Allowance Fund (*Caisse Nationale des Allocations Familiales*), 15 per cent of the beneficiaries (with a child born after April 1, 2014) were not eligible for this means-tested supplementary allowance. The decrease in the number of beneficiaries and the reduction in the amount provided to upper-middle income and well-off families have, therefore, resulted in a reduction of public expenditures devoted to the parental leave benefit¹⁴. This was one of the implicit goals of the government.

4.2. The impact of high unemployment and of the dramatic changes at the workplace

Unemployment in France has been stuck at more than 9 percent for nearly a decade, and as far as women aged between 25 and 49 years are concerned, 9.3 percent were registered as un-

employed in 2016 compared, with 6.7 percent in 2008¹⁵.

Against the background of high unemployment and a rise in the number of precarious and atypical jobs, power relationships between employers and employees have clearly become more unbalanced.

In addition, recruitments on fixed-term contracts have been increasing and currently represent 83 percent of total hires. Agency contract and publicly subsidized jobs have been on the rise as well. As a result, women entitled to a parental leave have been less willing to take any risk of losing their job (even if the return to their job is formally guaranteed). Some of them fear the implications on their career prospects and wages¹⁶. The fact that the decrease in the number of beneficiaries of *Prepave* has been more marked among mothers who have opted to stop work completely than among mothers who hold a long part-time job, mirrors the changes in their behavior on the labour market.

4.3. The impact of eligibility requirements in a context of a rise in precarious jobs

Eligibility requirements are very strict, in particular for parents with a single child: the mother or the father must have worked without break for the two years preceding birth. For parents with two children, the eligibility condition requires them to have worked for two years out of the four years preceding the birth of the youngest child. For parents with three children (or more) the condition is to have worked two years out of the five years preceding the birth. As expected, the exclusion

¹³ For example, in 2017, a couple with one earner and two children (the youngest aged under 3) is eligible for this *Allocation de base* provided that their income level is lower than 3,167 € net per month.

¹⁴ The corresponding expenditures fell by 7 per cent in 2015 and by 8 per cent in 2016. For 2017, it is expected to reach 20 per cent (Source: *Commission des comptes de la Sécurité sociale*).

¹⁵ Following the International Labour Organisation (ILO) definition.

¹⁶ A research carried out in the 1990s and based on a statistical and qualitative survey of eligible mothers who did not take up the CRB, showed that career-oriented or qualified women were aware that a long leave could be detrimental to their career prospects and a large share of them did not therefore avail themselves of this opportunity. (FAGNANI, 1998).

rate is higher for families with a single child than for others (HCFEA, 2018). Moreover, spells of unemployment are not included in the two years condition for those having only a single child, unlike for families who have at least two children. Against the background of the rise in the number of precarious or atypical jobs and of unemployment (especially among young couples), these strict eligibility conditions have contributed to a reduction in the number of parents who are entitled to the *Prepare*.

CONCLUSION

Over the last decade, France has continued to progressively consolidate its promotion of policies to support work/family life balance along with steady increases in spending related to childcare provision. But in spite of recent reform efforts, in particular by shortening the duration of the leave, France has not taken a Nordic style approach to its parental leave policy, in contrast to Germany. As a consequence, by the end of 2016, women still made up 96% of the beneficiaries of the child-rearing benefit. This means that the reform implemented in 2015 has been falling short in encouraging fathers to avail themselves of this allowance. It confirms that the leave scheme targeted at fathers (e.g. Paternity leave, and fathers' quotas in Parental leave) is well used if paid at or near income replacement level, as with the short paternity leave benefit, but is not used if paid at a low flat rate like the child rearing benefit (Moss, 2016). In reality, concerns of the socialist government with respect to containing family-related expenditure were an impediment to implementing measures to truly enhance gender equality, both in the workplace and in the family.

Even though following a birth, spending more time with one's own children may increase family well-being (Bianchi, Milkie, 2010), encouraging mothers to stop working for a long period of time (more than one year) or even to work part-time may entail a num-

ber of drawbacks and adverse side-effects. Bearing in mind that recipients are almost exclusively women, long parental leave schemes 1) maintain the current gendered division in the private sphere, 2) contribute to the maintenance of gender discrimination in the labour market by establishing asymmetrical professional trajectories within couples, and to the gender wage gap, and 3) reinforce employers' prejudices towards female workers (i.e., that they would be less committed to their work and less willing to pursue a career). As a matter of fact, many employers are reluctant to hire young women because they anticipate future absences from work related to maternity and parental leaves, as well as the right to take paid leave to care for a sick child.

'Modernisation' and reform of public institutions was a recurrent theme in the campaign promises of President Macron, and further changes to family policy are to be expected in the near future. He emphasised his will to revive growth and steer France toward a Nordic-style economic model (known as flexi-security). But will the government demonstrate the political will to also take a Nordic style approach to its parental leave policy?

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ABSTRACT France, along with the Nordic countries, leads the European Union in the provision of childcare services and benefits aimed at reducing childcare costs for families. These developments have gone hand in hand with the progressive implementation of parental leave policies. In this domain, however, France remains a laggard country compared with the Nordic countries and Germany.

First we offer an overview of the successive changes to parental leave policies since the creation of the child-rearing benefit (CRB) in 1985. The first one (paid by the Social security) was initially provided only to those parents having at least three children, the youngest being under 3 years of age, it was later extended to two-child parents, as well as part-time workers, in 1994 and finally to single-child parents in 2004. The main changes took place in 2014: in case the couple has at least two children, the duration was shortened to 24 months (compared with 3 years previously), extended by six months only if the other parent takes it up (within the limit of the 3rd anniversary of the youngest child). If the parents have a single child, the duration is six months for each of the parents within the first anniversary of the child. At the same time, the amount of the flat-rate benefit was reduced for households with higher incomes.

The official aim of the decision to shorten length of leave for couples with two or more children was to limit the career penalty of motherhood and the deleterious effects on women's employment. But, against the background of a huge public deficit, another objective was to contain public spending. This was effectuated by restrictive eligibility conditions (in particular for couples with a single child) that excluded mothers who held a precarious and unstable job before the birth. The decrease in the amount of the CRB which affects a significant share of the beneficiaries, also resulted in a decrease in the amount of public expenditure.

Another explicit objective was to create an incentive for fathers to take up the leave for at least six months to promote gender equality. To make this measure more efficient, the amount of the benefit remains, however, too low: their share among the beneficiaries remains very modest (4.4 percent). It illustrates that 'money matters' and highlights the crucial role played by the level of payment in the decision-making process of fathers with regard to parental leave. In this field, therefore, France could learn from Germany where a paradigmatic change was introduced in 2006: parental benefit is now better paid and it was taken up by 34 per cent of fathers (compared to 3.5 per cent of fathers in 2006, before the new legislation) for births in 2014. Taking stock of the changes made to leave policy in Germany may help explain the decline in the use of the child-rearing benefit in France.

Indeed, a significant reduction in the number of *beneficiaries* has taken place since 2104 in France. Against the background of dramatic changes in the labour market and the evolution of new management principles, three factors might have been playing a key role:

1) *The impact of the reduction in the amount of the CRB in 2014*

In 2014 the center-left government decided to reduce the amount of the CRB provided to upper-middle class and well-off families. It means that beyond an income threshold, parents only receive the flat-rate benefit labelled *Prepare*: 392 euros per month compared to 576 euros in 2014 and they are no more provided with a means-tested supplementary allowance (*Allocation de base*). Since then, only families with earnings at or below this income ceiling are also provided both with the *Prepare* and a means-tested supplementary allowance.

As a result around 15 per cent of the beneficiaries (with a child born after April 2014) were not eligible for this allowance. The decrease in the number of beneficiaries and the reduction in the amount provided to upper-middle income and well-off families have,

therefore, resulted in a reduction of public expenditures devoted to the parental leave benefit. It was one of the implicit goals of the government.

2) *The impact of high unemployment and of the dramatic changes at the workplace*

Against the background of high unemployment and a rise in the number of precarious and atypical jobs, power relationships between employers and employees have therefore become more unbalanced. Moreover recruitments on fixed-term contracts have been increasing and currently represent 83 per cent of total hires. Agency contract and publicly subsidized jobs have been on the rise as well. As a result, women entitled to a parental leave have been less willing or reluctant to take any risks of losing their job (even if the return to their job is formally guaranteed). Some of them fear the implications on their career prospects and wages.

3) *The impact of eligibility requirements in a context of a rise in precarious jobs*

Eligibility requirements are very strict, in particular for parents with a single child: the mother or the father must have worked without break for the two years preceding birth. For parents with two children, the eligibility condition is to have worked for two years out of the four years preceding the birth of the youngest child. For parents with three children (or more) the condition is to have worked two years out of the five years preceding the birth. As expected, exclusion rate is higher for families with a single child than for the others and spells of unemployment are not included in the two years condition for those having only a single child unlike the families who have at least two children.

Against the background of the rise in the number of precarious or atypical jobs and of unemployed especially among young couples, those strict eligibility conditions have therefore contributed in a reduction in the number of parents who are entitled to the *Prepare*.

In this paper we have therefore been exploring the explicit and implicit objectives of the recent changes to parental leave policies and what was at stake. And despite the fact that over the last decade, France has continued to consolidate its promotion of policies to support work/family life balance along with steady increases in spending related to childcare provision, France has not taken a Nordic style approach to its parental leave policy, in contrast to Germany.

Keywords: Budgetary constraints; decrease in the number of beneficiaries; French reforms; precarious jobs; change parental leave scheme.

RESUMEN

Francia, junto con los países nórdicos, es líder en la Unión Europea en cuanto a los recursos de los servicios para el cuidado de los hijos y las prestaciones para reducir el costo familiar del mismo. Estos avances han ido de la mano de la progresiva puesta en marcha de las políticas relacionadas con los permisos parentales. En este terreno, sin embargo, Francia va a la cola si lo comparamos con los países nórdicos y Alemania.

En primer lugar, analizamos las reformas en las políticas de permisos parentales desde la creación de la prestación para el cuidado de los hijos en 1985 (CLCA, según sus siglas en francés). Inicialmente, al primero (pagado por la Seguridad Social) solo tenían derecho aquellos padres que tuviesen al menos tres hijos y que el menor tuviese menos de 3 años de edad; posteriormente, se amplió a padres con dos hijos, así como a trabajadores a tiempo parcial en 1994 y, finalmente, a padres con un solo hijo en 2004. Los principales cambios se produjeron en 2014; en el caso en el que los padres tuviesen al menos dos hijos, la duración de la prestación se redujo a 24 meses (en comparación con los 3 años previstos anteriormente), la cual se podía prolongar seis meses más si el otro cónyuge lo solicitaba (dentro del límite del tercer aniversario del hijo menor). Si los padres tenían un solo hijo, la duración era de seis meses para cada uno de los padres dentro del primer año de edad del hijo. Al mismo tiempo, el importe de la prestación de cuantía fija se redujo para los hogares con mayores ingresos.

El objetivo oficial de la decisión de acortar la duración del permiso parental en el caso de las parejas con dos o más hijos era limitar las desventajas de la maternidad y los efectos negativos sobre el empleo femenino. Sin embargo, ante el panorama del gran déficit público, otro objetivo fue contener el gasto público. Para lograrlo, se restringieron las condiciones de elegibilidad (especialmente para las parejas con un solo hijo) que excluían a aquellas madres con un trabajo precario e inestable antes del parto. La reducción del importe de la prestación CLCA, que afecta a un porcentaje significativo de los beneficiarios, también produjo una reducción del gasto público.

Otro de los objetivos explícitos fue crear un incentivo para que los padres solicitaran el permiso parental durante al menos seis meses con objeto de promover la igualdad de género. Sin embargo, para hacer que esta medida sea más eficaz, el importe de la prestación sigue siendo muy bajo: su porcentaje entre los beneficiarios es moderado (4,4 por ciento). Este hecho ilustra que se trata de un «asunto monetario» y pone de relieve el papel crucial desempeñado por el nivel de retribución en el proceso de toma de decisiones por parte de los padres con respecto al permiso parental. Dentro de este terreno, por tanto, Francia podría aprender de Alemania donde se introdujo un cambio ejemplar en 2006: la prestación por permiso parental está ahora mejor pagada y fue solicitada por el 34 por ciento de los padres (en comparación con el 3,5 por ciento en 2006, antes de la nueva legislación) para los nuevos hijos nacidos en 2014. Si hacemos un balance de los cambios realizados en la política de permisos parentales en Alemania, nos serviría para explicar la disminución del uso de las prestaciones para el cuidado de los hijos en Francia.

De hecho, desde 2014 se ha producido una reducción significativa del número de beneficiarios en Francia. Ante el panorama de los grandes cambios en el mercado laboral y la evolución de los nuevos principios de gestión, hay tres factores que pueden haber estado desempeñando un papel primordial:

1) *El impacto de la reducción del importe de la prestación CLCA en 2014*

En 2014, el gobierno de centro-izquierda decidió reducir el importe de la prestación CLCA a clases medias-altas y familias acomodadas. Esto significa que, a partir de un umbral de ingresos, los padres sólo reciben la prestación de cuantía fija denominada PreParE (*prestación compartida por educación del hijo*): 392 euros mensuales en comparación con los 576 euros en 2014 que ya no tienen derecho a la prestación básica mensual (*Allocation de base*). Desde entonces, solamente las familias con ingresos por debajo de este umbral de ingresos pueden recibir tanto la prestación PreParE como la prestación básica mensual.

Como resultado, aproximadamente el 15% de los beneficiarios (con un hijo nacido después de abril de 2014) no tenían derecho a la prestación. La reducción en el número de beneficiarios y la reducción del importe de la prestación para las familias de clase media-alta y las más pudientes ha provocado, por tanto, una reducción del gasto público destinado a las prestaciones de permisos parentales. Este era uno de los objetivos implícitos del gobierno.

2) *El impacto de la alta tasa de desempleo y los grandes cambios en el lugar de trabajo*

Ante el panorama de las altas tasas de desempleo y el aumento del número de trabajos atípicos y precarios, las relaciones de poder entre empresarios y trabajadores han resultado, por tanto, más desequilibradas. Por otra parte, ha aumentado el número de contratos fijos y en la actualidad representan el 83% del total de los nuevos contratos. Asimismo, ha habido también un aumento en el número de puestos de trabajo a través de las agencias y en los de subvención pública. Como resultado, las mujeres trabajadoras que tenían derecho al permiso han estado menos dispuestas a asumir el riesgo de perder su trabajo (a pesar de tener garantizada formalmente su vuelta al puesto de trabajo). Algunas de ellas temen las implicaciones que pueda haber sobre sus perspectivas profesionales y sus salarios.

3) *El impacto de los requisitos de idoneidad en un contexto donde aumentan los trabajos precarios*

Los requisitos de elegibilidad son muy estrictos, especialmente para los padres que tienen un solo hijo: la madre o el padre deben haber estado trabajando de forma continua durante los dos años anteriores al nacimiento del hijo. En el caso de los padres con dos hijos, se requiere que hayan trabajado durante un período de dos años dentro de los cuatro años anteriores al nacimiento del hijo menor. En el caso de los padres con tres o más hijos, se requiere que hayan trabajado durante un período de dos años dentro de los cinco años anteriores al nacimiento del hijo menor. Como es de esperar, la tasa de exclusión es mayor para las familias con un solo hijo y la duración del desempleo no se incluye en los requisitos de los dos años para quienes solo tengan un solo hijo a diferencia de las familias que tienen, al menos, dos hijos.

Ante el panorama del aumento del número de trabajos atípicos y precarios y el número de desempleados, especialmente entre las parejas jóvenes, estos requerimientos estrictos han contribuido, por tanto, a la disminución del número de padres que tienen derecho a la prestación PreParE.

Así pues, en este artículo hemos analizado los objetivos explícitos e implícitos de los recientes cambios en las políticas de permisos parentales y de lo que estaba en juego. A pesar de que en la última década Francia ha continuado consolidando la promoción de sus políticas de apoyo a la conciliación de la vida familiar junto con el continuo incremento del gasto en el cuidado de los hijos, el país no ha adoptado el enfoque de los países nórdicos en cuanto a las políticas de permisos parentales, a diferencia de Alemania.

Palabras clave: Restricciones presupuestarias; disminución de beneficiarios; reformas sociales en Francia; precariedad laboral; reformas en permisos parentales.

Leave policies in Italy: towards a new scenario?

Políticas sobre los permisos parentales en Italia: ¿hacia un nuevo escenario?

SARA MAZZUCHELLI*

1. THE ITALIAN CONTEXT

Since the early 1990s the demand for maternity and parental leave, as well as external child care facilities, has been increasing in all European countries, in connection with the influx of women into gainful employment (Annesley, 2007). This demand has materialised as a number of directives to EU member states (Ejrnæs, 2008). Although the EU Directive on Parental Leave has obliged European governments to introduce appropriate legislation, significant differences can still be found in relation to eligibility, duration, benefit levels and flexibility among countries adopting this directive (Moss, Deven, 2015; Blum, Koslowski, Moss, 2017). In fact, social policies in different EU member states tend to respond to the family models prevailing locally (Pfau-Effinger, 2004; 2007; 2009). These models are based on how family members relate to the employment system, on the environment considered suitable for children's upbringing, and on a gendered division of work within the family.

Italy has the lowest birth rates in Europe (ISTAT, 2013c) and a low employment rates

for women (ISTAT, 2013a; 2013c; Pacelli, Pasqua, Villosio, 2013). European studies on occupational profiles throughout the life course tend to show an M-shaped trend, where a significant decrease in women's occupation during their reproductive period is followed by an upturn. In Italy, however, the downward trend continues, which means that women leaving the labour market tend to leave it for good. In other words, most women stop working when they become mothers while a minority work full time, with huge reconciliation problems (Mazzucchelli, 2012).

The economic crisis has worsened this situation. In a context marked by financial hardship (declining GDP and household purchasing power, and rising general, youth and long-term unemployment) female employment has increased. This is caused by a rise in the number of foreign workers, by older women still in work due to pension reform, and by more women entering the labour market to replace the loss of male income. This increase in female employment is, however, restricted to low-skilled and low-paid jobs (ISTAT, 2014).

Childcare, especially in the early months of a baby's life, is typically the mother's task. The normative Italian pattern is the *family care model*. Mothers generally resume work after 5-9 months and some add a few months' holidays (fully paid) to their

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maternity leave and then get the help of grandparents. This is considered the ideal solution until the baby is 12-18 months old. Few people opt for crèches in the child's first year; to outsource baby care is parents' last resort (Schiaivone, 2012; Bertolini, Musumeci, Naldini, Torrioni, 2014).

Regardless of the age of children, research highlights care as the mother's responsibility, though supported by a network of relatives (Zanatta, 2013). Such predilection for informal care –variously articulated at different times in the child's development and according to the family's occupational context, the labour market and the structure of formal childcare– is shared by parents of small children (0-3) and those of school-aged ones. Choice depends on a variety of factors (Mazzucchelli, 2012; Rossi, Carrà, Mazzucchelli, 2009), such as insufficient levels of maternity leave pay, the high costs and low quality of services (in the 0-3 year-old band), incompatibility of school and work timetables, and the absence of pre- and post-school services (in the 3-14 year-old band)(Mazzucchelli, Rossi, 2014).

This situation is exasperated by public spending which currently prioritises addressing unemployment and social exclusion at the expense of family, maternity and childhood (ISTAT, 2013b). Reconciliation policies in Italy are also inadequate at company level, where the flexibilisation of work schedules and family-friendly measures is rare, so that many employees are unable to take advantage of them (Mazzucchelli, 2011a; Bertolini, Musumeci, Naldini, Torrioni, 2014; Riva, 2013). Finally, an important cultural factor is that in Italy the dilemma of work versus family is still largely relegated to the private sphere; the family is perceived, by both public opinion and policy makers, as a bottomless resource for the weaker members of society, and their main provider of care and welfare (Mazzucchelli, Rossi, 2011).

To conclude, the *male breadwinner* family model has long been the dominant factor and the hegemonic cultural model in Italy (Rossi, 2013); this has defined family members' relationships with the employment system, the environment considered suitable for bringing up children, and the division of work within the family. Data on the allocation of time and differences in the time devoted by men and women to unpaid care and domestic work show the persistence of a gendered, unbalanced distribution of unpaid work in Italy even among younger cohorts (INPS, ISTAT and Ministero del lavoro e delle politiche sociali, 2013; Todesco, 2013). Within this context, an attempt has been made to respond to the problem of reconciliation between work and family care. The main relevant policy is Act No. 53/2000, «Disposizioni per il sostegno della maternità e della paternità, per il diritto alla cura e alla formazione e per il coordinamento dei tempi delle città» (*Provisions on Maternity and Paternity Safeguard and Support, the Right to Care and Time Coordination in the Cities*). We shall outline the essential features of this law, analyse its implementation, and identify its strengths and weaknesses.

2. ACT N.º 53 AND ITALIAN LEGISLATION ON LEAVE TAKING

The Italian norms protecting the family with regard to maternity and childhood have been considerably modified in the last few decades, mainly with the aim of improving children's wellbeing but also in order to create better conditions for reconciling maternity and work rights.

Following the ground-breaking laws Nos. 1204 of 1971¹ and 903 of 1977² –which offered protection to working mothers and equal treatment of men and women at work respec-

¹ Protection of Working Mothers.

² Equal Treatment for Men and Women in Matters of Work.

tively– Act No. 53 of 8 March 2000³ significantly changed legislation regulating employment rights in relation to childcare. Absence from work due to a child's birth or illness was extended for parents with children up to the age of 8 and promoted fathers' participation in care work. The same law entitled employees to paid leave (three working days per year) and unpaid leave periods (up to two years) when requested for serious family reasons. This provision was extended to working fathers, to whom the law attributes special benefits unconnected with the lack of exercise of the

mother's rights: either parent or both can benefit from the leave, according to the family's needs.

Besides introducing parental leave and thus supporting greater involvement of fathers in childcare, Act No. 53 directed the attention of regional and local authorities towards the importance of reorganising city time. Through article 9 it promoted positive experimental actions for work-family reconciliation in the workplace, thus raising awareness of these issues among employers and more widely.

TABLE 1. PARENTAL LEAVE PROVISIONS IN ITALY

<p><i>Length of leave (before and after a child's birth)</i></p> <ul style="list-style-type: none"> • 6 months for mothers, 6 months for fathers; • a leave is an individual, non-transferable, entitlement; • the total amount of leave taken by both parents cannot exceed 10 months but the father taking at least 3 months' leave is entitled to 1 month's additional leave. Italy introduced this form of bonus to encourage fathers to use Parental Leave. <p><i>Payment (during parental leave)</i></p> <ul style="list-style-type: none"> • 30% of earnings for a child under 3; • none for a child 3-8 years old. <p><i>Flexibility in use</i></p> <ul style="list-style-type: none"> • leave can be taken at any time until a child is 8 years old; two options: a single period up to a maximum of 6 months, shorter periods totalling a maximum of 6 months; • both parents could take the leave at the same time; • from the end of Maternity Leave until 11 months after the birth, mothers can exchange their Parental Leave for vouchers of € 300 per month to reduce childcare costs. This voucher system was introduced by Law 92/2012 to promote female labour supply. <p><i>Eligibility (related to employment or family circumstances)</i></p> <ul style="list-style-type: none"> • all employed parents; • self-employed and workers enrolled separately by <i>INPS (National Institute for Social Security)</i>: 3 months during the child's first year; • the father is entitled to paid leave even if the mother (housewife) is not. Circular letter B/12-5-2009 from the Department of Labour, Health, and Social Policies equates the domestic work of non-employed mothers to paid work. <p><i>Variations in leave due to child or family reasons; or delegation of leave to persons other than the parents</i></p> <ul style="list-style-type: none"> • each parent is entitled to additional leave in the case of a multiple birth (e.g., the length is doubled for twins); • lone parent: 10 months. <p><i>Additional note</i></p> <p>Public sector employees receive 100 per cent of earnings during the first 30 days of leave. Law 228-24/12/2012 has established the possibility to use parental leaves on a hourly basis leaving to collective agreements the task of establishing the modalities to compute and implement it.</p>

Source: ADDABBO, GIOVANNINI, MAZZUCHELLI, (2014).

³ Provisions on Maternity and Paternity Safeguard and Support, the Right to Care and Time Coordination in the Cities.

Again, Act 53 delegated the Government (art. 15) to reorganise existing laws on the safeguard of maternity and paternity (Act No. 151 of 26 March 2001⁴) which had produced no substantial innovation. However, through Decree Law No. 115/2003⁵, a series of further measures were introduced, including the protection of maternity leave for workers registered with INPS (National Institute for Social Security) (art. 2, comma 26, L. 335/1995), not just those with «coordinated and continuous collaboration» contracts⁶; the extension of optional parental leave for adoptive or foster parents belonging to certain categories of freelancers; and the possibility to extend unemployment benefit to pregnant employees in the case of cessation of trading. The decree law was followed by further supplementary legislation but its provisions were not transposed into systematic actions.

The first set of significant operations were introduced by the financial law for 2007 (L.296/2006) aiming at extending the provision of sickness- and childbirth-related benefits to contract and temporary workers independently registered with INPS: paid parental leave also in cases of adoption and foster care; front-loaded obligatory maternity leave (with a right to its relative allowance); and financial and legal treatment connected with maternity leave. Subsequently, the financial law for 2008 (Law No. 244/2007, article 2, commas 452 to 456), amended art. 26 of Decree Law No. 151/2001 by introducing a new norm on maternity leave to be used in cases of national and international adoptions and foster care.

The latest amendments derive from the combination of different laws: Decree Law No.

⁴ Consolidated Law on the protection and support of maternity and paternity, according to art. 15 of Act No. 53 of 8 March 2000.

⁵ Amendments and supplements to Law Decree No. 151 of 26 March 2001, carrying the Consolidated Law on the protection and support of maternity and paternity, according to art. 15 of Act No. 53 of 8 March 2000.

⁶ It is a form of «atypical» work that provides activity on an ongoing basis without giving rise to a stable over time employment relationship.

221/2012 (article 7 comma 3) streamlines the processing of medical certificates justifying an employee's absence from work due to the illness of a child⁷; Decree law 216/2012 (implementing the 2010/18/EU directive) allows hourly fruition of parental leaves by delegating the appropriate regulation to sector-level collective bargaining not to a national level. Finally –in order to support parenthood by promoting a task-sharing culture between the couple in the relation to childcare, as well as fostering the more general reconciliation between work and family– the «Fornero Reform» (Law No. 92/2012) –which has applied from 1 January 2013 and is being continued on an experimental basis until 2015– extends to fathers the obligation of taking one day off (with the option of two additional days) on the birth of a child, to be used within the child's first 5 months and with a daily allowance of 100% of the salary and working mothers are entitled to a voucher to be spent on either babysitting services or public network/recognised private childcare, to be requested from their employers during the 11 months following the end of their maternity leave, as an alternative to parental leave.

This novelty is particularly interesting in relation to the *Leave Policy* and its nexus with *Early Childhood Education and Care (ECEC) Services*. The maximum post-natal leave period available in Italy is 14-17 months (depending on bonus months if the father takes Parental Leave) and there are only around 4 months of well-paid leave entitlement. There is no entitlement to ECEC, though nearly all children over 3 attend ECEC. However, despite being recognized as a social right for children and working mothers by Law No. 1044/1971, the ECEC provision is too low by EU standards and varies from region to region. Use of formal services by children under 3 is below the average for OECD countries, but above average for children over 3.

Having summarised the main features of Act No. 53 of 8 March 2000, its strengths and weaknesses will be discussed.

⁷ Thus modifying art. 47 of Decree Law No. 151 of 21 March 2001.

2.1. Strengths of Act No. 53/2000

Due to both its purpose and its recipients, Act No. 53/2000 is significantly innovative. For the first time in Italy, in fact, it introduces the individual right of male employees with small children to take parental leave, thus undermining the idea of childcare as a women-only responsibility. Besides, the law considers the parental couple (rather than the individual parents) the essential reference for the child's growth process. The underlying vision of parenting is thus a co-responsible inter-parental relationship (Mazzucchelli, 2011b).

The system of guarantees as defined in detail by Act 12/04/1971 is further enlarged (e.g., to include the self-employed and the right to optional abstention from work up to the child's 8th year); above all, it is more flexible as to sharing care responsibility.

Contributions by the Employment Fund (Act No. 236/1993) to schemes allowing «special forms of flexibility in working hours and work organization» apply to working mothers and fathers, including adoptive or foster ones, and to business-owning and self-employed parents, thus valuing different family and work situations.

An emerging legislative trend oriented toward a 'gradual socialisation' of costs is related to family policies. This trend is confirmed by the gradual transition of funds from a system based on employers' contributions to one based on public taxation (Bozzao, 2001; Fine-Davis et al., 2007). This method of funding is based on subsidiarity⁸: in fact, positive actions aimed at flexibility and reconciliation are funded by the Ministry for Labour, in agreement with the Ministry of Social Solidarity and the Ministry of Equal Opportunities, but are planned and implemented at grass-root level, considering the needs of the

⁸ The term *subsidiarity* indicates a normative criterion for action requiring an actor to support (subsidy) another actor without substituting the latter in his/her own tasks and functions but rather promoting his/her own capacity to act autonomously in the areas of his/her competence (Donati, 2006).

subjects involved (Rossi, 2005): the definition of the appropriate forms of flexibility and material conditions are devolved to the negotiating process. Prospective recipients of funding must, in fact, be assessed in agreement with the comparatively more representative trade unions: their agreement is therefore a precondition for the eligibility of schemes⁹.

Finally, two other positive elements worth mentioning are the importance attributed to assessment, with the provision for a «system for monitoring and evaluating the approved schemes» by the Ministry of Labour (art. 5), and the heightened status of local networks, with priority given to agreements and initiatives coming from pilot experiments aimed at creating a support network possibly backed by the local authorities (art. 2).

2.2. Weaknesses of Act No. 53/2000

Despite the law's several strengths (§ 2.1.) and its updates addressing specific points (§ 2), there are a number of significant weaknesses. It must be stressed that the relevant studies are few; among these, however, two stand out for both methodological rigour and type of analysis.

The most recent research was carried out by the National Observatory on the Family in 2011 (De Pasquale, 2012) on how parental leave is used throughout Italy. It includes all workers entitled to parental leave: public-and private-sector employees, self-employed women, and women paying INPS (National Institute for Social Security) pension contributions. This study is structured so as to stress the significant variety of norms about how to use the leave, according to employment type. The following table (Table 2) illustrates the list of workers and the data collected by category.

⁹ This legislation implicitly strengthens contractual practices in companies where they are less used (the spread of second-level negotiation is directly proportional to a company's size); in fact, as art. 1 explains, more than 50% of the benefits are intended for firms with less than 50 employees (Scialdone, 2002).

TABLE 2. CATEGORIES OF WORKERS CONSIDERED IN DATA DETECTING AND SOURCING

Workers' Categories	Reference Area	Sources	Reference Years
Civil servants	Sample survey (106 government agencies and 202,909 employees)	Individual government agencies	2009
Private-sector employees	Exhaustive survey	INPS archives	2007-2009
Self-employed women	Exhaustive survey	INPS archives	2007-2009
Female sub-contractors	Exhaustive survey	INPS archives	2007-2009

Source: DE PASQUALE, (2012).

The data reveal a wide gap between the benefits as provided by law and parents' actual use of it. Different variables influence the gap between the law and its application.

- Work Type: Employees use parental leave more than self-employed and atypical workers.
- Amount of Remuneration: All results confirm a direct relationship between amount of pay and rate of use, particularly men's.
- Employment Sector: Public-sector workers tend to use the leave more than their private-sector counterparts; one cause of this seems to be the amount of remuneration.
- Recipients' Gender: The study of this variable has only been possible in the employees' category. Among both public and private-sector employees there is a wide gender gap, with fathers representing 24% of users in the public sector and 8% in the private sector; as to duration of the leave, the gap between men and women is even greater.

To better understand the impact of this legislation it would be interesting to consider Zanatta's (2007) attempt to identify and compare the socio-economic and cultural features of fathers who have benefited from leave with those of fathers who have not. This study was aimed to quantifying the use of paternal leave and identifying the variables affecting it. A

secondary analysis of ISTAT data about the use of time was conducted on a representative sample of Italian families, with particular attention given to male employees who were fathers of at least one child between 0 and 8 years of age. Structurally, *working hours* are strongly correlated with the use of leave: 14.5% of those who work 36 hours or less per week make use of parental leave, while only 6.8% of those who have a longer work week actually take advantage of it. The fathers' *educational qualifications* also show a strong statistical correlation with the use of leave: the better educated fathers are those who most often use leave (12.2% of graduates), followed by those with an intermediate educational qualification (9.8%) and, finally, by those with a lower education level (7%). This finding is clarified by analysis of occupation and status: managers do not benefit more than their employees from this measure (7.9%); teachers and specialised workers tend to use it more (11.8%) and labourers least of all (6.5%). A prolonged absence from work can have a far more negative and permanent effect on those holding positions of responsibility than on those in lower-ranking positions; on the other hand, this outcome is likely to depend on the executives' greater investment in work and career. The high educational qualifications of the men who most rely on the leave, then, is not always related to higher professional positions but can, instead, indicate greater sensitivity and personal identification with the paternal role or better could also reflect that these men have greater control over their em-

ployment and perhaps also more socially acceptable. The limited adherence of lower-level workers to the use of parental leave could be explained, according to another study (Zanatta, 1999), by a more traditional division of tasks in the family, which is also, on average, related to lower educational levels.

Some *partner's characteristics* (educational level, professional position, working hours) are also crucial to the request for leave. In fact, leave is requested by, respectively, 11.7% of people whose life partners hold university qualifications and 10% of fathers whose life partner is employed (against 7.1% of fathers whose partners do not work).

Other variables crucial to determining whether parental leave is taken are culturally sensitive, particularly the *attitude towards work and towards care*. A qualitative study on the opinions and the orientation values of civil servants, the most frequent parental leave users (Zanatta, 2007), helps understand the significance of this set of factors and the close connection, here too, between structural and cultural data. The results, to be taken cautiously because of the small size of the sample, suggest that using the leave is the effect of a strong perception of paternal identity and of a generative orientation—that is, low priority assigned to work, great value attributed to the family, children and leisure time, as well as gender equality, and the actual experience of being involved in childcare (Bulanda, 2004; Bosoni, 2011). As emerged from research carried out in the United States and in Scandinavian countries (Craig, Mullan, 2010), social class plays a key role in creating paternal identity. Indeed, the image of the father being actively involved in childcare tends to prevail within the middle classes. This conception of fatherhood appears, for middle-class men, to be a complex strategy: it enables them to adapt to the professional engagement of their wives and to the consequent decline in their position of sole/primary breadwinner, as well as distinguishing them from their working-class counterparts, whose idea of masculinity and fatherhood is more traditional (Zajczyk, Rus-

pini, 2008; Zanatta, 2011). This different work orientation, then, as well as broader identity, may, in fact, be determined by a job with limited career opportunities, or one that is not very rewarding.

As regards *attitude towards care*, the majority of fathers emphasise the importance of playing with their children, while they do not mention housework or childcare, thus confirming findings from the literature (Bimbi, Castellano, 1990; Bosoni, 2012; Zajczyk, Ruspini, 2008). The care dimension, then, seems not yet to have entered the symbolic image of fathers, nor their concept of the parental role. Paternal involvement in childcare and housework is developing very slowly and consists still in 'assisting' the mother (Bosoni, 2012). On the other hand, many mothers accept and justify this asymmetry because the cost of negotiating greater equality in the roles is too high (Zanatta, 2011). Moreover, some studies show mothers 'ambiguous attitude towards paternal involvement in childcare: whilst asking for more active cooperation, she may also be keen on preserving exclusive control in this sphere, which is a primary source of recognition and identity for many women (Bimbi, Castellano, 1990; Zanatta, 2011).

Finally, differently dated studies (De Pasquale, Lelleri, 2005; Gavio, Lelleri, 2005; 2007; ISTAT-CNEL, 2003; Piazza, 2000) highlight co-occurring structural/cultural factors to explain some major difficulties faced by fathers in requesting and obtaining parental leave.

From a structural viewpoint, there is a remarkable lack of information on the opportunities offered by the law; in addition, the waiving of 70% of a man's salary, a substantial cut in the family's income, as men tend to be paid more than women, is a strong disincentive for fathers. From a cultural viewpoint, the presence of strong social and cultural conditioning must be stressed in regard to childcare as the mother's responsibility, as well as the lack of a family-friendly culture among the negotiating actors. On the one hand, trade unions have proved rather insensitive to interventions

aimed at facilitating the sharing of responsibilities among care workers; on the other, employers' attitude is so hostile that fathers using leave –especially those in positions of great responsibility– have often been threatened with dismissal or career repercussions (Tiraboschi, 2005; Ponzellini, 2006; Zanatta, 2007).

The results of the present study suggest that an explanation of human behaviour purely based on economic rationality –or structural factors (Prandini, 2006)– is incomplete, since culture and values emerge as strongly significant too. The dissemination and implementation of the Parental Leave Act is undoubtedly hindered by both structural and cultural obstacles (Mazzucchelli, Rossi, 2015).

As mentioned before, *Structurally*, financial limits explain the reasons behind the scarce use of leave by workers in the private sector as compared to those in the public one; the exercise of this right would be more widespread if its costs were not entirely borne by workers and companies.

Culturally, the main obstacle encountered by workers seems to be gender stereotyping within the workplace, which severely prevents the spread of innovative interventions: fathers can be stigmatised for abstaining from work to devote themselves to childcare; a corporate culture which is sensitive to the life-course needs of workers has not yet been attained. This *traditional attitude* about gender division, however, also exists *within families*; although, in fact, the majority of respondents admit a significant change of the paternal role, compared to the past, those fathers who have taken the parental leave seem to be truly aware of it, and therefore emphasize more strongly the importance of sharing the child care with their wives¹⁰. Two kinds of fathers

then emerge: one continuing the traditional breadwinner model, the other updated to the “new father” figure, as represented in the literature (Brotherson, White, 2007; Miller, 2010; 2011; Dermott, 2008; Bosoni, 2012; Featherstone, 2009; Hearn, Pringle, 2006). The couple relationship and its negotiating dynamics are key to the identity-making of both the man and the woman (as husband/wife and father/mother) and to achieving a greater level of paternal involvement in childcare (Mazzucchelli, Bosoni, 2011)¹¹. The gap between the ideal (request for leave) and real behavior (effective use of this measure) found in the breadwinner category of fathers can be interpreted only by taking into account the ambivalence that accompanies the redefinition of gender roles and parenting (Molinari, 1991; 1996; Giovannini, 1998). This becomes particularly urgent in transition periods, such as today: both women and men seek to restore continuity with family tradition and its gender asymmetries in housework and childcare (Aboim, Wall, 2002; Brannen, Lewis, Nilsen, 2009).

To conclude, the combination of structural and cultural factors causes a paradoxical effect: parental leave, created to encourage greater sharing in the care of children, are actually used mainly by women, which paradoxically then strengthens the breadwinner model (Ponzellini, 2006). This result, is probably due to the complex articulation of structure and agency in family life. The different

role of parent (BADOLATO, 1993; VENTIMIGLIA, 1996; GIOVANNINI, 1998; FINE-DAVIS et al., 2007). The paternal involvement in child care and housework is developing very slowly and is mainly offered in the form of «assistance» to the mother (BIMBI, CASTELLANO, 1990; VENTIMIGLIA, 1996; 1999). On the other hand, many mothers accept and justify this asymmetry because the cost of negotiating a greater equality in the roles is too high (SCISCI, 1999).

¹¹ One study highlights the presence of a mother's ambiguous attitude about the paternal involvement in child care: on the one hand, they ask for a more active cooperation, on the other hand, however, they seem to want to keep for themselves a sphere of exclusive and traditional control (which for many women is a primary source of recognition and identity) (BIMBI, 1996; BIMBI, CASTELLANO, 1990).

¹⁰ From the literature emerges that the majority of fathers emphasize the importance of playing with their children, while they do not mention the practical activities and child care. The care dimension, then, seems not yet joined in the symbolic image of fathers and even their mental image of the

welfare systems, the national contexts, the legislative and economic arrangement, the company structure and organization, certainly represent structural backgrounds which have an influence on the daily organisation of the nuclear family. However, these are not sufficient to explain the extraordinary variability in lifestyles and in choices towards reconciling family and work, which does not follow an individual but rather a relational matrix¹². The couple acts as the life-sphere within which the equity/disequity, gender parity/male and female roles *stereotypization* are challenged (Mazzucchelli, Bosoni, 2011; Mazzucchelli, Rossi, 2011; Mazzucchelli, 2011a).

This theme –the work-family reconciliation observed through the specific lens of parental leave–, therefore, turns out to be highly complex, as it refers to a range of intertwined factors of varying importance and relating to a variety of life domains (political, cultural, social, and economic). It would be interesting to tackle this theme by overcoming the opposition and «the confrontation between men and women in respect of who does what»¹³ (Fine-Davis, Fagnani, Giovannini, Hojgaard, Clarke, 2007, p.171) not only by investigating the reciprocal perceptions of partners but by trying to better understand

¹² Some sociologists have underlined a fundamental trend towards intimate relationships emphasizing the quest for autonomy and individual self-fulfilment, the centrality of negotiation, and a weakening of external constraints (GIDDENS, 1992; Beck and BECK-GERNSHEIM, 2002; De Singly, 1996). However, rather than a single model of family functioning, conjugal modernity is seen to be developing around a limited set of diverse forms or styles of interactions (KELLERHALS et al., 2004; Aboim and Wall, 2002).

¹³ One of the methods used to survey this area was to gather information on the frequency of child care and domestic tasks. Another method was to present a list of activities asking participants to respond with an indication of who normally carried out each task. In this way information on the availability of family members and other support networks engaged in managing the family was obtained (ZANATTA, 1999; Haas, 1993). Questions mostly referred to activities carried out throughout the week in order to emphasise the problems of reconciling family and work and to highlight the differences between males and females in their day to day domestic management.

how the process (conscious or otherwise) of negotiation and decision– making in family matters plays out within the couple (Mazzucchelli, 2011a). This, in fact, implies not a rigid totting up in terms of roles and tasks, but a prior consideration of what work is, what housework and childcare mean in the family, who is in charge of each of these (or both) and what the carrying out of certain tasks, getting involved in certain duties, and working on different fronts (at home and working outside the home) entails for the structure and definition of identity of each individual and of the couple. Only by observing from this complete and complex perspective can we obtain a non-simplistic understanding of the subject, which will enable us to highlight potentially influent or latent factors (Mazzucchelli, Bosoni, 2011).

Having summarized strengths and weaknesses of Act No. 53 of 8 March 2000 it is interesting to highlight that in recent years, great transformation processes occurred in the Italian legislation on leaves: the implementation of Jobs Act (Legislative Decree 15 June 2015, n. 80) that has developed innovative pathways; and, above all, the measures contained in the Budget Law 2017 – the main rule laid down by the Italian legal system to adjust economic policy in the next three years through fiscal policy measures.

3. RECENT LEGISLATIVE CHANGES

3.1. The Jobs Act

A significant change in Italian legislation is represented by the Jobs Act; it consists of a total of eight legislative decrees that entered into force since September 2015. The most important act to be considered is the Legislative Decree of June 15, 2015, n. 80 “Measures for reconciliation of the needs of care, life and work” – in implementation of Article 1, paragraphs 8 and 9 of the Law of 10 December 2014 n. 183 (see Table 3).

TABLE 3. COMPARISON BETWEEN THE NEW AND THE PREVIOUS LAW

	Reference Laws	New Regulation	Former Regulations
Maternity Leave	Art. 2, Legislative Decree no. 80/2015– Art. 16bis, Legislative Decree no.151/2001	If the baby is hospitalised during the time of the so-called mandatory leave, the mother can ask for the leave to be suspended on the child returning home.	
	Art. 3, Legislative Decree no. 80/2015– Art. 24, Legislative Decree no. 151/2001	The right to receive maternity leave (directly from INPS) is extended to the case when employment is terminated for a good reason.	
	Art. 2, Legislative Decree no. 80/2015– Art. 16, Legislative Decree no. 151/2001	The days of unavailed mandatory leave prior to the birth (because of an earlier delivery than expected) are added to the post-natal mandatory leave where entitlement to mandatory maternity leave covers more than 5 months.	Unavailed pre-natal mandatory leave days could not be recovered.
Parental Leave	Art. 7, Legislative Decree no. 80/2015– Art. 32, Legislative Decree no. 151/2001	The time during which a working parent can use the leave covers the child's first 12 years.	Parental leave covered the child's first 8 years
	Art. 7, Legislative Decree no. 80/2015– Art. 32, Legislative Decree no. 151/2001	Parental leave can be used on an hourly basis, according to collective bargaining (also at company level); otherwise, each working parent can opt for leave on an hourly basis, provided this does not exceed the average number of (monthly) paid hours preceding the beginning of the leave.	Parental leave could be used on an hourly basis, according to collective bargaining.
	Art. 7, Legislative Decree no. 80/2015– Art. 32, Legislative Decree no. 151/2001	The minimum notice for entitlement to parental leave is 5 days; if on an hourly basis, it is 2 days.	Minimum notice: 15 days.
	Art. 8, Legislative Decree no. 80/2015– Art. 33, Legislative Decree no. 151/2001	In the case of severe disability of the child, the period during which one working parent is entitled to extend parental leave covers the child's first 12 years.	It covered the child's first 8 years.
	Art. 9, Legislative Decree no. 80/2015– Art. 34, Legislative Decree no. 151/2001	The limit within which parental leave entitles to 30% of the pay covers the child's first 6 years.	It covered the child's first 3 years.
	Art. 10, Legislative Decree no. 80/2015 Art. 36, Legislative Decree no. 151/2001	A working parent can use parental leave in the case of adoption or fostering until the first 12 years of the child's life within the family.	Only until the first 8 years of the child's life within the family.
	Art. 10, Legislative Decree no. 80/2015– Art. 36, Legislative Decree no. 151/2001	The maximum period for using parental leave allowance covers the first 6 years of the child's life within the family.	Until the first 3 years of the child's life within the family.

	Reference Laws	New Regulation	Former Regulations
Paternity Leave	Art. 5, Legislative Decree no. 80/2015– Art. 28, Legislative Decree no. 151/2001	Paternity leave is extended to all types of workers when the mother cannot use the leave for natural or contingent reasons.	Only employees can avail of paternity leave.
Disabled Child Care	Art. 8, Legislative Decree no. 80/2015– Art. 33, Legislative Decree no. 151/2001	The mother or father of a seriously disabled child is entitled to extend parental leave up to 3 years within the child's first 12 years.	Entitlement to parental leave can be extended up to 3 years to be taken within the child's first 8 years.
Night Shifts	Art. 11, Legislative Decree no. 80/2015– Art. 53, Legislative Decree no. 151/2001	Adoptive/foster mothers are exempted from working night shifts during the first 3 years of the child's life within the family, and in any case until the child is 12; alternatively, the exemption applies to adoptive/foster fathers living with the mothers.	
Resignation Without Notice	Art. 12, Legislative Decree no. 80/2015– Art. 55, Legislative Decree no. 151/2001	A working mother, as well as working father availing himself of paternity leave until the child's first birthday, are entitled to resign without notice.	
Telework	Art. 23, Legislative Decree no. 80/2015	Private employers can allow an unlimited number of employees to work from home, due to parental care needs and on the basis of collective agreements.	
Victims of Violence	Art. 24, Legislative Decree no. 80/2015	<p>Victims of gender violence (employees and contractors in the public or private sector) involved in care programs certified by the social services of the Municipality or the anti-violence centres (article 5-bis of Legislative Decree 93/2013) may request a 3-month leave from work, with a right to full pay.</p> <p>For the same period they are also entitled to switch from full-time to part-time employment.</p>	

For maternity leave, the decree introduces two new provisions:

a) in case of premature birth, the maternity leave not enjoyed before birth can be enjoyed by the working mother after the birth of

the child, although this may lead us to overcome the five months generally expected.

b) in the event of hospitalization of the new-born mother has the right to request the suspension of maternity leave and to enjoy

the leave, in whole or in part, from the date of the child's discharge. To return to work during the period of the child's hospitalization working mothers must still produce medical certificate declaring the compatibility of his state of health with the resumption of work. This provision shall also apply in cases of adoption or child credit.

In Italy, there is a prohibition of dismissal during pregnancy and in the first 12 months of the child's life. The hypothesis of dismissal for cause, then linked to serious faults of the working, it is still possible for the employer even in this period. The decree n. 80/2015 affirm that maternity allowance is also due in cases of dismissal above mentioned.

For paternity leave, the decree introduces some changes: before the decree, Paternity leave was granted only to the employees; the decree 80/2015 extends the paternity leave also to self-employed, instead of the mother who has an objective obstacle (sole custody, neglect, serious health reasons, death).

Parental leave can be taken by employees of every sector on a part-time basis, for a few hours per day, up to a maximum of half the average daily hours worked in the year immediately preceding the start of Parental leave. The existing law provides for maximum six months parental leave per parent in the total limit of 10 months (rising to 11 if the father enjoys at least three months). To date, the age limit of the children was 8 years old; the decree 80/2015 rises to 12 years the limit even in the case of parental leave due to children with severe disabilities and in the case of adoption; in the latter case, the leave must be received within twelve years since the child in the family. About payment, before the decree the leave period was compensated 30% of the salary until the age of 3 years of the child; the decree 80/2015 raises the limit to 6 years; the provisions are extended to self-employed and freelancers.

With this Legislative Decree employee can ask, instead of parental leave, the transfor-

mation of employment full time in part-time relationship, provided with a time reduction does not exceed 50 per cent; there is also the possibility, only for the working mother, to request, at the end of maternity leave and within eleven months, as an alternative to parental leave, vouchers for the purchase of baby-sitting services, or a contribution to make use of child care services (public or private accredited) for up to six months. The amount of the contribution is € 600.00 per month and is paid for a maximum period of 6 months (3 months for workers registered with the separate management).

Analysis of the measure that allows women to exchange paid Parental leave for vouchers to use in childcare services— introduced by Law 92/2012 and operating on a trial basis in 2013-14— shows that only a third of the €20 million allocated for this policy has been spent (Prioschi, 2013)¹⁴. It is still to be determined if this is due to the criteria for eligibility being too strict or to a low number of applications. The low number of vouchers can also in part be related to the application procedure to be followed by childcare institutions that has been considered too complex and to be accomplished within a very limited time leading to take-up by only a few institutions amongst those that are eligible.

It's important to highlight that financial support for child care requires renunciation of parental leave: this short way to work life balance so could be a disincentive to the use of leave. Moreover, as stressed by Isfol (2013), the measure's focus on women could lead to the reproduction of the already very unequal division of care responsibilities within Italian families. Parental leave is in fact required by law to promote the presence of both parents in early childhood. Allowing monetary exchange

¹⁴ It is however important to outline that the 20 million euro available would cover annually about 11,000 persons for six months; whereas employed women employees with children 0-2 years are estimated 735,000, it would result in a coverage of approximately 1.5% of the potential demand on an annual basis.

only to the woman could instead explained as a way to facilitate the rapid return to work of the mother, ensuring, in the meantime, not the care-sharing in the family, but simply the coverage of nursing service, “in the absence” of the mother. The risk is that this measure should strengthen the corporate culture for which the return from maternity leave is required for the fear of losing a share of productivity and to check as soon as possible that the woman is still reliable, «even if Mom». Intervene only on maternity protection, without adequate measures to rebalance gender in loads of care, can hardly be a driving force for the rise in female employment rates and permanence of women in the labour market also acting on the phenomena of vertical and horizontal segregation.

The Italian case raises wider questions about the design of parental leave policies, their impact on parenting practices and the gendering of care: the measure introduced in Italy actually fosters a «short-leave male breadwinner» model (Wall, 2008), where the involvement of fathers in care is still very limited; it also confirms the centrality of women to domestic and care work, as well as their scarce presence in the labour market, compared with the majority of other EU countries (Rossi, Carrà, & Mazzucchelli, 2009).

3.2. The Law of 11 December 2016 n. 232, Budget Law 2017

This trend is also confirmed by the Law of 11 December 2016 n. 232, the Budget Law 2017, which entered into force on January 1, 2017; this is the main rule laid down by the Italian legal system to adjust economic policy in the next three years through fiscal policy measures.

It contains several measures to support the family. Let's look briefly.

Bonus Mamma Domani (Bonus Mom Tomorrow) is an 800 Euros prize for childbirth which can be requested from the INPS (Na-

tional Institute of Social Security) by the future mother at the end of seventh month of pregnancy. It is a cash measure aimed at encouraging motherhood and having three positive elements:

1. it is disbursed before childbirth to help families to cope with the costs of pregnancy or adoption
2. it does not contribute to the total income (article 8 of Presidential Decree no. 917/1986, Approval of the consolidated text of taxes on income)
3. the income constraint is not provided.

It is also confirmed Bonus bebè (Baby bonus) intended for low-income families, amounting to EUR 80 per month for three years (960 € per year) since the birth of the child; it was established by the 2015 Budget Law for each child born or adopted from 1 January 2015 until 31 December 2017. Also in this case it is a cash measure aimed at encouraging motherhood.

The Voucher Asili Nido (Voucher for Nurseries) is a 1000 euro per year voucher, paid in 11 months for the first three years of the child and it is intended for families who have the need or the will to bring the baby to the nursery. There are no income constraints for access to this measure. The economic contribution is recognized to the working mother, even self-employed, replacing (even partially) the parental leave. It is therefore a cash measure aimed at encouraging motherhood and the early return to work; the focus only on the female figure contains a gender imbalance.

The Voucher Baby Sitter (the Voucher for childminders) –intended for working mothers returning to work soon after the five months of compulsory maternity leave– is extended for the years 2017 and 2018: it is a € 600 monthly voucher to pay nursery or baby-sitting for six months¹⁵. Even in this case It is a

¹⁵ Three months for self-employed.

cash measure aimed at encouraging motherhood and the early return to work; the focus only on the female figure contains a gender imbalance and moreover the qualifications of the personnel involved is a crucial element to accurately assess.

Finally the extension for 2017 of the compulsory leave for the employee working father (art. 48, para 2) is the only measure that affects the fathers. The length is elevated by 1 to 2 days usable even not continuously within five months of childbirth. Article 1, paragraph 354 extended compulsory leave for fathers employed also for births and adoptions allowances in the solar year 2017.

About the flexible use of Parental leave, the Law 11 December 2016, no. 232 (Budget Law 2017) extended the benefit in question for 2017-2018 both for employed and self-employed persons (funded by €40 million for each of the two years) and for self-employed workers and entrepreneurs (within the spending limit of €10 million for each of the two years).

3.3. The Law of 27 December 2017 n. 205, Budget Law 2018

On December 23, 2017 the Senate approved the text of the 2018 Budget Law which confirms the Baby bonus, Bonus Mom Tomorrow, Voucher for Nurseries and Voucher for childminders. Furthermore among the 2018 family bonuses are introduced the State maternity allowance (Assegno maternità dello Stato) and the Municipality maternity allowance 2018 (Assegno di maternità Comune 2018). The State maternity allowance is an advantage for a maximum of 5 months for working or precarious mothers residing in Italy, Italian, EU or non-EU citizens with EC residence permits, the Municipality maternity allowance 2018 is instead a three months contribution for unemployed and housewife mothers in the event of pregnancy.

4. DISCUSSION AND CONCLUSIONS

The new norms (Jobs Act and Budget laws) introduce a significant cultural shift in the legislative context: from a culture centred on the sharing of parenting and on the enhancement of the family as main care actor to a workfare culture, marked by a strong gender segregation and where the primary care actor is external to the family and kinship network (nanny or day-care). For a better and complete understanding of the law and its impact, it is however necessary to look at the interplay of different family policies, i.e. on leave, childcare, working time regulation and tax benefits (Ejrnæs, 2008)¹⁶. It is moreover important try to understand the complex relationship between the arena of welfare policies and the wider configuration of socio-economic and institutional frameworks¹⁷ within which the Italian welfare regime is placed. As

¹⁶ The effects of parental leave schemes on gender equality are, in fact, double-edged. On the one hand, the parental leave scheme could minimize the gender employment gap, thereby increasing women's employment because parental leave enables mothers to combine caring with employment. On the other hand, long leave periods may reinforce a traditional gendered division of paid and unpaid work, thereby damaging women's future career opportunities, which could in turn further contribute to gender differences in wages and to weaker promotion opportunities (EJRNÆS, 2008). The outcomes of different leave policies are highly dependent on the structural conditions within the labour market and on the characteristics of family policies. The question of whether parental leave enables women to remain in gainful employment or encourages women to withdraw from the labour market is highly dependent on the governance of leave policies and of family policies, as well as on the interplay with other kinds of family and labour market policies (child care policies, working time regulation and tax benefit policies...) (MAZZUCHELLI, ROSSI, 2015).

¹⁷ Policies at the EU level on parental leave must take into consideration how the interplay between different kinds of family policies shape work and child care in different national contexts. In some countries (Eastern and Central Europe), in fact, long parental leave serves as a means to compensate for the lack of child care facilities while in other countries (Southern Europe) parental leave is used to prevent permanently employed mothers from leaving the labour market after maternity. Still other countries (Nordic countries) use leave policy as a way to shape a more flexible transition between paid work and care work and to redistribute the gendered division of care work in the home (MAZZUCHELLI, ROSSI, 2015).

well demonstrated in a recent contribution (Mazzucchelli, Pesenti, Bosoni, in press), Parental Leave policy must be conceptualised within a broader framework concerning care-work policies and cultural ideas over care tasks¹⁸.

Whilst highlighting the extent to which parental leave is used –more and more lacking datum in recent years– the literature does not tell us about parents' satisfaction with the solutions they have adopted. The latest findings on reconciliation (ISTAT, 2011), however, show that for over a quarter of parents the most crucial time is their children's school-age years, also stretching to after their entry into higher education. This challenges the general belief that the work-family reconciliation problem coincides solely with children's early years (0-3). Extending parental leave until a child's 12th year already shows a certain openness towards understanding families' real care needs but the above data, however, shows that this understanding is still insufficient.

An analysis of parents' apparent motives for not using the leave (ISTAT, 2011) also shows that they count on alternative, diversified childcare strategies. This suggests that the resources provided by a social policies system must meet the requirements of couples who seek a suitable way for tackling the challenge of the transition to parenthood (Donati, Prandini, 2008). A more personalised approach to the needs of individual families,

however, also requires families to have the capacity to evaluate and effectively re-combine their actual resources.

The findings also stress that reconciliation instruments are especially used by mothers, while fathers still tend to struggle to reconcile work with family life: in 2010, 33.3% of mothers and 28.6% of fathers sought to increase care time at the expense of work time (ISTAT, 2011). Thus, the culture by which the whole load of care and reconciliation is dumped on the family –or, rather, on women (Addabbo, Caiumi, Maccagnan, 2012; Banca d'Italia, 2012; O'Brien, 2005)– is being altered from within.

Finally, the presence of certain methodological limitations must not be overlooked. The fact that research data from various sources refer to individuals hinders a relational discussion of the issue (Rossi, 2009). Also leave is used differently not only by women and men but depending on parents' education, income and employment situation; and these differ both individually and between partners, making the impact of leave policies uneven (Addabbo, Giovannini, 2013); moreover, the absence of good comparative data on eligibility and take-up rates makes it difficult to compare different socio-economic groups or make proper evaluations of different leave policies.

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¹⁸ In line with this conceptualisation, we propose a model based on structural and cultural dimensions. Structural dimensions considered in the model include: leaves (maternity, paternity, parental), childcare services (0-3 years and 3-6 years), the relationship or gap between leaves and Early Childhood Education and Care (ECEC) entitlements, occupational welfare, and family structures (e.g. children living with two parents). Cultural dimensions include levels of gender inequality and intergenerational solidarity orientation. Considering these six dimensions we focus on four countries, namely Germany, Italy, Sweden, UK. These countries recall well-established regimes and allow comparable data providing at the same time interesting variations in terms of both broad societal context and Leave systems.

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ABSTRACT The Italian norms protecting the family with regard to maternity and childhood have been considerably modified in the last few decades, mainly with the aim of improving children's wellbeing but also in order to create better conditions for reconciling maternity and work rights.

Following the ground-breaking laws Nos. 1204 of 1971 and 903 of 1977 –which offered protection to working mothers and equal treatment of men and women at work respectively– Act No. 53 of 8 March 2000 (*Provisions on Maternity and Paternity Safeguard and Support, the Right to Care and Time Coordination in the Cities*) significantly changed legislation regulating employment rights in relation to childcare. For the first time in Italy, in fact, it introduces the individual right of male employees with small children to take parental leave, thus undermining the idea of childcare as a women-only responsibility. Besides, the law considers the parental couple (rather than the individual parents) the essential reference for the child's growth process. The underlying vision of parenting is thus a co-responsible inter-parental relationship.

Having summarized strengths and weaknesses of Act No. 53 of 8 March 2000 this paper explores the great transformation processes occurred in the Italian legislation on leaves: the implementation of Jobs Act (Legislative Decree 15 June 2015, n. 80) that has developed innovative pathways; and, above all, the measures contained in the Budget Law 2017 (Law of 11 December 2016 n. 232) and in the Budget Law 2018 (Law of 27 December 2017 n. 205)– the main rules laid down by the Italian legal system to adjust economic policy in the next three years through fiscal policy measures.

The Italian case raises wider questions about the design of parental leave policies, their impact on parenting practices and the gendering of care: the measures introduced in Italy actually fosters a «short-leave male breadwinner» model (Wall, 2008), where the involvement of fathers in care is still very limited; they also confirm the centrality of women to domestic and care work, as well as their scarce presence in the labour market, compared with the majority of other EU countries (Rossi, Carrà, & Mazzucchelli, 2009).

The new norms (Jobs Act and Budget laws) introduce a significant cultural shift in the legislative context: from a culture centred on the sharing of parenting and on the enhancement of the family as main care actor to a workfare culture, marked by a strong gender segregation and where the primary care actor is external to the family and kinship network (nanny or day-care). For a better and complete understanding of the law and its impact, it is however necessary to look at the interplay of different family policies, i.e. on leave, childcare, working time regulation and tax benefits (Ejrnaes, 2008). It is moreover important try to understand the complex relationship between the arena of welfare policies and the wider configuration of socio-economic and institutional frameworks within which the Italian welfare regime is placed.

Whilst highlighting the extent to which parental leave is used –more and more lacking datum in recent years– the literature does not tell us about parents' satisfaction with the solutions they have adopted. The latest findings on reconciliation (ISTAT, 2011), however, show that for over a quarter of parents the most crucial time is their children's school-age years, also stretching to after their entry into higher education. This challenges the general belief that the work-family reconciliation problem coincides solely with children's early years (0-3). Extending parental leave until a child's 12th year already shows a certain openness towards understanding families' real care needs but the above data, however, shows that this understanding is still insufficient.

An analysis of parents' apparent motives for not using the leave (ISTAT, 2011) also shows that they count on alternative, diversified childcare strategies. This suggests that the re-

sources provided by a social policies system must meet the requirements of couples who seek a suitable way for tackling the challenge of the transition to parenthood (Donati, Prandini, 2008). A more personalised approach to the needs of individual families, however, also requires families to have the capacity to evaluate and effectively re-combine their actual resources.

Finally, the presence of certain methodological limitations must not be overlooked. The fact that research data from various sources refer to individuals hinders a relational discussion of the issue (Rossi, 2009). Also leave is used differently not only by women and men but depending on parents' education, income and employment situation; and these differ both individually and between partners, making the impact of leave policies uneven; moreover, the absence of good comparative data on eligibility and take-up rates makes it difficult to compare different socio-economic groups or make proper evaluations of different leave policies.

Keywords: Leave policies; parental couple; childcare; work-family reconciliation.

RESUMEN

La legislación italiana sobre la protección de la familia con respecto a la maternidad y la infancia se ha modificado considerablemente en las últimas décadas, principalmente con el objetivo de mejorar el bienestar de los hijos, pero también con el de crear mejores condiciones para conciliar la maternidad y los derechos laborales.

Tras las innovadoras Leyes 1204 de 1971 y 903 de 1977, que ofrecían protección a las mujeres trabajadoras y un tratamiento igualitario del trabajo entre hombres y mujeres, respectivamente, la Ley 53 de 8 de marzo de 2000 (*Legislación sobre el apoyo y salvaguarda de la maternidad y paternidad, el derecho al cuidado y la coordinación del tiempo en las ciudades*) cambió significativamente la legislación que regulaba los derechos laborales con relación al cuidado de los hijos. De hecho, esta ley introduce por primera vez en Italia el derecho individual de los hombres trabajadores con hijos menores para solicitar la baja parental, desterrando la idea de que el cuidado de los hijos era solamente responsabilidad de las madres. Asimismo, la ley tiene en cuenta a las parejas parentales (más que a los padres de forma individual) como referente esencial dentro del proceso de desarrollo del hijo. La visión subyacente de la paternidad es, por tanto, una relación de corresponsabilidad parental.

Tras resumir los puntos fuertes y débiles de la Ley 53 de 8 de marzo de 2000, este artículo analiza los grandes procesos de transformación que se han producido en la legislación italiana en cuanto a las bajas laborales: la puesta en marcha de la Ley del Trabajo (Decreto legislativo de 15 de junio de 2015, n. 80) que ha marcado una vía innovadora; y, sobre todo, las medidas contenidas en la Ley Presupuestaria de 2017 (Ley de 11 de diciembre de 2016 n. 232) y la Ley Presupuestaria de 2018 (Ley de 27 de diciembre de 2017 n. 205)- las principales normas establecidas por el sistema legislativo italiano para el ajuste de las políticas económicas en los próximos tres años a través de medidas fiscales.

El caso de Italia plantea cuestiones sobre el diseño de las políticas de permisos parentales, su impacto sobre las prácticas de paternidad y la discriminación por género en cuanto a la asignación de las tareas para el cuidado de los hijos: en realidad, las medidas introducidas en Italia promueven un modelo de «sostén familiar masculino con un permiso de corta duración» (Wall, 2008), en el cual la implicación de los padres en el cuidado de los hijos es todavía muy limitada; dichas políticas también confirman el papel central de la mujer en el trabajo doméstico y el cuidado de los hijos, así como su escasa presencia en el mundo laboral, en comparación con la mayoría de los países de la UE (Rossi, Carrà, y Mazzucchelli, 2009).

La nueva legislación (Ley del Trabajo y Ley Presupuestaria) introduce un importante cambio cultural en el contexto legislativo: desde el punto de vista cultural enfocado en el reparto de tareas de paternidad y el protagonismo de la familia como el principal protagonista de los cuidados a la cultura de contraprestación marcada por una fuerte segregación por sexo donde el protagonista principal no pertenece ni a la red de parentesco ni es externo a la familia y o al núcleo familiar (cuidadores o guarderías). Para comprender mejor esta ley y su impacto es necesario, sin embargo, analizar la relación entre las diferentes políticas de la familia, es decir, la baja maternal, cuidado de los hijos, regulación de las horas de trabajo y los beneficios fiscales (Ejrnæs, 2008). Además, es importante intentar comprender la compleja relación existente entre el escenario de las políticas de bienestar y la más amplia configuración del marco socioeconómico e institucional dentro del cual se sitúa el sistema de bienestar italiano.

A pesar de que los datos de los últimos años son cada vez más escasos, las publicaciones resaltan el alcance de los permisos parentales, pero no hablan sobre la satisfacción de los padres sobre las soluciones que han adoptado. No obstante, las últimas conclusiones sobre la conciliación de vida laboral y familiar (ISTAT, 2011) muestran que para más de la cuarta parte de los padres el período crucial es el de los años de escolarización primaria de sus hijos, que se alarga hasta después del comienzo de su educación secundaria. Estos

datos se contradicen con la creencia general de que los problemas para la conciliación de la vida laboral y familiar afectan únicamente a los primeros años de vida de sus hijos (0-3). La prolongación de los permisos parentales hasta la edad de 12 años muestra una cierta apertura sobre las necesidades reales de las familias, pero, según los datos mostrados más arriba, demuestra que estas políticas son todavía insuficientes.

Si analizamos los motivos por los cuales los padres no utilizan los permisos (ISTAT, 2011) podemos observar que se sirven de diversas estrategias alternativas para el cuidado de los hijos. Este hecho sugiere que los recursos proporcionados por el sistema de políticas sociales deben satisfacer las necesidades de las parejas que buscan una vía apropiada para enfrentarse al reto de la transición a la paternidad (Donati, Prandani, 2008). Sin embargo, para lograr un enfoque más personalizado sobre las necesidades de las familias individuales se requiere que estas tengan la capacidad de evaluar y recombinar de forma eficaz sus recursos reales.

Finalmente, no debe dejarse de pasar por alto la existencia de ciertas limitaciones metodológicas. El hecho de que los datos de investigación disponibles se refieran a los individuos dificulta la discusión relacional del problema (Rossi, 2009). Además, los permisos no se utilizan de igual forma por parte de hombres y mujeres sino que depende de la educación de los padres, ingresos y situación laboral; difieren tanto de forma individual como entre las parejas, con lo cual el impacto de las políticas de permisos es desigual; es más, la ausencia de datos comparativos fiables sobre la elegibilidad y los porcentajes de prestación dificultan poder comparar los diferentes grupos socioeconómicos o evaluar de forma adecuada las distintas políticas de permisos.

Palabras clave: Políticas de permisos parentales; padres; cuidado de niños; reconciliación trabajo-familia.

Economic crisis and austerity, work-life balance policy for working parents and parental behavior in Greece

Crisis económica y austeridad, políticas de conciliación de vida familiar y laboral para padres trabajadores y comportamiento parental en Grecia

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1. INTRODUCTION

The increasing participation of women in the labour market, the engagement of women mainly in full-time jobs, the changes in the family structure and behaviour and the great fall in fertility have made in Greece, as elsewhere, work-life balance policies a necessity from the 1980's onwards. The European Employment Strategy has played an important role in this direction and allowed the funding of childcare facilities by the European Structural Funds, the European Social Fund in particular.

Work-life balance policy in Greece has prioritised the needs of working parents, enabling them to perform their work and care duties through leaves and access to affordable childcare services. Other policy options, such as flexible employment, have never been favoured by policymakers to promote reconciliation between work and family/personal life, mainly because part-time work has been unpopular

among the female population. Changes in the leave system dominated work-life balance policy until the late 1990s when public childcare infrastructure and services were brought to the fore by receiving a great boost that was prolonged in the first half of the 2000s.

As regards leave policies, the broad developments between 1980 and 2008 can be summarized in the following:

- Introduction of new leaves and continuous improvement of their provisions
- More paid leave provisions
- More flexibility in their use
- Special provisions for various categories of parents with particular needs
- More attention to the principle of gender equality.

As regards childcare services, public and private nurseries for preschool children started to develop in the 1980s but their growth accelerated in the 1990s and 2000s, while all-day kindergartens were introduced in the late 1990's and developed gradually up to 2008 alongside all-day schools and centres for the creative occupation of school-age children during out-of-school hours.

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Since 2008, Greece has experienced a deep and prolonged economic crisis which has been exacerbated by severe austerity policies after 2009 when the sovereign debt crisis erupted. From 2010 to date, the country has implemented three Economic Adjustment Programmes based on three pillars: financial stabilization, fiscal consolidation and internal devaluation meant to improve competitiveness. Harsh austerity measures reduced GDP by 25% and employment by 24% while the unemployment rate reached its peak (27%) in 2013. Fiscal consolidation has reduced the capacity of the State to finance the welfare state, in a period when the latter was most needed. Social expenditure has been sliced down between 2010 and 2014, leaving the expansion of poverty unchecked.

This article studies the impact of the crisis in Greece on one particular field of social policy, reconciliation of work and family life, and examines changes in parental behaviour as a result of the rise in labour market precariousness and changes in childcare policy (leaves, services and allowances). Reconciliation is viewed basically in terms of time management and the conflict that time mismatch may cause on work and family life as well as care arrangements. The focus is on policies and measures that particularly aim at facilitating working parents. We examine the period 2008-2016 during which Greece has experienced either a negative economic growth or stagnation, with the exception of a slight recovery in 2014. In 2017 GDP increased by 1.4% while stronger growth is forecast for 2018.

The main argument put forward in this article is that reconciliation policy has not only been spared by the adverse impact of fiscal consolidation on social expenditure but it has also been one of the rare social policy fields to witness improvements. This can be attributed to the concern of policymakers about child poverty and falling fertility while, in the case of leaves, it reflects the positive influence of EU equality policy. In the past three years, im-

provements have accelerated, stemming from the political choice made by the current Left government to reinforce social protection, increase social expenditure and achieve universal coverage of children by care services.

The structure of the article is the following. In the next section (two) we describe the main socio-economic trends during the ongoing economic crisis in Greece to provide the context within which the changes in work-family reconciliation policy took place. We examine these changes in detail and assess the impact of the economic crisis and austerity policies on work-life balance policy in section three. In section four we study how parental attitudes and behaviour regarding leave policy and childcare arrangements have been affected by the crisis and in response to changes in reconciliation opportunities. Section five draws the conclusions from the analysis and assessment of the changes and reflects upon the wider context of child policy and its interrelationship with work-life balance policy for working parents.

2. A DEEP AND PROTRACTED ECONOMIC CRISIS: MAIN SOCIO-ECONOMIC TRENDS

The economic crisis that hit Greece in the late 2000's, but also the Memoranda of Understanding that were signed between Greece and its creditors (EU/IMF/ECB), have had undoubtedly a profound impact on all spheres of life. Unemployment rose to an unprecedented level, family income was severely reduced, poverty levels rose significantly and many people queued up for their daily meal. A lot of families faced much hardship and tried hard to make ends meet. As a result, many young people but even families with children immigrated and fertility level dropped significantly.

A few data may enlighten the reader as to the extent and social impact of the crisis:

- Employment declined rapidly but the decline was greater for men than for

women as crisis hit first and most the male dominated sectors of employment (Appendix: Diagram 1). New hires under part-time contracts and conversions of full-time to part-time work during the crisis increased the part-time employment rate from 5.4% in 2008 to 9.8% in 2016.

- Unemployment, which was declining before the crisis, rose sharply during the crisis years. Between 2008 and 2013 it rose by 3 times for men and by 5 times for women (Appendix: Diagram 2).
- Interestingly, activity rates that fell slightly for men increased for women. This indeed shows a greater quest on the part of women for employment (Appendix: Diagram 3) and partly explains the female unemployment rate.
- Per capita income fell by 24% between 2008 and 2016¹.
- The rate of poverty and social exclusion rose significantly during the years of crisis reaching its peak in 2012 where one third of the population was facing such risk. The child poverty rate rose even higher (Appendix: Diagram 4). Among different household types, single-parent ones, mostly headed by women, have incurred the highest risk. In 2012 three out of four such households were living in poverty, falling to one in two in 2016.
- Material and social deprivation increased significantly during the crisis years. For example, between 2008 and 2016 the number of people declaring not affording to keep their house adequately warm or having a proper meal or meeting unexpected financial expenses doubled. Namely, in 2016 40% of those questioned said they could not make ends meet, double the percentage

of 2008 and the highest one amongst all EU countries (EU-SILC survey, Eurostat data base, accessed 22.1.18).

- The fertility rate which was increasing in the pre-crisis years fell considerably after 2010 (Appendix: Diagram 5)
- The number of people that immigrated abroad tripled between 2008 and 2012 (Appendix: Diagram 6)

Undoubtedly, the material and psychological shock that the Greek society has suffered was enormous. A large number of enterprises closed down or changed their strategies in order to reduce costs and survive starting from working-time reductions² and then passing to wage cuts or lay-offs. Families had to alter their life styles and priorities and adopt new ways to meet their basic needs.

The question that we will discuss in the following sections is how far these very significant in extent and depth socio-economic adjustments impacted work-life policies, employer practices and parental attitudes and behavior.

3. WORK-LIFE BALANCE POLICY: THE IMPACT OF CRISIS AND AUSTERITY

To study the impact of the crisis on work-life reconciliation policy, we first provide a concise picture of measures available in 2008, then describe and assess the changes in the different areas of reconciliation policy during the economic crisis and the austerity period

² Results of a survey that the Bank of Greece implemented in enterprises referring to the period 2010-2013 (Annual Report of the Bank of Greece 2016, p.102-103). Another source reports that during particularly the first years of crisis large numbers of employers often without the consent of employees modified full-time work contracts to part-time or rotation work contracts. For example, between 2009-2012 the modification of full-time to part-time contracts increased by 4 times and the modification of full-time to rotation work contracts by 7 times (Ministry of Labour, Social Security and Welfare, Activity Report of Labour Inspectorate 2013).

¹ Hellenic Statistical Authority data base, accessed 24.1.18. The data refer to the net national disposable income.

and, finally, discuss the determinants of such changes.

3.1. The leave system and the availability of childcare services in 2008

Table 1 (Appendix) outlines the Greek leave system for childcare in 2008. Its main features were the divide between the public and private sector, with the public sector being more generous and unconditional in the provision of leaves; gender biases in the legal framework; limited leave provisions for fathers and no measures to encourage them to take up leaves; no rights for the self-employed (almost 30% of the labour force in 2008).

Formal childcare services for pre-school and school-age children are an essential component of the childcare system and reconciliation of work and family/personal life policy. In Greece, compulsory school age is at 6 years. From school year 2007-8, one year of pre-school education was also made compulsory for children at the age of 5.

Formal childcare services in Greece include private and public crèches, nurseries and centres for the creative occupation of children during out-of-school hours. In the beginning of the 2000s public childcare provision was decentralised from the central state to local authorities and all public crèches and nurseries were passed over to municipalities which generally set reasonable fees for the provided services, varying according to the family income level of the parents. Coverage of pre-school age children by formal care services in Greece was among the lowest in EU27 before the crisis while public and private providers catered roughly equivalent numbers of children. Notwithstanding great progress in the availability of public childcare services in the 2000s, coverage by formal care services of children below 3 years and from 3 years to compulsory school age was only 12% and 67% respectively in 2008.

Beyond the above types of formal childcare, one should add two important changes in pre-

school and school education in the late nineties, which have largely facilitated working parents in their caring duties. Until 1997, all public kindergartens used to operate from Monday to Friday between 8:30 a.m. and 12:15 p.m. This timetable was extremely employment-unfriendly for mothers with children aged 4-6 years. In 1997, Law 2525 established the *all-day (public) kindergarten* and provided for its gradual implementation in the whole country. The new institution consisted of special classes that follow an 8-hour daily schedule, which children may attend upon their parents' application. The same Law also established the *all-day (public) school*. This was first implemented through a pilot project –initiated in June 1999– of 28 daylong schools operating with extended time schedules. The normal schedule for the primary schools was from 8.15 to 12.40 or 13.30 while the schedule of all-day schools from 8.15 to 16.00, with the possibility for working parents to drop their child at 7.00 in the morning before going to work. At the same time, the Ministry of Education started to create classes with extended schedules within 'normal' public schools, with the aim to gradually extend their availability to all schools in the whole country. Between 1998 and 2008 more than 4500 schools had developed such classes³. Since their very introduction, all-day kindergartens and schools serve both educational and childcare goals, with the former having become more important than the latter for policy-makers⁴. Being part of the public educational system, all services are free of charge.

3.2. Changes in work-life balance policy during the economic crisis

During the crisis years, the most significant change in the leave system was the in-

³ Data of the Greek Ministry of Education, Research and Religious Affairs included in KARAMESSINI et al (2016: 88).

⁴ According to evidence provided in KARAMESSINI et al (2016: 96-97), the out-of-school care in pre-school educational facilities had at the beginning clear child care objectives being addressing children of working parents. However, in subsequent ministerial decisions, this restriction was removed and now it addresses all children.

roduction of maternity leave for the self-employed. Although this change was dictated by European legislation on equal treatment for the self-employed (Directive 2010/41/EU), it was indeed a break-through provision as a totally ignored in the leave system category of population was now included. However, the level of leave payment is very low and falls below the minimum wage that is often used for the calculation of benefits. As this provision is covered by the Insurance Funds of the self-employed, whose financial condition was worsened in the years of crisis, it seems that the level of payment was adjusted to available resources and not to any general principles, thus raising concern about the unequal treatment of workers. The Greek Ombudsman, referring to the inequalities amongst different occupational categories with regard to leave provisions, notes that these are «unfair deviations from the protection owed by the Constitution and European legislation and cannot be justified on the basis of any rational criteria related to operational demands» (The Greek Ombudsman, 2013: 114).

Other of lesser significance changes during the years of crisis include the extension of the non-paid parental leaves in both the public and the private sectors, in conformity with the EU Directive 2010/18/EU, the introduction of a 2-day paternal leave in the public sector and some quite significant improvements in the leaves for health reasons of children or dependent relatives in both the public and private sectors.

The most notable development regarding childcare during the crisis years was the introduction and development of the Programme «Reconciliation of Work and Family Life», which provides to thousands of families access to childcare services free of charge (Appendix: Table 2). It is co-funded by the ESF. The Programme allows working and unemployed mothers whose family income falls under a fixed ceiling to apply and enrol their children to public or private childcare facilities of their choice. Priority is given to mothers who are unemployed or in precarious employment

or whose income is below the poverty line. Beneficiaries receive a voucher that is handed over to the childcare provider. During the school year 2006-17, in order to increase the number of facilities that could participate, the Programme loosened the conditions for the participation of public and private providers (i.e. no ceiling of 70% voucher places out of all available places as before, less bureaucracy)⁵.

The Programme was very welcomed by the parents who increased the number of applications by 7 times between 2009 and 2017 (Appendix: Table 2). The growth of demand stemmed from the inability of poor families to pay even for the relatively low fees of municipal childcare facilities, but also from the popularity of the programme among middle-class families that saw their income shrink during the crisis. The relatively high income ceiling used to determine eligibility –recently further increased– has allowed middle-class families to apply in great numbers. In response to demand, a year-by-year increase in the number of free places offered has taken place. Table 2 shows that the number of mothers that benefited from the Programme increased by almost 5 times between 2009 and 2017 while the number of benefited children rose by almost 6 times. Yet, there is still no full coverage of eligible children whose parents submitted applications (80% coverage in 2017).

With regard to childcare facilities, it seems that a growing number have been entering the Programme too (Appendix: Table 3). Accordingly, in 2012 a little less than half of the municipal childcare facilities had entered the Programme⁶ but this seems to have increased significantly reaching, according to unofficial estimates, around 80% of municipal facilities and 60% of private ones in more recent years.

⁵ EETAA, Press release, Modernisation of the Programme «Reconciliation of Work and Family Life», year 2106-17 (23.5.16).

⁶ DANIELIDES, S., (2012). Presentation of the President of the Committee of Social Policy, Employment and Solidarity of the Central Union of Municipalities of Greece, KEDE Conference, 27-28 of January.

In 2015, out of the total number of facilities that entered the Programme, 53% were run by municipal authorities, 30% by private enterprises and the rest by other types of institutions⁷.

The Programme is a popular measure amongst families and received the positive assessment of mothers in terms of retaining their job or searching for work or improving the quality of their family life. Almost two thirds of the respondents said that if it was not for the Programme, they would have to interrupt their work or reduce their working hours because they could not take care of their children, while 46% of unemployed women said that if their child was not accepted they would not have looked for work (Diadikasias, 2013: 38, 40). More generally, it has been noted that «the Programme, on the one hand, saved the childcare system in conditions of extreme austerity and, on the other hand, positively influenced childcare demand for low-income households» (Karamessini, 2015: 265). For some very poor families it has provided a solution to partly cover the feeding needs of their children.

One, however, must note that the Programme is gender-based (for some gender-biased) as it addresses only mothers, assuming that they have the main responsibility of childcare. Very recently fathers were also included in the Programme as applicants but only if they are widowers or heads of single parent households by court order⁸.

Finally, as regards all-day schools and kindergartens, there has been a continuous increase, even during the crisis period though then at a more modest rate. By the school year 2015-16, 90.67% of all primary schools but only 65.3% of kindergartens offered classes with extended schedule (afternoon programme)⁹. The

pedagogical role of the service and the opening up to all parents had become the dominant objective of the all-day school and kindergarten in the pre-crisis period (Skompa, 2013: 195-6). A change took place in 2015 in the eligibility conditions for the participation of children in the all-day classes and the condition that both parents must work or be unemployed was introduced, while children from vulnerable groups were also given priority. This policy change was possibly due to the difficulty in accommodating demand¹⁰. The service is free for parents but they bear the responsibility of preparing at home (and paying the cost) of the meals of their children. However, it must be noted that in recent years, non-governmental initiatives, under the auspices of the Ministry of Education, started to provide free school meals in a number of schools situated in poor areas. In 2016 the Ministry of Education itself ran a pilot programme of free school meals in a small number of schools which in the school year 2017-18 was opened up to a large number of schools addressing all children in those schools¹¹.

Though not directly related to work-life balance measures as such, it is worth noting that during the crisis years we have seen significant changes in the child benefit system of Greece. In an effort to both rationalize, universalize and make more effective the pre-existing system, a new system was instituted in 2012 which set unified criteria in the allocation of child benefits and made possible, for the first time, that all families with dependent children falling under a certain family income ceiling to get a monthly child benefit between 13.3 and 40 euros per child depending on the level of their income and some other equalized criteria. The system was based on means tested assessment, abolishing the previously non-means-tested child benefits that only ad-

⁷ EETAA: Childcare statistics 2015-16.

⁸ EETAA: Invitation for the expression of interest for the implementation of actions within the activity «Reconciliation of Work and Family Life», year 2014-15 (2.7.14).

⁹ Data of the Greek Ministry of Education, Research and Religious Affairs included in KARAMESSINI et al (2016: 86-87).

¹⁰ Ministry of Education, Research and Religious Affairs: Annual circular letters on the operation of the out-of-school care programme.

¹¹ Ministry of Education, Research and Religious Affairs: Government Gazette 3870 B/3.11.17.

dressed large families. In early 2018, the system was further improved and a significant rise in child benefits took place as the benefit now ranges from 28 to 140 euros. Under the new system families that have lived lawfully in the country for the last 5 years (previously 10 years) are eligible to get the benefit, which allows larger numbers of migrant families to access this entitlement¹².

4. ASSESSMENT OF THE IMPACT OF CRISIS AND AUSTERITY ON WORK-LIFE BALANCE POLICIES

Contrary perhaps to what one would have expected, work-life balance policies were affected only to a limited extent by the crisis and the austerity measures adopted during these years.

As we have seen above, the leave system was almost left intact. No change for the worse was introduced in the system and in fact some improvements took place. Paid leaves remained as they were and unpaid leaves were extended; for the first time the self-employed became entitled to maternity leave and some other improvements took place. Admittedly, most of the new or improved provisions were implementing European Directives. Some of these changes, such as the maternity leave for the self-employed, were costly and therefore not easy to adopt. Some other, such as the extension of non-paid leave from 24 to 60 months in the public sector, were easier to adopt because they reduced the employer's cost at a time of severe financial restrictions in the Government's budget.

With respect to childcare, the situation is more diversified. The quality of services in municipal crèches and nurseries was negatively affected by the severe cuts in the Municipal Government budget. Between 2009 and 2012 the regular subsidy the municipalities received from the Central Government was reduced by more than half but it was stabilized

more or less to the 2012 level since then¹³. As a result, the resources allocated to childcare facilities did not allow for many extras besides the absolutely necessary expenses for the operation of the facilities. Consequently, parents were often asked to cover the cost of material for the daily or extra activities in the childcare facilities. At the same time, personnel shortages increased the ratio of children per educator while strict recruitment rules imposed on the public sector by the troika in the framework of the three Economic Adjustment Programmes prevented hires in permanent positions. In 2011 fixed-term contracts covered 52% of all contracts¹⁴ and the then Government, as a measure of dealing with personnel shortages, extended the number of the educators' working hours from 6 to 8 daily. This decision was reversed by the present Government in early 2016¹⁵.

The inconvenient hours of operation of childcare services was reported as a serious problem by many parents in a survey in 2008 conducted in the Athens municipality (Maratou-Alipranti, 2016: 100), though operation problems were presented as a problem by only a minority of parents in another more recent national survey (Diadikasia, 2013: 39). However, recent attempts to extend the daily schedule of childcare services as well as their operation during vacations or Saturdays met the resistance of personnel and, after reassessing the situation, no change in operation hours was introduced in the recently published Model Childcare Regulation¹⁶.

¹³ EETAA: The OTA in Numbers, Athens 2017, https://www.eetaa.gr/index.php?tag=ekdoseis_details&tek_id=168 (accessed 4.1.18).

¹⁴ Eleftherotypia newspaper 10.5.11 <http://www.pasyn.gr/el/enimerwsi-nea-anakoinoseis/372-dimosieyma-elftherotypia.html> (accessed 5.1.18).

¹⁵ Laws 3979/11 (article 41) and Law 4368/16 (article 8).

¹⁶ Decision 4187 of the Minister of Labour, Social Security and Social Solidarity, Government Gazette: 4299 (b)/5.2.17. On the reactions of personnel associations see <http://www.pasyn.gr/en/news/620-dimosieutike-o-neos-protypos-kanonismos-leitourgias-twn-paidikwn-stathwn.html> (accessed 8.1.18).

¹² Law 4512/2018 (article 2140).

Although the quality of childcare was a cause of concern during the years of crisis, at the same time, the Programme «Reconciliation of Work and Family Life» was used to provide free childcare to an unprecedented number of poor but also of middle-class households, helping parents to reconcile work and caring duties and facilitating the search for work of non-working mothers. To cater for the continuously growing demand of parents, caused by the popularity of the Programme, and setting a target for 15,000 more places for children, in early 2018 the Minister of Social Solidarity announced the provision of subsidies to municipalities in order to help them expand or restructure their childcare services and purchase the necessary equipment¹⁷.

As regards all day schools and kindergartens, their number continued to increase during the crisis. Recently, in the school year 2017-8, 835 schools in remote areas with few pupils applied for the first time the all-day schedule. However, budget cuts and restrictions in personnel recruitment have affected the quality of the service in the optional schedule (Skompa, 2013: 189-202 & 209-210, Karamessini, 2015: 266).

The question is why publicly-funded childcare services were spared and not, at least quantitatively, seriously affected by the economic crisis and the austerity measures as many other Government policies?

There are several reasons to account for this positive outcome. First, the availability of ESF funds under the 2007-2013 and 2014-2020 programming periods, given the role of reconciliation policy in the EU gender equality agenda and the European Employment Strategy. The Programme «Reconciliation of Work and Family Life», which has actually prevented the collapse of public (municipal) and private childcare infrastructure and services during the crisis, was designed by the

Greek governments and co-funded by the ESF. Second, the wide social demand for childcare among the population, especially those that were more stricken by the crisis but also the impoverished middle-classes who could no longer afford private arrangements. Political parties with different ideological orientation, municipal councils, unions and employer associations, independent bodies such as the Citizens' Ombudsman and academics¹⁸ supported the maintenance of public infrastructure and provision. Third, in more recent years, the Left government has given priority to child policy with the aim to combat child poverty and invest in children's education. In this framework, free access to childcare by low-income and middle classes has been placed high on the agenda alongside the institution of two-year compulsory preschool education¹⁹, the introduction and extension of school meals and the generalisation of all-day schools.

The durability of work-life policies in the years of crisis is not a unique Greek phenomenon. Evidence from the OECD and the EU shows improvements in public spending on childcare and supply of more childcare services in some countries (Adema and Ali, 2015:162-64, Betio et al, 2013: 158-59). Similarly, small improvements took place in leave policy, even in Southern Europe which was more hit by recession than the EU on average (Escobedo and Wall, 2015).

Though some experts describe the overall picture of policy development at the European level as one of «stalled progress» (Fagan and Vermeylen, 2016:15), the fact that the policies in so many countries were not much affected by crisis and austerity measures needs an explanation. The political support that work-life balance policies enjoyed seems to be the most crucial factor. A widespread view was adopted in Europe by both European and national political leaders that such policies are

¹⁸ LYBERAKI, A. (2014).

¹⁹ Compulsory attendance for pre-school children has been extended from one to two years (Law 4521/2018, article 33).

indeed effective means of boosting female employment, a policy goal which was apparently maintained during the crisis years. The business case argument saying that such measures are necessary for the financial survival and the productivity of workers as well as the widespread support for equal rights at work may also explain the continuing backing of work-family life reconciliation measures even at times of severe fiscal consolidation (Gormick, 2015: 239). Particularly for childcare, an additional argument was related to its role in providing opportunities for enhancing child learning skills (Betio et al, 2013: 158).

In Greece, as also in some of the other Southern European countries (Escobedo and Wall, 2015: 230-31), there were also other factors that have facilitated policy continuity. These were the low level of fertility, the large wave of immigration of young people abroad, the high level of unemployment and the significant reduction in the minimum wage. The first three factors reduced the number of eligible potential beneficiaries: immigration and low fertility meant that fewer children were born or lived in the country while high unemployment meant that less people were entitled to measures such as leaves which apply only to working people. The fourth factor reduced the financial cost of the leave benefits whose base of calculation is the minimum wage.

The following numbers give a good view of the total picture: Between 2008 and 2016, the number of children born in the country was reduced by 25,404²⁰; between 2008 and 2015 the number of children below 9 that emigrated with their parents to other countries were around 50,500 and the number of children that immigrated to Greece was around 46,000, so in total 4,500 less children were in the country in 2015 compared to 2008²¹; due to the sharp rise of unemployment during the crisis years less mothers of small children were in employment i.e. 50.6% of mothers with a child young-

er than 2 were employed in 2014 compared to 52% in 2008 and 50.1% of mothers with a child between 3-5 were employed in 2014 compared to 56.8% in 2008 (Appendix: Table 4); while the level of minimum wage was lowered by 22% in 2012.

Notwithstanding continuity in work-life balance policy during the crisis, structural labour market reforms under the first two Economic Adjustment Programmes agreed between Greece and its lenders and supervised by the troika (IMF/ECB/EC) severely weakened the system of collective bargaining and its ability to act as a mechanism of continuous improvement of workers' rights including parental rights²². We note that collective agreements particularly at the national level between the National Workers' Association (GSEE) and major national employers' associations had been in the past the most important instrument of improving workers' rights in the private sector including the rights of working parents²³. With these reforms, individual workers' rights were also severely restricted. As a result their employment sta-

²² For example, minimum wage is no more the outcome of collective bargaining but it is set by the state; the labour arbitration system has been severely weakened since the right to have unilateral recourse to arbitration for the resolution of disputes related to collective agreements is abolished while at the same time, arbitration is restricted only to basic salary and daily wage determination leading inevitably to more individual bargaining, thus strengthening significantly the employers' power. The General Workers' Association of Greece considers that the tripartite social dialogue has been reduced to a «virtual process» because of the extent and continuity of interference of international lenders and the Greek Governments in the collective autonomy of representative associations of employers and employees (INE-GSEE, Enimerosi, Issue 235, May-June 2017: 5).

²³ Since the 1990's and up to 2009, within the context of a changing climate in favour of the social dialogue in labour relations, the national agreements between the General Workers Association (GSEE) and the largest employers' associations played a very important role in the adoption of provisions in favour of working parents. In almost each annual national labour agreement, one could identify changes that ensured more rights for working parents and more respect to the principle of equality. http://www.gsee.gr/?page_id=54 (accessed 6.1.18).

²⁰ ELSTAT: data on births.

²¹ ELSTAT: data on immigration.

tus became highly insecure and their working conditions deteriorated²⁴. Not surprising, trade union activism has experienced a declining course²⁵.

If to the above described situation one adds, on the part of the employers, the precarious financial situation that many enterprises found themselves in and, on the part of the workers, increased pressures on family income and the high risk of losing one's job, we can easily understand certain practices that appeared at the workplace particularly during the crisis: abuse of workers' rights on the part of the employers and self-restraint in using or asserting their rights on the part of the employees.

Such cases were in fact reported by the Greek Ombudsman, who has the legal obligation to monitor the implementation of the principle of equal opportunities and equal treatment between men and women at work. In his annual reports of 2011 and 2012, the Ombudsman reported an increased number of cases of violation of parental rights, particularly maternity leave and the provisions regarding the protection of women during pregnancy and motherhood (i.e. illegal termination of contracts, abusive unilateral conversion of full-time contracts to part-time ones, change of work post upon return from leave). However, as late as 2016 the Ombudsman notes no progress and, on the contrary, stagnation and repetition of the same problems (The Greek Ombudsman, 2016: 125). In the opinion of the Greek Ombudsman, motherhood is treated by enterprises as a burden and this has been particularly so in the years of crisis (The Greek Ombudsman, 2014: 138).

²⁴ The introduced changes included: significant restriction of maximum period of warning for individual dismissals as well as the level of compensation, increase in the minimum limit for group dismissals, expansion of the trial period for new employees, expansion of the maximum period of limited time contracts, expansion of rotation, restriction of compensation for overtime work and other (Laws 4046 and 4093 of 2012).

²⁵ INE-GSEE: Enimerosi, Issue 232, November-December 2016.

At the same time, there are questions as to the extent of self-restraining practices on the part of employees in the use of parental leaves. Non-paid leaves were used only to a very limited extent particularly in the crisis years due to the non-affordable loss of income but in some cases it seems even paid parental leaves (particularly those paid by employers) were not used due to the negative climate that this might create with the employers and the fear of losing one's job. Relatively recent research data seem to confirm these self-restraining practices: leaves were not used because it was felt that the work environment would not welcome their use, while in cases where the leave compensation was lower than the actual wage, the leaves were not used because even a little amount of money mattered (Germotsi et al, 2016: 171-3). An employer noted that «we are going back in the years of (German) occupation when people did not look at the conditions of their work, but how they can make a living» (op.cit.: 171)

The Greek Ombudsman reports cases where though a complaint was filed by an employee this was not followed up due to the impact that the employees feared that this would have on their job security (The Greek Ombudsman, 2012: 9).

On the other hand, unofficial evidence indicates that some employers, when the payment of the leaves was not their responsibility, may have encouraged their use in order to get rid of the burden of wage cost for the period that the employee was on leave²⁶. Other research data note that in small and medium size industries, where there is often a more «family-like» labour culture that depends on «informal» agreements, flexibility and understanding, it is easier for an employee to go directly to the employer and ask for leave for a few hours or a day, which is often granted without being recorded (Germotsi et al, 2016:169-70).

Finally, regarding the work-life practices that enterprises sometimes implement be-

²⁶ OAED: unofficial data.

yond the national legislation²⁷, it seems that the extent of implementation of such practices was very limited even before the crisis and applied mainly to large enterprises. Interviews with employers and directors of 50 industries, mostly small and medium size²⁸, in the Greater Athens area show that there is little awareness of such practices and the need of introducing them. Particularly in conditions of crisis such practises are seen as a «luxury». The employers and directors stressed other kinds of support that they provide to their employees and particularly the informal solutions they find when a family issue arises (Germotsi et al, 2016:175).

Another dimension that is worth looking into is the impact that the worsening of work conditions have had on family life. Recession seems to have affected the job situation in different ways: A lot of jobs were lost or turned into part-time (involuntary for the employee) while those still working saw their working conditions deteriorating. In the first two categories, one could argue that in spite of its high financial and personal cost, the work-life conflict was lessened. But for those that stayed on working, things have become more difficult as more workload was put on their shoulders (Fagan and Vermeylen, 2016: 5). Research evidence from Greece reveals how the deterioration of work conditions in the years of crisis (heavier workloads, inadequate means to carry on their work, long working hours, financial pressure, reduced access to health etc.) amongst certain professional groups and managers, led to work dissatisfaction, lowered professional self-esteem and decreased work expectations regarding the quality of working life and a satisfactory work-life balance (Na Ayud-

hya et al, 2017). Similarly, a recently published Greek study identified high pressure in combining work and family/personal life, particularly among certain professional groups (Thanopoulou and Tsiganou, 2016). In a European survey on the quality of life, Greek respondents were among those that expressed high levels of tiredness from work to do housework. They also expressed the worse fit in work-life balance (Eurofound, 2017a: 41-42).

In conclusion, although the economic crisis and austerity left by and large intact the childcare (public and private) service provision while national reconciliation of work and family life policy made even some improvements in the leave system, the enforcement of parental leave rights and work-life balance have been seriously impeded by the actual behaviour of employers/employees at the firm/workplace level.

A final note should be made on the impact of crisis on labour market informality. Although estimates cannot be accurate, official authorities have recorded that at the end of 2009, 29.7% of all work was undeclared due to insufficient inspections and low levels of penalties. In 2013, this percentage rose to a record level reaching 40.5% as economic crisis led employers consciously opt for this type of work²⁹. This means that a very large proportion of the labour force was not protected by legislation and its rights, including its parental rights, could not be enforced. Higher penalties were introduced in September 2013 while the Labour Inspectorate has been reinforced and inspections strengthened in the last three years, after a period of weakening of its role. As a result, the official percentage of undeclared work went down to 5.3% in 2015. However, it seems that employers have changed their tactics in reporting declared work and much undeclared work is still going on in the

²⁷ Great Place to Work Hellas annual surveys, reported in the newspaper To Vima 24.3.15. See also HATZIVARNAVA, E., unpublished national report prepared for the European Institute for Gender Equality (2015), Reconciliation of Work, Family and Private Life, Vilnius: EIGE.

²⁸ Note that 89% of enterprises of all kinds in the private sector in Greece are small in size enterprises employing less than 10 people (Ministry of Labour, Social Security and Social Solidarity, EGANI data, 2017).

²⁹ INE-GSEE (2016). Results and Conclusions of Panhellenic Cross-Sectoral Working Meeting on non-declared work <http://www.eea.gr/gr/el/articles/ine-gsee-symperasmata-giati-adiloti-ergasia> (accessed 18.2.18).

form of under-declared work³⁰, the immigrant population being particularly exposed to all forms.

5. THE IMPACT OF CRISIS AND AUSTERITY ON PARENTAL ATTITUDES AND BEHAVIOUR

Economic crisis and austerity measures had a significant impact on parental attitudes and behaviour. This involves changes in women's and mothers' labour market participation behaviour, in the decisions parents made with regard to childcare arrangements and in care practices within the family.

Before the crisis, as we have already observed, the employment rates of women were steadily increasing due to their improved educational level, changing attitudes towards work and care and the employment opportunities offered. The mothers' employment rate was also rising affecting the family model (i.e. in 46% of all couple families with at least one child younger than 6 both parents were working full time in 2008 compared to 26% in 1984, Karamessini, 2012: 85), but it remained lower than that of non-mothers. Interestingly, the employment rate difference between mothers and non-mothers increased from 1.2 percentage points in 1999 to 5.4 in 2008.

Karamessini et al (2016) argue that, before the crisis, the mothers of young children with low and medium educational level were hindered in their participation in the labour market more by the lack of employment opportunities and cultural norms towards work and family and less by inadequate work-life balance policy measures. Different childcare arrangements were available to parents, including informal care by grandparents and other relatives (the most favoured option for

very small children), formal public or private care services and paid at home care. Their choices were based on how they assessed the quality, access and affordability of the alternatives.

In the years of crisis, motherhood became increasingly less of a hindrance in work integration (Appendix: Diagram 7). Due to job dismissals and high levels of unemployment, the employment rate fell for all women 25-49 but the fall was greater for non-mothers (12.2 points less for non-mothers compared to 6.7 points for mothers between 2008-2016). Now the employment rate for both groups is more or less the same. In particular, mothers with one child below 6 retained the employment rate they had in 2008 and even increased it in some years during crisis (Appendix: Table 4).

In fact, using a different categorisation i.e. women aged 25-54, the impact of motherhood on employment from negative became positive in 2013, placing Greece together with Denmark, Slovenia and Portugal in the only EU countries with a positive impact of motherhood on employment (Karamessini et al, 2016: 151). Moreover, in 2013 only around 51% of the inactive women age 25-49 give as the reason of not working their family and care responsibilities compared to 62% in 2008 (Eurostat data base, accessed 12.2.18).

The above data on maternal labour market behaviour in Greece seem to be directly related to the economic crisis: Due to the shrinkage of family income (loss of jobs particularly male jobs and wage cuts), more women and particularly mothers were activated and tried to retain or obtain a position of employment. For one expert, it was for women «a fight for dignity and survival» (Karamessini 2015: 250) and for another, in contrast to men that were discouraged and tended to withdraw, women were more activated to search for a job (Lyberaki, 2014: 40).

The necessity to ensure an income to meet basic family needs has led to less gender differentiated attitudes with regard to employ-

³⁰ Accordingly, the employers in order to avoid the high penalties they resort to fictitious, virtual or minimum reporting of undeclared work so that in case of inspection, to pay milder penalties foreseen by other violations of the labour law (*op. cit*).

ment and the male bread-winning model. This is well reflected in the response of an employer/director from a recent survey to the question: who is better to work in conditions of economic crisis if both the man and the woman are unemployed: «Whoever finds a job (in the family). It may be easier in the present situation for a woman than for a man to find a job» (Germotsi et al, 2016: 166).

With regard to childcare services, we see a significant increase in their use in the peak years of the crisis (2011 and 2012), particularly for children below 3 years. This trend, however, was reversed in the following years. The coverage rate dropped and reached in 2015 the 2009 level and even below that level for children aged 3 years and more. The deviation from the EU average is quite notable (Appendix: Table 5). At a first glance, these figures seem to contradict the data presented in Table 2 showing a year-to-year rise in the number of applications for the Programme of free access to childcare. But if one examines carefully the two tables, one notes that the years of higher use of childcare services depicted in Table 5 were the years with the highest growth of the places covered by the Programme. Thus what seems to have determined and still determines the use of childcare places during the crisis is not the availability of childcare services in general but the availability of places under the Programme.

Before the crisis, many middle-income families were able to buy private care services for their dependent members when either public services were not available or when the families felt that their quality was not up to the standard they wished or when they thought that they were not convenient for them either in terms of proximity or operation hours. This was true for all kinds of services such as health, education and care of dependent members. But during the crisis years, many families were no longer able to buy private services either domestic or outside their home and could not even afford the lowered fees requested from public childcare facilities.

In a survey conducted in 2016, 61% of the respondents that did not use care services for children below 12 declared as the main reason their cost while 92,5% of those that used them, declared that they did so with a bigger or lesser degree of financial difficulty. We draw a similar picture from the use of other types of services such as health, education and elderly care³¹. We note that both private and public childcare institutions reduced their fees but still this did not make things much easier for the struggling families.

Regarding parental leaves, the non-availability of data that would help us define the extent of the use of the various leaves and the possible impact of crisis on leave take-up is a serious obstacle in any assessment effort. The only available public data are those produced by the Labour Inspectorate overseeing the legislation on equal opportunities and equal treatment of men and women in the labour force. But these data have some serious drawbacks; they refer only to employees of the private sector, maternity leaves are not registered³² and, above all, they do not provide estimates of the potentially eligible

³¹ ELSTAT (Greek Statistical Authority). Press release of 23.6.17 on access to services, a special survey that was implemented in 2016 within the Survey on Income and Living Conditions. Other data show that access to various types of services was restricted due to financial reasons. For example, the number of children in elementary private schools fell from 46.636 in 2008 to 38.636 in 2014 (Greek Statistical Authority: data on education). Press reports also refer to the delays of parents in paying their fees (Kathimerini newspaper, 3.5.15) <http://www.kathimerini.gr/813739/article/epikairothta/ellada/se-idiwtiko-sxoleio-mono--me-ypotrofia>, accessed 10.1.18). Similarly, the purchase of private health care services are reported to have shown an annual average reduction of 13,5 % since 2012 (ICAP GROUP, Press release 19.3.15 on results of a study in «Private Health Care Services»). Press reports refer to families that removed for financial reasons their relatives from old people's homes (Kathimerini newspaper, 15.10.11).

<http://www.kathimerini.gr/439990/article/epikairothta/ellada/adeiazoy-n-idiwtikoi-oikoi-eyghrias-logw-krishs>, accessed 11.1.18).

³² In Greece, besides the basic maternity leave that is taken just before and after birth and has an obligatory character, there is another 6-month special maternity leave that is provided only for private sector employees.

users of each leave to allow us calculate the take-up rate. Anyhow these data show some improvement in the use of leaves in the private sector between 2008 and 2012. This evidence is however contradicted by evidence from other sources mentioned above. Unfortunately, no other research data are available that could help us to draw some reliable conclusions.

We can thus cautiously argue that, in general, non-paid leaves were hardly used (for fathers their use is almost nil) during the economic crisis while paid leaves were used to the extent that these did not severely affect family income. But in some cases, other considerations related to the work situation (i.e. fear of losing one's job or the self-assessed impact on his/her career) may have affected parental decisions.

An interesting dimension to examine is the impact of crisis on the use of leaves by fathers and mothers. Leaves in the private sector to which both parents are eligible are almost exclusively used by mothers. Although the data show some improvements between 2009 and 2013 in the use of leaves in general, the gender division has been strengthened. For example, mothers used the paid care leave (one of the primary leaves for daily child care) 27.5 more times than fathers in 2013 against 22.5 more in 2009³³. Gender differences in leave behaviour have thus widened during the crisis; in contrast, those in labour force participation behaviour, as depicted in the trends of male and female activity rates, have narrowed (Appendix: Diagram 3).

This reflects the still very strong attitudes within society. For employers, fellow employ-

ees, fathers, other family members and even mothers themselves caring remains primarily a mother's responsibility. In a recent study that involved a sample of 942 women working in industries in the Greater Athens area, almost one fifth of women thought that men are not capable of taking care of the children properly and that it is men's responsibility to be the main income providers for the family (Germotzi et al, 2016: 88), while many male employers that were interviewed felt that childcare and household tasks were mainly women's responsibility and that the latter affected their recruitment and their work performance (op. cit: 155-6). A recent national study on time use and household practices re-affirms both the unequal distribution of tasks within the family and the uneven burden of care and household tasks between the two sexes³⁴.

At the same time, however, one must note that in some cases the impact of crisis has benefited gender equality in the sharing of responsibilities within the family as the inability of families to buy private services for the care of dependent members or household tasks necessitated the increased participation of the male partners in these tasks. Particularly unemployed male partners have become the main supporters in caring and household responsibilities of their female working partner (Germotzi et al, 2016: 108). It remains to

³⁴ Of particular interest is the study on time use that was implemented by the Greek Statistical Authority in 2013-14 which shows that amongst working people, women 20-74 year of age, on average and daily, spend:

- 4 hours and 5 minutes on paid employment compared to 6 hours and 18 minutes of men.

- 3 hours and 14 minutes on household activities compared to 1 hour and 3 minutes of men.

So working women spend 2 hours and 11 minutes more on household activities than men and this difference with some differentiations remains more or less the same in all educational groups. Surprising perhaps the difference becomes 3 hours and 19 minutes in the very high educational group. If there is a dependent child in the household the difference is 2.33 minutes.

The above data are drawn from the study of KARAMESSINI, M. and SYMEONAKI, M. (2016) on the meta-analysis of the data collected by the Greek Statistical Authority.

³³ Labour Inspectorate, Annual Reports 2009-2013. Note that this leave is not gender free as a clause in the leave restricted significantly its use by fathers: Until 2014 the father could not use the leave if the mother was self-employed or not working. With the national labour agreement of 2014, the father acquires the right to make use of the leave if the mother is self-employed but the condition that the mother needs to be working has not been changed.

be seen how far these practices, generated by real needs, will lead to real changes of attitudes with regard to gender roles.

Evidence from other European countries confirms that the recession has not helped much in the redistribution of caring and household tasks in the family as women everywhere seem to be the main providers (Fagan & Vermeylen, 2017: 9).

6. CONCLUDING REMARKS

Interesting conclusions can be drawn from the study of work-life balance policy for working parents in Greece during the economic crisis years. Public and private childcare services were left intact by austerity measures, since a programme of free access to childcare through vouchers has been developed in compensation with ESF funds. However, the quality of childcare services was negatively affected due to the severe cuts in the budgets of municipal authorities.

The leave system saw improvements mainly due to the requirements of EU social policy rather than internal pressures. Moreover, the leave benefits that were connected to the minimum wage were automatically lowered as a result of the 22% reduction of the minimum wage in 2012. Drastic structural labour market reforms under the first two Economic Adjustment Programmes, seriously limiting collective bargaining and restricting workers' rights, meant that less pressure could be exerted by unions for the improvement of work-life balance through provisions of collective agreements.

Family policy in general and work-life balance measures in particular, in an environment of budgetary limitations, became more targeted with the clear intention of improving the extent of coverage for the poor and low to middle-income families, but also the level of provision (i.e. increasing number of free places in childcare, more universal coverage of low-income families with child benefits). Pri-

ority in access to childcare services is certainly given to poor and socially excluded families. However, the recognition of the impoverishment of the middle-classes and their inability to buy private childcare led to an increase in the family income threshold determining the eligibility of children to the programme of free access to childcare services.

Greece lacks reliable statistics and data sources to monitor and assess the take-up of leaves and their effectiveness. Existing research has shown that, during the economic crisis, measures of work-life balance at the firm level were considered by many employers as a luxury and were postponed for better days. Admittedly the small-size of the majority of private enterprises in the country do not facilitate the development of organised work-life balance practices at the level of enterprise; in such cases informal arrangements between the employer and the employees, enabling the latter to reconcile their caring duties with their work obligations are the rule. Employers' attitudes towards who mainly cares do not seem to have changed during the crisis years. Besides, as employment conditions became more precarious, great numbers of working parents, mostly mothers, were found in a weak bargaining position relative to employers, thus unable to enforce their leave rights for fear of losing their job.

At the family level, the objective during the crisis years was to make ends meet and survive. As a result, all family strategies were centered around how, assessing all risks involved, best to make use of the available financial and human resources. This meant greater search on the part of mothers for employment, less affordability for paid services for care and household tasks and more search for free or cheap solutions for childcare. This situation had obviously repercussions as it meant increasing unpaid time offered by parents (mainly mothers) at home and recourse to the Programme of free childcare places as first best alternative, which explains its great popularity.

Although gender differences with regard to (parental) employment behaviour closed down during the crisis, the disproportional involvement of mothers in care and their much greater propensity in taking up care leaves does not seem to have undergone any significant change. The evidenced greater contribution of unemployed fathers in the caring tasks may not last once they return to employment.

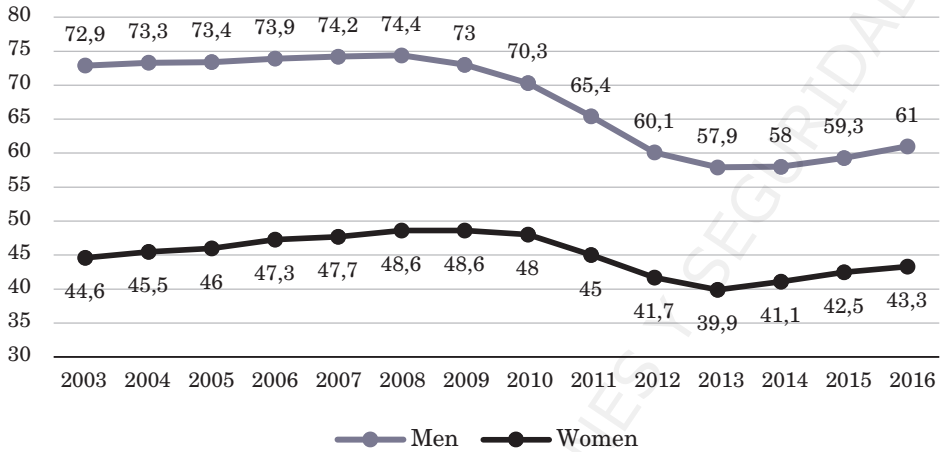
Most importantly, the endurance of work-life balance policies for working parents to the economic crisis and austerity measures illustrates that such policies have increasingly become part of the social expectations about what the state should provide for its citizens. Recent policy changes that have expanded the free provision of childcare have further enhanced the «sense of entitlement» for such services, contributing to an upgrading of public expectations. However, in our opinion, even though Government policy increasingly makes conscious efforts to accommodate and respond to these expectations, the same has not been true

for the enterprises which to a large extent remain indifferent and non-proactive in promoting practices at the enterprise level to facilitate the work-life balance of their employees.

Last but not least, the survival of the childcare system and the preservation of its capacity during the economic crisis has certainly benefited from the national anti-poverty priorities of Greek governments and the availability of ESF funds for this purpose due to the role of reconciliation policy in the European Employment Strategy. However, the main determinant –at least in recent years under the Left governments– is the goal of combating child poverty and investing in the education of children at an early age. Enhancement of public childcare is part and parcel of a greater package of measures –some already implemented and others in progress– including higher child benefits, school meals for all pupils in public schools, two-year compulsory preschool education and full coverage of the national territory by all-day schools.

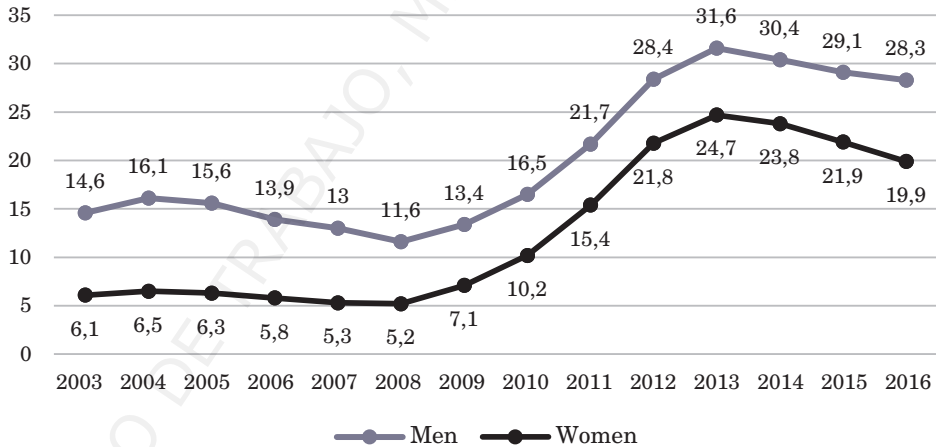
APPENDIX

Diagram 1: Employment rate (15-64)



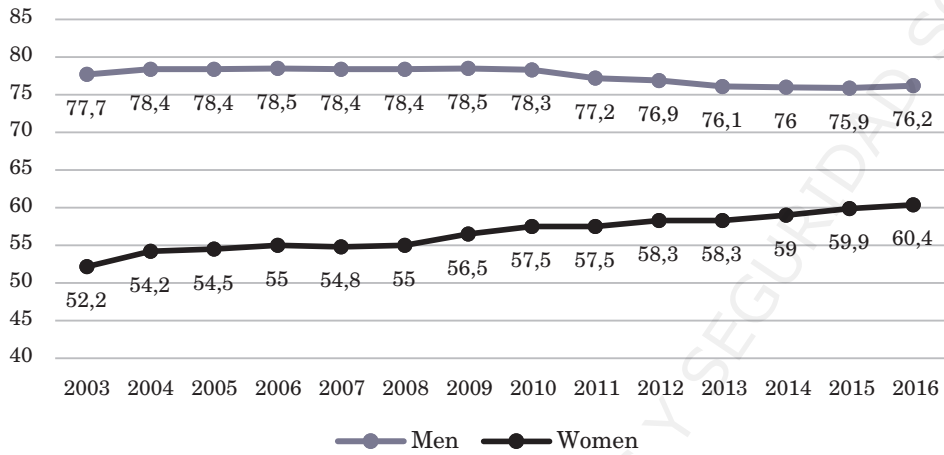
Source: Eurostat data base, accessed 22.1.18.

Diagram 2: Unemployment rate (15-64)



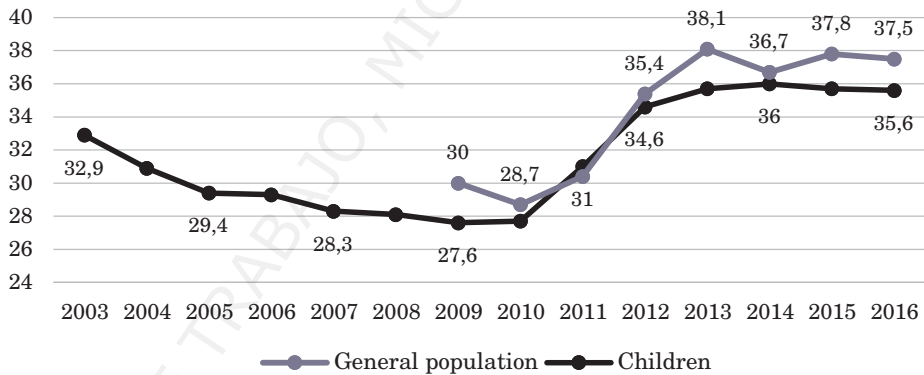
Source: Eurostat data base, accessed 22.1.18.

Diagram 3: Activity rate (15-64)



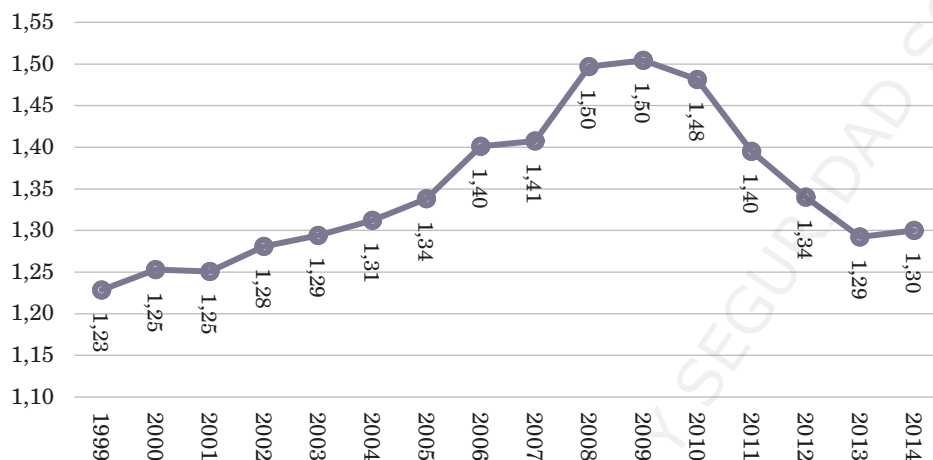
Source: Eurostat data base, accessed 22.1.18.

Diagram 4: People at risk of poverty or social exclusion



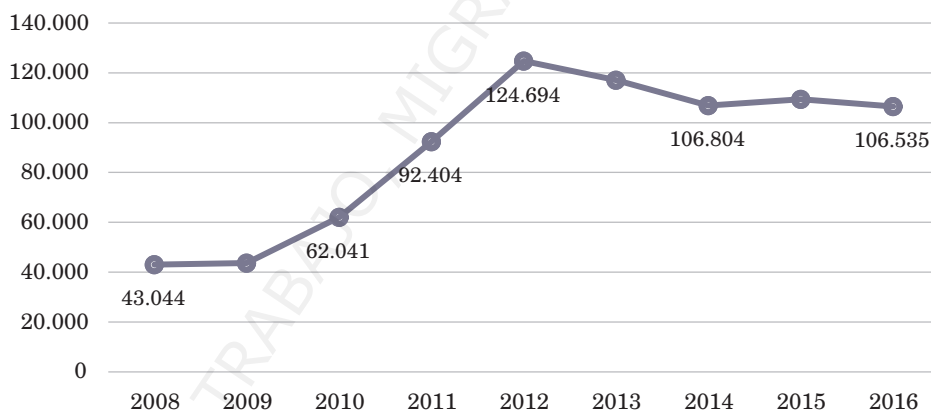
Source: ESTAT (Hellenic Statistical Authority) data base, accessed 22.1.18.

Diagram 5: Total fertility rate



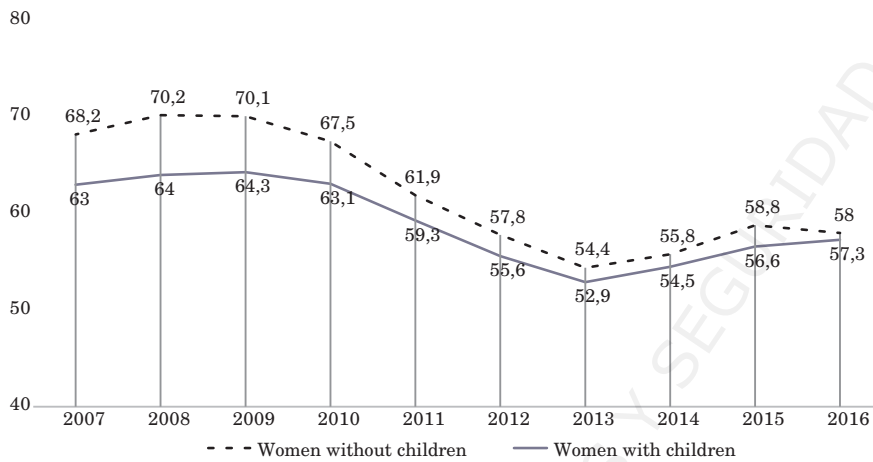
Source: Greek Statistical Service, accessed 22.1.18.

Diagram 6: Estimated numbers of people that immigrated to other countries



Source: Greek Statistical Service, accessed 22.1.18.

Diagram 7: Employment rate of women aged 25-49 with or without children



Source: Eurostat data base, accessed 10.1.18.

TABLE 1. LEAVE POLICY PROVISIONS IN GREECE

Key Leave policy provisions in 2008			Changes between 2009-2016
Type of leave	Public sector employees	Private sector employees	
Paid leaves after birth for usual care			
<i>Basic maternity leave</i>	3 months (fully paid, no ceiling)	2 fully paid up to highest insurance class	Maternity leave for self-employed: 2 months, very low standard payment (i.e. below minimum wage)
<i>Special maternity leave</i>	–	6 months, paid at level of minimum wage	
<i>Care leave</i>	9 months (fully paid, family right that either of the parents can use)	3,6 months, fully paid, family right that either of the parents can use but with conditions	
Non-paid leaves after birth for usual care			
<i>Parental leave</i>	24 months (individual right)	3½ months (individual right)	The length of leave went up to 60 months in the public sector and 4 months in the private sector

Key Leave policy provisions in 2008			Changes between 2009-2016
Type of leave	Public sector employees	Private sector employees	
Other types of leave			
<i>Paternity leave</i>	–	2 days (paid)	2 days (paid) for the public sector
<i>Leave for school attendance</i>	4+ days per (paid)	4+ days per (paid)	
<i>Leave for parents (or spouses) of children with disability or illnesses</i>	a. Reduced working hours (paid) b. Two other leaves of 22 days each for special cases (paid)	a. Reduced working hours (only in big companies, non-paid) b. 10 days leave for special cases (paid)	Up to 1 month (non-paid) for the public sector; for the private sector; in addition to the 6+ days, up to 30 days when a child is hospitalised (non-paid)
<i>Leave due to sickness of children and other dependent members</i>	–	6+ days (non-paid)	
<i>Leave for single parents</i>	–	6 days for unmarried and widows/ers and 8 days if, in addition, the parent has 3+ children and until the child turns 12 (paid)	

Source: HATZIVARNAVA-KAZASSI, E. (2008-12) and HATZIVARNAVA-KAZASSI, E. and KARAMESSINI, M. (2013-16) «Greece country note», in: MOSS P. and KORINTUS M. (Eds) *International Review of Leave Policies and Research 2008*; Moss P. (Ed) *International Review of Leave Policies and Research 2019-15* and KOSLOWSKI A., BLUM S. and MOSS P. (Eds) *International Review of Leave Policies and Research 2016-17* Available at: http://www.leavenetwork.org/lp_and_r_reports/

TABLE 2. PROGRAMME OF FREE PLACES IN CHILDCARE FACILITIES

Year	Valid applications for children	Number of children placed	% of coverage	Benefited mothers
2009	19.460	17.785	91%	18.507
2010	30.846	26.727	87%	24.856
2011	67.311	48.360	72%	40.125
2012	84.822	57.534	68%	47.881
2013	82.002	68.526	84%	56.545
2014	97.629	80.326	82%	66.922
2015	106.885	81.270	76%	66.292
2016	121.569	93.219	77%	75.346
2017	132.982	106.298	80%	84.469

Source: EETAA, statistics on childcare www.eetaa.gr; EETAA, The OTA in Numbers, Athens 2017, https://www.eetaa.gr/index.php?tag=ekdoseis_details&tek_id=168 (accessed 4.1.18)

TABLE 3. CHILDCARE FACILITIES WHERE THE FREE PLACES PROGRAMME IS AVAILABLE

Year	Number of childcare facilities
2010	767
2011	1.646
2012	2.238
2013	2.523
2014	2.665
2015	2.844

Source: EETAA, statistics on childcare, www.eeta.gr

TABLE 4. EMPLOYMENT RATE OF WOMEN AGED 25-49 WITH OR WITHOUT DEPENDENT CHILDREN

	2008	2010	2014	2015	2016	2008-2016 (in p.p.)
Women without children	70,2	67,5	55,8	58,0	58,0	-12,2
Women with one or more children	64,0	63,1	54,5	56,6	57,3	-6,7
Women with 1 child younger than 6	57,1	59,1	54,9	57,8	57,0	-0,1
Women with 2 children, the one younger than 6	55,7	57,9	50,9	53,0	53,2	-2,5
Women with 3+ children, the one younger than 6	51,5	45,0	45,6	49,6	47,7	-3,8

Source: Eurostat data base accessed 10.1.18.

TABLE 5. COVERAGE OF PRE-SCHOOL AGE CHILDREN BY FORMAL AND INFORMAL CARE

Year	Children below 3			Children 3+ (until compulsory school age)		
	Formal care (1-29 hours)	Formal care (30+ hours)	Informal care	Formal care (1-29 hours)	Formal care (30+ hours)	Informal care
2008	5	7	88	40	27	33
2009	4	7	89	41	27	32
2010	3	5	92	46	23	31
2011	4	15	81	43	32	24
2012	5	15	80	37	39	25
2013	8	6	86	39	30	31
2014	5,5	7,3	87,2	26,1	30,4	43,5
2015	4,9	6,5	88,6	41,1	26	32,9
2016	2,9	6,0	91,1	15,1	40,5	44,5
EU2016 average*	15,0	17,9	67,1	34,5	51,8	13,7

* 28 countries

Source: Eurostat data base, accessed 4.1.18.

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ABSTRACT The article studies the impact of the economic crisis and austerity in Greece on reconciliation of work-life policies and examines changes in parental behaviour as a result of the rise in labour market precariousness and changes in childcare policy (leaves, services and allowances). We examine the period 2008-2016 during which Greece has experienced either a negative economic growth or stagnation.

The main argument put forward in this article is that reconciliation policy has not only been spared by the adverse impact of fiscal consolidation on social expenditure but it has also been one of the rare social policy fields to witness improvements. This can be mainly attributed to the concern of policymakers about child poverty and falling fertility while, in the case of leaves, it reflects the positive influence of EU equality policy. The wider political and public support that the policies received helped the sustainability of the policies. Other factors that facilitated policy continuity were the low level of fertility, the large wave of immigration of young people abroad, the high level of unemployment and the significant reduction in the minimum wage. The first three factors reduced the number of eligible potential beneficiaries: immigration and low fertility meant that fewer children were born or lived in the country while high unemployment meant that less people were entitled to measures such as leaves which apply only to working people. The fourth factor reduced the financial cost of the leave benefits whose base of calculation is the minimum wage.

The leave system was almost left intact. No change for the worse was introduced in the system and in fact some improvements took place. Paid leaves remained as they were and unpaid leaves were extended.

The most significant development in the leave policy field during this period was the introduction of maternity leave for the self-employed. Although this change was dictated by European legislation on equal treatment for the self-employed, it was indeed a breakthrough provision as a totally ignored in the Greek leave system category of population was now included. However, the level of leave payment is very low and falls below the minimum wage that is often used for the calculation of benefits. As this provision is covered by the Insurance Funds of the self-employed, whose financial condition was worsened in the years of crisis, it seems that the level of payment was adjusted to available resources and not to any general principles, thus raising concern about the unequal treatment of workers.

In the childcare field, the situation is more diverse as the crisis impacted negatively on the quality of services due to the severe cuts of the budget of the Municipal Government that run public childcare facilities as well as personnel recruitment restrictions. Though concerns about the quality of childcare were obviously apparent during the years of crisis, at the same time, a new Programme that provided free childcare to an unprecedented number of children alleviated to some degree the impact of poverty and limited income on families, helped work-life balance and facilitated the search for work. The Programme allows working and unemployed mothers whose family income falls under a fixed ceiling to apply and enrol their children to public or private childcare facilities of their choice.

The Programme was very welcomed by the parents and demand raised from year to year i.e. the number of applications increased by 7 times between 2009 and 2017. The growth of demand stemmed from the inability of poor families to pay even for the relatively low fees of municipal childcare facilities, but also from the popularity of the programme amongst middle-class families that saw their income shrink during the crisis. The relatively high income ceiling used to determine eligibility –recently further increased– has allowed middle-class families to apply in great numbers. In response to demand, a year-

by-year increase in the number of free places offered has taken place. The number of mothers that benefited from the Programme increased by almost 5 times between 2009 and 2017 while the number of benefited children rose by almost 6 times. Yet, there is still no full coverage of eligible children whose parents submitted applications (80% coverage in 2017).

As regards out-of-school care, this is an area that seems to have been affected to a lesser degree by the crisis and the austerity measures. The number of schools providing this service continued to increase. However, budget cuts and restrictions in personnel recruitment seem to have affected the quality of the service too.

Though economic crisis and austerity measures left to a large extent intact national work-life policies and measures, their impact on the way that they were implemented, the practises adopted, the actual behaviour of employers/employees and employee work and family life satisfaction was quite significant. As employment conditions became more precarious, great numbers of working parents, mostly mothers, were found in a weak bargaining position relative to employers, thus unable to enforce their leave rights for fear of losing their job while increased number of cases of abuse of workers' rights were recorded.

Regarding the work-life practices that enterprises sometimes implement beyond the national legislation, it seems that the extent of such practices was very limited even before the crisis but particularly in conditions of crisis such practices were seen as a «luxury». Evidence also seems to document that during the years of crisis working people experienced more work stress, work dissatisfaction and tiredness that affected family life too.

The crisis affected also significantly the available family income. All family decisions were to a large extent determined by this fact. So more mothers were activated and tried to retain or obtain a position of employment due to the loss/reduction of the father's income; childcare solutions that were free of cost were sought (subsidised places in kindergartens or informal family care); non-paid leaves were hardly used (for fathers their use is almost nil) and paid leaves were used to the extent that these did not severely affect family income while the fear of losing one's job seems to have affected parental leave decisions.

The necessity to ensure an income to meet basic family needs has led to less gender differentiated attitudes with regard to employment and the male bread-winning model but evidence shows that these have not much affected attitudes and practices as regards the gender division of care and leave take-up.

Keywords: Work-life balance; parental leave; childcare; Greece; crisis.

RESUMEN

Este artículo analiza el impacto de la crisis económica y las políticas de austeridad en Grecia sobre la política de conciliación de la vida familiar y laboral, así como los cambios del comportamiento de los padres como resultado del aumento de la precariedad del mercado laboral y los cambios en las políticas del cuidado de los hijos (permisos, servicios y prestaciones). El análisis se refiere al período 2008-2016 durante el cual la economía de Grecia experimentó o bien un crecimiento negativo o bien un estancamiento.

El principal argumento presentado en este artículo se refiere a que la política de conciliación no solo no ha recibido el impacto adverso de la consolidación fiscal en gasto social, sino que ha sido uno de los escasos campos de las políticas sociales que ha sido objeto de mejoras. Este hecho se atribuye principalmente a la preocupación de los legisladores sobre la pobreza infantil y el descenso de la natalidad mientras que, en el caso de los permisos, se refleja la influencia positiva de las políticas de igualdad de género de la UE. El mayor apoyo político y público que dichas políticas recibieron contribuyó a la sostenibilidad de las mismas. Otros factores que facilitaron la continuidad de las políticas fueron la baja tasa de natalidad, las grandes oleadas de emigración de la población juvenil a países extranjeros, el alto nivel de desempleo y la reducción significativa de los salarios mínimos. Los tres primeros factores redujeron el número de beneficiarios potenciales: la inmigración y la baja natalidad se tradujeron en un menor número de nacimientos y de población infantil viviendo en el país, mientras que los altos niveles de desempleo provocaron que un menor número de personas tuvieran derecho a medidas como las de los permisos parentales que solo se aplican a la población trabajadora. El cuarto factor redujo el gasto económico de la prestación cuya base de cálculo es el del salario mínimo.

El sistema de permisos se mantuvo prácticamente intacto. No se produjeron cambios que pudieran empeorar el sistema, sino que, de hecho, se introdujeron algunas mejoras. Los permisos remunerados se mantuvieron como estaban y los no remunerados se ampliaron.

El desarrollo más significativo en las políticas de permisos durante este período fue la introducción del permiso maternal para los autónomos. A pesar de que este cambio venía dictaminado por la legislación europea en cuanto al tratamiento igualitario para el autoempleo, representó un gran avance que se había ignorado en los permisos de esta categoría laboral en Grecia y que se incluía ahora en la misma. Sin embargo, el nivel de la prestación es muy bajo y se sitúa por debajo del salario mínimo que se utiliza a menudo para el cálculo de la misma. Puesto que esta disposición está recogida en los Fondos de Seguro del autoempleo, cuya situación financiera empeoró en los años de la crisis, parece que el nivel de la prestación se ajustó a los recursos disponibles y no a cualquier otro principio general, aumentando con ello la preocupación sobre el tratamiento no igualitario de los trabajadores.

En cuanto al cuidado de los hijos, la situación presenta una mayor diversidad ya que la crisis tuvo un impacto negativo sobre la calidad de los servicios debido a los severos recortes del presupuesto del gobierno municipal que se ocupaba de las instalaciones y servicios públicos, así como sobre las restricciones para el contrato de personal. Aunque durante los años de la crisis se hizo patente la preocupación sobre la calidad de los servicios de cuidado de los hijos, al mismo tiempo, un nuevo programa que proporcionaba cuidados gratis a un número de niños sin precedentes alivió de alguna manera el impacto de la pobreza y los ingresos limitados de las familias, fomentó las políticas de conciliación de vida familiar y laboral y facilitó la búsqueda de empleo. Dicho programa permitió, tanto a madres trabajadoras como desempleadas cuyos ingresos familiares están por debajo de un umbral fijo, solicitar e inscribir a sus hijos en los servicios públicos o privados de su elección.

El programa tuvo muy buena acogida por parte de los padres y la demanda aumentó año tras año, esto es, el número de solicitudes se multiplicó por 7 entre 2009 y 2017. El crecimiento de esta demanda se produjo por la incapacidad de las familias más pobres

de pagar incluso las bajas tasas de los servicios municipales de cuidado de los hijos, pero también por la gran popularidad del programa entre las familias de clases medias que veían sus ingresos reducidos durante la crisis. El relativamente elevado límite de ingresos que determinaba la elegibilidad para recibir la prestación, que ha sido aumentado recientemente, ha hecho que las familias de clase media la hayan solicitado de forma masiva. En respuesta a la demanda, año tras año se ha incrementado la oferta de plazas libres. El número de madres que se han beneficiado del programa se ha multiplicado por 5 entre 2009 y 2017 en tanto que el número de hijos beneficiados se ha multiplicado por 6. Aun así, todavía no se ha producido una cobertura total para los hijos que podrían beneficiarse y cuyos padres han enviado las solicitudes (cobertura del 80% en 2017).

En cuanto a los cuidados extraescolares, se trata de un sector que parece haber sufrido en menor medida los efectos de la crisis y las medidas de austeridad. El número de centros escolares que proporcionan este servicio siguió aumentando. No obstante, los recortes presupuestarios y las restricciones en la contratación de personal parecen haber influido también en la calidad del servicio.

A pesar de que la crisis económica y las medidas de austeridad dejaron intactas en gran medida a las políticas nacionales de conciliación de la vida familiar y laboral, su impacto sobre la forma en la que fueron puestas en marcha, las prácticas adoptadas, el comportamiento real de los empresarios y trabajadores y la satisfacción del trabajo de los empleados y la vida familiar fue bastante significativo. Debido a que las condiciones laborales se hicieron más precarias, un gran número de padres trabajadores, mayoritariamente madres, se encontraron en una posición débil de negociación con los empresarios, siendo incapaces de hacer respetar sus derechos al permiso parental por miedo a perder sus puestos de trabajo al mismo tiempo que aumentaba el número de casos de abuso de los derechos de los trabajadores.

Teniendo en cuenta las prácticas sobre la conciliación de la vida laboral y familiar que a veces ejercen las empresas sin respetar la legislación nacional, parece que el alcance de dichas prácticas estuvo bastante limitado incluso antes de la crisis, pero, especialmente en el período de la crisis, se veían como un «lujo». Se evidencia que, durante los años de la crisis, la clase trabajadora sufrió más estrés laboral, insatisfacción y cansancio laborales que afectaban también a la vida familiar.

Asimismo, la crisis afectó de forma significativa a los ingresos familiares disponibles. Todas las decisiones familiares se veían condicionadas en gran medida por este hecho. Por ello, las madres se movilizaron e intentaron retener u obtener un puesto de trabajo debido a la pérdida o reducción de los ingresos del padre; se buscaron opciones que fueran gratis para el cuidado de los hijos (plazas subvencionadas en guarderías o cuidados no reglados por parte de un familiar); apenas se utilizaron los permisos no retribuidos (para padres su utilización es casi nula) y los permisos retribuidos se utilizaron hasta el punto de que no afectaran de forma severa a los ingresos familiares mientras que el miedo a perder el puesto de trabajo afectó a las decisiones que tenían que tomar sobre los permisos parentales.

La necesidad de asegurar los ingresos para satisfacer las necesidades familiares básicas ha llevado a unas actitudes menos diferenciadas según el género en cuanto al modelo masculino de sustento del hogar, pero la evidencia muestra que no han afectado mucho a las actitudes y prácticas en cuanto a la división por género en el cuidado de los hijos y la solicitud del permiso.

Palabras clave: Conciliación de vida familiar y laboral; permisos parentales; cuidado de niños; Grecia; crisis económica.

Ambivalent character of leave policies development in Croatia: between pronatalist and gender equality agenda*

Carácter ambivalente del desarrollo de las políticas de permisos parentales en Croacia: entre la promoción de la natalidad y la igualdad de género

IVANA DOBROTIĆ**

1. INTRODUCTION

The early comparative family policy literature argued that former socialist countries have experienced a similar type of reforms which pushed them into a single «post-socialist» familialistic cluster (Javornik, 2016), indicating that they have conducted a similar type of reforms «refamilialistic» in their character «forcing» women back into care work (e.g. Hantrains, 2004, 204). Still, recent works (e.g. Formánková & Dobrotić, 2011; Javornik, 2014; Blum et al., 2014) point at wider complexity of reforms in these countries and reveal major differences in their family policy design. Croatia, a former Yugoslav republic and the country not included in these analyses may bring in additional insights into this complexity. This particularly relates to childcare-related leave policies design which has been under constant pressures for reforms, with initiatives coming from both domestic and international actors.

This paper thus explores the development of leave policies in Croatia. A specific focus is given to «rationale» behind the reforms, with the leave policies development being considered primary through gender lens. Namely, leave policies are one of the key policy instruments which affect gender practices in private and public sphere (e.g. OECD, 2011), and their development is also highly contingent on prevalent ideas about the division of paid and unpaid work in particular country (see e.g. Orloff, 1993, 2006). As noted by Blum et al. (2014:472) the «family policy has always been a rather normative field, marked by debates on gender roles and on various aspects related to care work», and it is much more than an «instrument of distributive class conflict» (Häusermann & Kübler, 2010: 168). Moreover, recent research indicate that leave policies may differently (dis)advantage various social groups, with low-skilled women facing additional difficulties in exercising the leave rights (e.g. Ghysels & Van Lancker, 2011), raising an importance of class-gender intersection. Thus, depending on the dominant ideas and norms in particular country and time, leave policy design may have various features, involving different gender and class-related assumptions (see Häusermann & Kübler, 2010; Blum et al., 2014; Dobrotić & Blum, 2019). Their understanding

* This paper is focused on childcare-related leaves which include maternity, paternity and/or parental leave (see e.g. Blum et al., 2017).

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is particularly important if one wants to understand the outcomes of particular leave policy design as well as to work to transform the gendered nature of leave policies.

Croatia makes an interesting case to explore the interaction between different policy ideas and the gendered dimension of leave policy design. It demonstrates how changeable and incoherent ideas behind the leave policy making failed to directly undermine once established leave policies, however, they succeed in gradual introduction of new elements in leave policy design, which foresee specific gender arrangements for different groups of parents. Namely, not only that Croatia experienced a paradigm shift behind the leave policy making in 1990s, when explicit demands for familialistic character of leave policies started to be pronounced, but leave policies development in Croatia become additionally blurred with turnover of governments as well as ideas coming from international actors – international financial agencies demanding a liberal-residual welfare regime and the EU and its ambiguous gender equality agenda (see e.g. Dobrotić, 2012; Dobrotić et al., 2013). Thus, Croatian leave policies making become «guided» by various ideas, each of them arguing for different gender arrangements, often inconsistent with extant leave policies. That rise a question how these opposing ideas were eventually realised in concrete leave policy design in Croatia, and what implications these reforms may have for men and women?

In order to answer this question, the paper starts with a short literature review setting up the framework for analysing the leave policy development, which allows to assess the «rationale» behind the leave policy reforms and its effect on gender dimension of leave policy design. Following this, leave policies in Croatia are analysed in more details, starting with socialist period as in this period the main features of the leave policies were established. In conclusion, the main findings are briefly summarized and discussed, particularly the

effect the leave policy reforms may have from gender point of view.

2. LEAVE POLICIES REFORMS, GENDER AND POLICY IDEAS

Policies are gendered, i.e. gendered assumptions are both embedded in existing policy goals and instruments having different implications for men and women as well as prone to importantly influence the framing of policy reforms and concrete policy outputs (e.g. Beckwith, 2005; Chappell, 2006). It is thus important to understand the «rationale» and main ideas behind the leave policy making. This brings us to the concept of policy paradigms introduced by Hall (1993: 279), i.e. «a framework of ideas and standards that specifies not only the goals of policy and kind of instruments that can be used to attain them, but also very nature of the problems they are meant to be addressing», which he considers as a «prism» through which policymakers see the world and take decisions on policy reforms. In other words, dominant policy paradigms may importantly influence the policy goals in the centre of leave policies making, but also the character of policy instruments which may be considered as appropriate in particular country and time period (see e.g. Knijn & Smit, 2009; Blum et al., 2014), while the dominant cultural values and ideas as well as policy legacies and a wider social context inherent to particular country may restrict the possible range of policy alternatives (see e.g. Pfau-Effinger, 2005; Blum et al., 2014).

The comparative family policy literature point at diversity of ideas behind the family policy making, bringing in various policy paradigms, «each with a different approach towards social solidarity, gender equality, and the role of the state, the market, and the individual citizen» (Knijn & Smit, 2009: 487). While these paradigms may argue for the same policy instrument, they usually entail different policy goals and thus also the vision on the design of this policy instrument. Looking through gender lens, which is in

the centre of this paper, the comparative leave policy literature indicates (e.g. O'Brien, 2009; Ray, 2010; Dearing, 2016) that leave policies may 1) challenge gendered practices (e.g. through introduction of father's quotas or paternity leave), however, they may also 2) endorse traditional gender arrangements (e.g. through introduction of long maternity/parental leaves) or 3) disengage (e.g. through gender-neutral design of leave policies; non-intervention). Hence, leave policies may serve to achieve various goals, and each of these goals is typically advocated within different policy paradigm (see e.g. Knijn & Smit, 2009; Blum et al., 2014).

Gender equality-related goals and policy instruments are typically advocated within the *social investment paradigm* (e.g. Knijn & Smit, 2009), which gave rise to leave policies as one of the main instruments important for work-life balance. However, it is often criticized that gender awareness actually remains under-developed and that advocates of the social investment paradigm rather promote a «stereotypical male worker model» than the worker and carer model (Daly 2011; Saraceno, 2015:257). Thus, although at the conceptual level gender equality is typically seen as an integral part of the social investment paradigm (e.g. Morel et al., 2012; Morgan et al., 2012), many feminist scholars consider the social investment paradigm too instrumental in its usage, and Auth & Martinek (2017) argue for gender equality as a separate policy paradigm, different from social investment. This is not surprising as the social investment paradigm allows various framing opportunities (see e.g. Saraceno, 2015) and whether leave policies are going to be framed as policies which should generate gender equality or employment may importantly affect the character of reforms and their actual outcomes. The instrumentalisation of work-family policies (including leaves) is particularly criticised (Morel et al., 2012) stressing that although gender equality is one of central elements within the social investment paradigm, work-family policies (including leaves) are often instrumentalised to reach the employment-led or fertility-led goals and not gender equality per se (e.g. Stratigaki,

2004; Jenson, 2009). Traditional gender arrangements are typically advocated within a *freedom of choice paradigm* (e.g. Ostner, 2010; Blum et al., 2014) or *familialistic paradigm* (e.g. Szelewa, 2017) which both favour long maternity/parental leaves that aim to withdraw women from the labour market. Following the «maternalist» assumptions (Orloff, 2006), these paradigms may also favour maternity/parental allowances provided solely on the basis of motherhood (or parenthood) status, which may be additionally stressed in countries with explicit pronatalist agenda (see e.g. Dobrotić et al., 2013). Disengagement is typical for *neoliberal paradigm*, which is considered as gender-blind (see Jenson, 2009). While under this paradigm the access to leave rights may be limited and typically granted in gender-neutral terms, the outcome of policy design will be also gendered (see e.g. O'Brien, 2009). Finally, it is important to notice that policy paradigms rarely come in pure form, and the elements from various paradigms may mixed up (Knijn & Smit, 2009)¹, while the assumptions embedded in policy paradigms may change over time (Beland, 2009). Following this framework, the leave policy development in Croatia is analysed in the next section relying on the data from official government documents and parliament protocols, as well as previous literature.

3. LEAVE POLICY DEVELOPMENT IN CROATIA

3.1. The roots of Croatian leave policy design

In Croatian territory, the paid leave was first introduced in 1927 when the Kingdom of Serbs, Croats and Slovenians ratified 1919 ILO Maternity Protection Convention, which asked for 12 weeks of maternity leave (6 weeks before and 6 weeks after the birth) (Korintus & Stropnik,

¹ For example, BLUM et al. (2014: 473) pointed that workfare, typical for neoliberal paradigm, «shares with social investment paradigm the focus on activation and re-commodification». Workfare may be also closely connected to and argue for freedom of choice (MOREL et al., 2012).

2009). The same system was renewed after the Second World War², when Croatia formed a part of Yugoslavia³. After the Second World War the state started to actively promote a dual-earner family model what intensified the development of policy instruments aimed at working mothers. Leave policies represented a lynchpin of policy package which aimed to expand women's labour market supply, greatly needed in the context of extensive industrialization and a lack of labour force (Puljiz & Zrinščak, 2002). The state-led process of women's emancipation, inherent to socialist period (Černigoj – Sadar & Vojnovič, 1992), thus brought several extensions of maternity leave (Figure 1). The most remarkable change, which determined also a today's leave scheme in Croatia, was in 1973 when maternity leave was extended at six months, and an *additional maternity leave* was introduced which could be used until the child turns one year of age. Still, while the maternity leave was paid to all employed mothers and fully compensated, a means-testing principle was introduced for the additional maternity leave benefit. The additional maternity leave benefit ceased to be means-tested in 1989, and the whole maternity leave period become paid at the level of previous salary. Thus, Croatia ended up with earnings-related *maternity leave* which could be used 28 (or 45) days before the birth and until the child turns one year of age (divided at six months of maternity leave followed by *additional maternity leave* until the child turns one, both paid at the level of previous salary; Figure 1).

Looking from the comparative perspective (cf. OECD, 2017), Croatia started to develop leave policies quite early and had introduced a quite generous leave scheme until the end of 1980s. While this development (together with investments in early childhood education and care) prefired in

some respects the activation dimension of the social investment approach (see Morel et al., 2012), the leave policies development was based on gendered assumptions and basically supported solely «workers with maternal responsibilities» (Orloff, 2006: 237). More specifically, the leave scheme was built on «maternalist» assumptions with the main idea to protect employed mothers from work demands and grant them health protection as well as to maintain their participation at the labour market (Dobrotić, 2012)⁴. Solely maternity leave was introduced, while the fathers become recognised as beneficiaries within the maternity leave⁵ scheme barely in the late 1970s (Figure 1). However, even then the maternity leave remained an individual mother's right which could be transferred to the father only under certain circumstances and with mother's agreement⁶. The mothers thus continued to have a «gate-keeping» function and the father's position can be best described by using Hašková et al. (2009, 101) term of «secondary caregivers» – fathers were allowed to «step in» only when the mother was not capable (due to health-related issues) or able (due to employment) to take over her primary role as a caregiver.

⁴ The similar arguments could be found also behind the development of early childhood education and care (ECEC) system where it was indisputably stressed that the main goal of its development is to mitigate mothers' employment as well as their participation in the public life (e.g. Act. no. 82/1945, 81/1948, on childcare). However, ECEC system in Croatia has developed less intensively than in e.g. former socialist countries in Central Eastern Europe, and the capacities failed to meet demands, putting a high care burden on mothers and relatives (cf. STROPNIK, 1989; ZRINŠČAK, 2002). Up to the end of 1989 there were 30,3% of children in kindergartens and 7,8% in nurseries (BARAN et al., 2011).

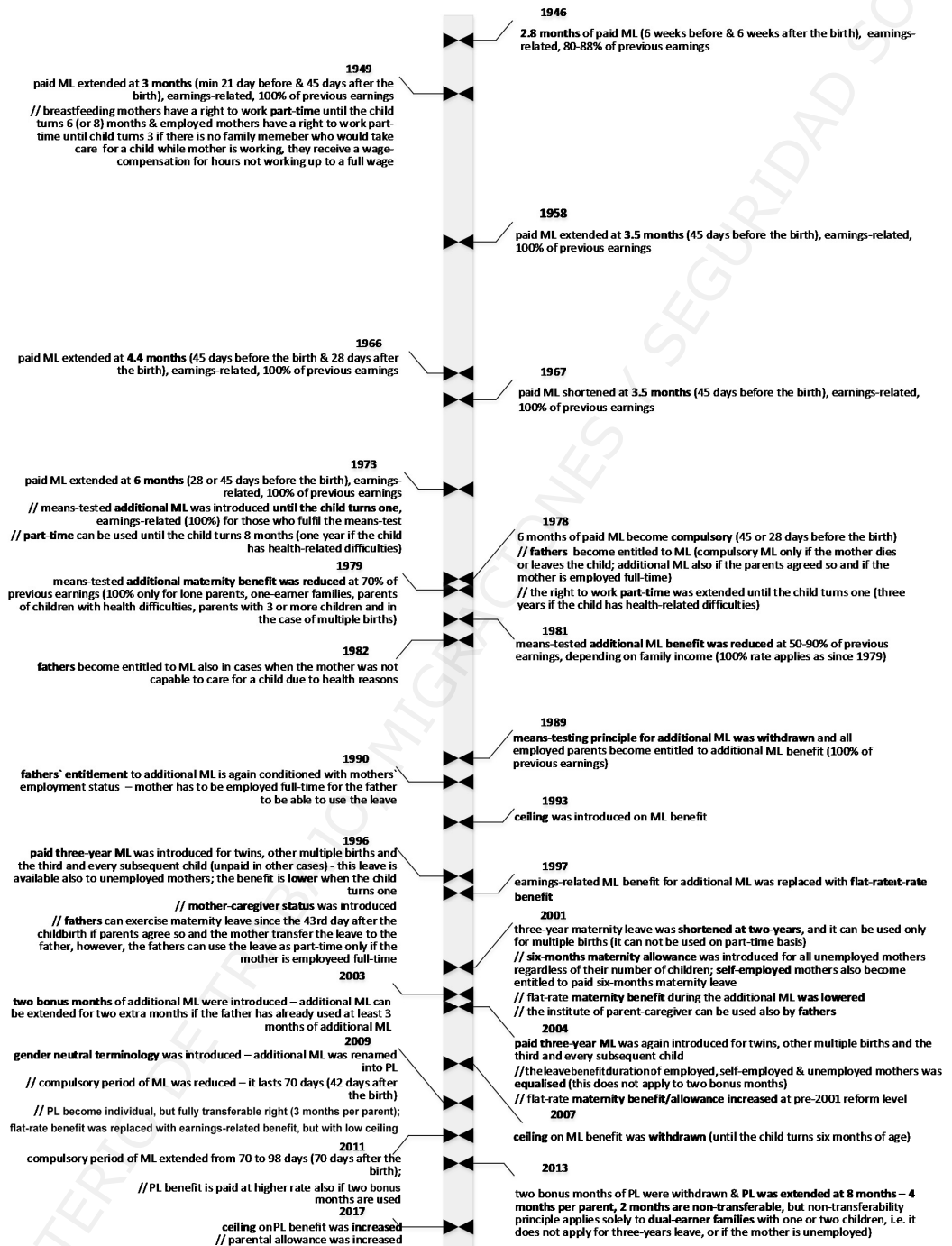
⁵ Please note that while describing policy development, the terminology appearing in legislation is used. Namely, although both parents started to be eligible to maternity leave in 1970s, the term parental leave started to be used in legislation as late as in 2009 (see section 3.3), what can be also indicative from the aspect of gender-equality dimension of leave policy design.

⁶ In 1978 fathers become entitled to *maternity leave* only in certain cases, i.e. if mother dies or leaves the child, and to *additional maternity leave* also in cases when parents agree so under the condition that the mother is in full-time employment. In 1982 fathers become entitled to *maternity leave* also in cases when mother was not capable to care for the child (due to health reasons), while the condition of mother's full-time employment for the father being able to exercise *additional maternity leave* was abolished (Dobrotić, 2012).

² Namely, after the Federal People's Republic of Yugoslavia was founded, all legal regulation issued before the Second World War and during the War was repealed (RENER et al., 2006).

³ Although Croatia was one of the republics which constituted former Yugoslavia, described policy development elaborate on Croatian experience. Namely, Yugoslav republics were to some extent independent to develop their own social policies and Croatia started to develop a «home-made» family policy already in the late 1960s (DOBROTIĆ, 2012).

FIGURE 1. LEAVE POLICY REFORMS IN CROATIA 1945-2018



Source: DOBROTIĆ (2012; 2018).

Thus, Croatia developed an employment-based leave scheme, which aimed to facilitate women's employment and allowed employed parents to incorporate care in their life, however, it is hard to claim unambiguously that policy developments in socialist Croatia signal a full departure from «maternalism» as a basic principle behind the family policy making. As Orloff (2006) argue, introduction of certain social rights aimed at women does not necessary contribute to improvements in the area of gender equality, especially if «the regulation is built upon a gendered division of labour in which women were mothers, wives, caregivers, and domestic workers –even if they also worked for pay– while men supported families economically, almost always through paid labour. If women were not always housewives, they almost always cut back on or in some way made accommodations in formal economic activities in order to carry out their responsibilities for caregiving» (ibid: 236-237). That particularly holds for Croatian leave policy design in socialist period which assigned women a primary responsibility for childcare (and assumed their secondary role at the labour market), and failed to challenge traditional division of care work in private sphere as well as father's image of a primary breadwinner. That resulted in double or even triple burden on women in their everyday life, who were supposed to actively participate in public and political life, while there were no changes in private sphere (e.g. Tomić-Koludrović & Kunac, 2000). In spite of this criticism, it must be noticed that the introduction of one-year post-natal, fully paid maternity leave was an important step forward in development of women's (and parent's) rights. However, the generosity level of the leave scheme was curtailed in the post-socialist period, as it will be discussed in the next section.

3.2. Leave policies in 1990s: maternity leave as a key policy instrument within a pronatalist agenda

A wide range of socio-economic difficulties which become visible already in the late

socialist period only aggravated in Croatia with the transition period, particularly within the context marked by the dissolution of Yugoslavia followed by the 1991-1995 war and raising nationalism, crony capitalism, a «knotty» nation and state building processes, tendencies towards political authoritarianism and international isolation (Puljiz, 2008; Stubbs & Zrinščak, 2009; Ivanković, 2017). The 1991-1995 war produced a high burden for the public budget and that all the reforms (including in the area of family policy) were postponed, what additionally constrained economic and social development (see e.g. Franičević, 2004; Puljiz, 2004, 2008). Namely, as in the early 1990s only an «emergency welfare state» operated «which was preoccupied to take care of a large number of vulnerable citizens, especially refugees and displaced persons» (Puljiz, 2008, 30), with the end of the war a wide range of social groups started to demand social rights yielding a hard pressure on the state budget. Social policy making become a «captured» (Stubbs & Zrinščak, 2007) and highly divided by particular interest with only few social groups such as war veterans and pensioners being able to mobilize and influence the public agenda (Stubbs & Zrinščak, 2011). Although parents were not among the groups having a «mobilization» capacities, their rights emerged quickly on the political agenda, what was closely related to growing nationalism and an idea of «demographical renewal» (Dobrotić, 2012). That put leave policies, inherited from the socialist period, in front of the policy making.

Leave policies were put at the centre of pronatalist agenda, and the reforms become advocated reposing on arguments typical for explicit familialistic paradigm, posing the long-term pitfalls to gender equality agenda. At the state level there was a noticeable break with the aspirations behind the family policy making inherent to socialist period as a proclaimed aim of gender equality characteristic for socialist period was replaced with the aim of a «demographic renewal» (see Dobrotić, 2012). In line with that conserva-

tive, right-wing political parties, church and catholic organisations started to advocate a wide range of familistic policy proposals such as a *compulsory* three-year maternity leave, withdrawal of nurseries, a paid profession of mother-caregiver⁷ and a generous family allowances (Kesić, 1994; Dobrotić, 2012)⁸. These policy proposals were explicitly framed within a discourse of retraditionalisation and women's redomestication, i.e. the idea to return to traditional values and to withdraw women from the labour market, while a reproductive function was explicitly assigned to women as their primary role (Dobrotić et al., 2013; Dobrotić, 2016)⁹.

While with the help of international actors, already a weak feminist movement¹⁰ managed to mitigate these proposals to some extent (Shiffman et al., 2002), the efforts aimed towards introduction of a three-year maternity leave and a paid profession of mother-caregiver continued. The leave policies (together with generous child allowances) were seen as a main policy instrument which should bring a higher fertility rate and con-

⁷ The idea was to provide mothers with four and more children an average salary, including health and pension rights (see DOBROTIĆ, 2012).

⁸ More specifically, already in May 1992 the Croatian government has announced the concept of «demographic renewal», which explicitly advocated that a «family of Croatian future» is the one with three or four children, a withdrawal of reproductive rights and a new family policy which will secure preconditions for «a profession of mother-caregiver being the most honoured profession, a withdrawal of employed mothers from the factories, elimination of non-marriage... reducing the nurseries to the minimum and their gradual abandonment» (KESIĆ, 1994: 1-2).

⁹ The redomestication discourse which was put primary in the function of national ideology and the «need for demographic renewal» (ŽUPANOV, 1996b; DOBROTIĆ, 2012), was also closely connected to ethnicized nationalism (TOPIĆ, 2009).

¹⁰ The feminist organisations were not able to influence policy reforms in 1990s. The government treated them as perfidious as they were anti-war oriented and gave a priority to gender dimension over the nationality (KESIĆ, 2007). Moreover, the feminist movement itself was divided, i.e. they did not agree on collaboration with the feminist organisations from the former Yugoslav republics and interpretation of rape crimes in Bosnia and Hercegovina (see JALUŠIĆ, 2002; Centar za žene ROSA, 2011).

tribute to a «demographic renewal» (Dobrotić, 2012)¹¹. As the political power was in the hand of one strong, conservative right-wing political party –Croatian Democratic Union (HDZ)– who was one of the main proponents of this reform proposal (Dobrotić et al., 2013), and in the absence of strong actor who would oppose this proposal¹², in 1996 both a three-year maternity leave and a paid profession of mother-caregiver were introduced (Figure 1). This brought new elements in leave policy design, which strengthened its gendered character, particularly for mothers with more children. Namely, the tendency to introduce a *compulsory* three-year maternity leave for all employed mothers failed due to the financial difficulties Croatia was facing in 1990s, and a three-year maternity leave was introduced only in the cases of multiple births or the birth of the third and every subsequent child (Puljiz & Zrinščak, 2002; Dobrotić, 2012). Also unemployed mothers with three or more children or in the case of multiple births become entitled to three-year maternity allowance, i.e. Croatia for the first time abandoned a pure employment-based leave policy design (Dobrotić & Blum, 2019). A paid profession of mother-caregiver has never been implemented¹³.

In 1990s there were two additional reforms which in the long-run seriously affected the generosity of leave scheme. First, an upper

¹¹ Total fertility rate in Croatia dropped at 1.39 in 1992, more intense than in other Central and Eastern European post-communist countries with the onset of transition. However, this drop did not continue and Croatia has never reached as low level of fertility rate as e.g. Czech Republic or Slovenia in the mid-1990s (Council of Europe, 2005).

¹² Only a few experts opposed a three-year maternity leave proposal with the argument that this may bring a discrimination of women at the labour market; the feminist movement was weak, the trade unions nonconstructive and unwilling to oppose these reforms, while the opposite political parties did not have a clear stand towards these proposals (DOBROTIĆ, 2012).

¹³ Due to the lack of finances, the needed implementation legislation failed to get majority parliamentary support three times (in 2001, 2004 and 2006), and after that the whole idea of paid profession of parent-caregiver was withdrawn from the labour law (DOBROTIĆ, 2012; 2018).

ceiling on maternity benefit was introduced in 1993 (Figure 1). The reform was a part of the program which aimed to stabilize public finances (Županov, 1996a)¹⁴. Although the ceiling was set at relatively high level, e.g. in 1994 it amounted 2.8 average net salaries, it failed to be indexed since 1996 when it was set at €560. Due to high inflation, its real value had failed until the end of 1990s at 1.3 average net salaries¹⁵. Second, in 1997 an earnings-related additional maternity leave benefit was replaced by the flat-rate additional maternity leave benefit (Figure 1). While at the time of introduction the level of flat-rate additional maternity leave benefit accounted for one average net wage in Croatia, it was also not indexed and it dropped due to high inflation at 0.75 average net salary already until the 2000¹⁶. This change was part of a larger reform of the health care system, i.e. of a gender-blind cost-containment reforms advocated by international financial organisations. Namely, it was conditioned by the World Bank's loan conditions which asked for lower social expenditures (Špehar, 2007; Dobrotić, 2012). Both reforms were introduced without public discussion, and, again, there were also no strong actors who would be able to oppose them¹⁷.

Hence, following a pronatalist agenda Croatia experienced a rhetorical shift towards explicit familialism in 1990s, asking for leave design which should repose on long maternity leaves and withdrawal of women from the labour market. At the same time, international

financial organisations asked for gender-blind cost-containment reforms. It is thus not surprising that the father's position in leave design has not been questioned at all. Moreover, as there was high unemployment rate, the men's labour market participation was explicitly promoted as a priority one so «at least one family member can work», and a three-year maternity leave and a mother-caregiver status were also seen as a part of the solution of growing unemployment (Dobrotić, 2012). These proposals were explicitly based on the ideology of gender differences (Orloff, 2006) and presumed a gendered division of labour. Although these efforts did not fully succeed when it comes to policy level and real parenting practices (see Puljiz & Zrinščak, 2002), «a pro-natalist discourse initiated and maintained by right-wing political parties left a «trace» and family policy became instrumental, i.e. it become primarily seen as an instrument which would increase the fertility rate» (Dobrotić, 2016: 305). That particularly holds for leave policies.

3.3. Leave policies in the 2000-2013 period: between pronatalist agenda and ambiguous gender equality agenda

The 2000-2013 period was marked by several changes of the government, followed by endeavours for a paradigm shift at the state level, as well as the aspirations towards the EU membership. The first attempt of paradigm shift occurred in the early 2000s when the left-centre coalition government, led by social democrats, came into power for the first time after the 1990. This government was more inclined towards gender equality agenda, what was additionally boosted by their aspiration to join the EU (see Dobrotić et al., 2013). They also introduced the first and the only strategy on national family policy (Puljiz & Bouillet, 2003), which aimed to redefine the family policy goals and challenge the dominant familialistic paradigm, particularly the women's redomestication discourse prevalent in the 1990s. Although not framed explicitly in these terms,

¹⁴ One of the important reasons behind the introduction of the ceiling was also the fact that some private employers started to employ employee's wives a three months before the birth with high salaries to provide them with the opportunity to have a higher benefit when on maternity leave (due to high inflation Croatia started to calculate the maternity benefit based on the earnings in the last three months) (JUTARNJI list, 2007).

¹⁵ Own calculations based on the data of Croatian Bureau of Statistics on net monthly wages.

¹⁶ Own calculations based on the data of Croatian Bureau of Statistics on net monthly wages.

¹⁷ As the policy making was closed and they were not able to influence it by other means, the NGO B.a.b.e. and trade unions submitted the constitutional complaint, however, the complaint was refused (ŠPEHAR, 2007).

it built on some elements inherent to the social investment paradigm, as the declared aim was to provide better support to dual-earner, dual-carer families (see Gornick i Meyers, 2003; Morel et al., 2012), stressing the importance of women's employment, more active father's involvement (e.g. through introduction of paternity leave or shared parental leave) and expansion of care-related services (see Puljiz & Bouillet, 2003). However, as the family policy was not among the government's priority areas (Dobrotić, 2012)¹⁸, this proposal came with the end of their mandate and has never been implemented. Their most important reform (in 2001) brought a six-months right at maternity leave/allowance to the self-employed and unemployed mothers (regardless of their number of children; Figure 1), heading towards the universalisation of the leave scheme.

Thus, the left-centre coalition government goal to redefine the family policy eventually failed to be transposed in concrete policy instruments¹⁹. A turn towards gender equality remained mostly rhetorical and symbolic, and the reforms were predominantly driven by the budget constraints and neoliberal endeavours of international financial organisations. Namely, one of their first reforms importantly reduced the level of additional maternity leave benefits²⁰, while the withdrawal of the three-year maternity leave in 2001 (see Figure 1), which may be considered as a step forward towards more gender equality oriented leave policy design²¹, was

¹⁸ Government efforts were mainly directed towards economic and social problems, particularly those related to high unemployment and low living standard (see e.g. PULJIZ & BOUILLET, 2003).

¹⁹ This is not inherent solely to the reforms in the area of leave policies, but also in the service sector characterised by the lack of investments (e.g. MATKOVIĆ & DOBROTIĆ, 2013).

²⁰ The 30% reduction of the flat-rate additional maternity benefit in 2001 seriously deteriorated its real value which amounted solely a 0.45 average net salary (Dobrotić, 2018).

²¹ As widely acknowledged in the comparative family policy literature, long childcare-related leaves are often associated with negative outcomes related to women's position at the labour market (e.g. OECD, 2011; AKGUNDUZ & PLANTENGA, 2013; THEVENON & SOLAZ, 2013).

also primary a reaction on pressures coming from international financial agencies and their loan-related conditions aimed at better «control» over social expenditures (Dobrotić, 2012). Similarly, two bonus months of maternity leave introduced in 2003 (Figure 1), although argued for by gender-equality related arguments, failed to challenge gender norms. The access to this leave was conditioned by the fact whether the father has already exercised at least three months of additional maternity leave, and it was unrealistic to expect that this type of reform could bring any changes in parenting practices. Namely, the benefit level was low, flat-rate and there were omnipresent gendered assumptions about proper childcare (i.e. a norm that mothers have to stay on leave at least until the child turns one) (see Dobrotić, 2012). Hence, although framed relying on gender equality (including active fathering) ideas, inherent to the social investment paradigm (see Knijn & Smit, 2009; Blum et al., 2014), this reform may be marked solely as symbolic.

The fact that the maternity benefits were reduced and the three-year maternity leave withdrawn brought the leave policies in the centre of pre-election campaign in 2003. Conservative, right-wing HDZ won elections again and all their reforms in the area of leave policies were a clear expression of a pre-election populism and a renewed pronatalist agenda (see Dobrotić, 2012). Namely, following the pre-election commitment first they increased the additional maternity leave benefit in 2004 and introduced the three-year maternity leave again. Also, the leave duration of employed, self-employed and unemployed parents was equalised (Figure 1). At the end of their mandate, again as a part of the pre-election campaign, the ceiling on maternity leave benefit was withdrawn²². The arguments be-

²² Until 2006, a year before the reform, the value of the ceiling felt at the level of 0.9 average net salary (DOBROTIĆ, 2018). The same proposal was put into the parliament procedure by social-democrats (in 2004 and 2007), however, the right-wing majority had rejected it with the arguments that

hind these reforms show that leave policies remained instrumental, serving a pronatalist agenda, with familialistic paradigm becoming sophisticated. Namely, the «maternalist» assumptions behind the leave policy reforms remained strong at political level, but an idea of women's redomestication weakened and become rarely expressed explicitly. Also, new arguments started to appear in public debates in order to justify longer leaves and higher maternity leave benefits – arguments related to the lack of working force and a sustainability of social security systems due to low fertility rates (cf. HS, 2004; Vlada RH, 2011; Dobrotić, 2012). Women thus continued to be treated as «secondary» earners, while the father's role in private sphere remained unchallenged. However, this started to change with the EU negotiations and accession.

Namely, although vague in its character (Dobrotić et al., 2013), an additional push factor came from the EU, which asked to improve the father's position within the leave policy design. There were two major changes, which were unconditionally accepted by the government in the process of compliance with the EU directives. First, to comply with 1996 parental leave directive (Directive 96/34/EC) the right-wing government introduced a three-months individual right on parental leave in 2009 (Figure 1), i.e. the additional maternity leave was renamed into parental leave and split equally among parents. Each employed parent thus become eligible to three months of parental leave, which was fully transferable from one parent to the other. Although the flat-rate benefit was replaced with earnings-related parental benefit, the benefit level remained the same as a low ceiling of €355 per month (0.5 average net salary) has been set (Dobrotić, 2012).

this proposal is targeting solely a small group of women and it is not going to effect the fertility rate. Moreover, it has been argued that it is not fair for women on maternity leave to receive the same benefit as their salary level, as they are not working and that this may bring dissatisfaction of women with lower salaries (DOBROTIĆ, 2012).

Although this adjustment did not significantly challenge a gender dimension of leave policy design, it opposed the ideal of gendered parenting practices advocated by the right-wing government²³, and it would not be introduced without the pressure coming from the EU (Dobrotić, 2012). Second, to comply with 2010 parental leave directive (Council Directive 2010/18/EU) in 2013 the two bonus months of parental leave were withdrawn and the parental leave was extended from six to eight months – 4 months per parent, two of them non-transferable (Figure 1). Although, at the time of this reform the centre-left government was in the office, which aimed to redefine family policy goals in early 2000s and argued for gender equality, it is interesting to notice that their arguments were not closely connected to the gender equality agenda and «maternalist» assumptions, inherent to familialistic paradigm, remained quite dominant. For example, Dobrotić (2016, 317) showed that the main argument behind the reform stressed how «a new leave system would allow fathers to donate part of their time to the family, according to their work obligations». It was not seriously expected that fathers will actually use the leave, and a low benefit level, which has not been indexed for years, made that even less likely (cf. O'Brien, 2009). While the leave take-up data are not monitored, the data on the number of users of parental leave indicate the absence of noticeable increase in the number of fathers on parental leave after the introduction of quotas and they continue to account for around 4-5% of all parental leave taken (Pravobraniteljica za ravnopravnost spolova, 2013, 2018). The research on the division of housework and care continue to show that traditional division of care and housework remains the norm

²³ Interviews with representatives of the leading party even show that they considered the idea that fathers should exercise parental leave as strange idea and an unnecessary one, but as it was a request for the EU membership they did not oppose it publically (DOBROTIĆ, 2012).

(e.g. Klasnić, 2017), with mothers bearing the main burden in those activities²⁴.

3.4. Ambiguousness of recent proposals for leave policy reforms?

Croatia was hit by the crisis quite deeply and unfavourable economic trends had continued until the 2015. Within this context the centre-left government (in office 2011-2015) has accentuated the rhetoric about high social spending and explicitly demanded a rationalisation of social expenditures. Although leave policies were not directly affected by the crisis-related measures (see Dobrotić, 2016), their development stagnated. The centre-left government formed a working group which should develop a new family policy strategy, however, this was only a symbolical attempt as from the beginning there were no serious intentions to invest into development of this area. In spite of that the working group formed by experts came with the proposal of concrete reforms explicitly driven also by gender equality goals, including the reforms in the area of leave policies where they asked to improve the current leave scheme to become more gender sensitive (e.g. to introduce the paternity leave), to reform the three-year leave scheme and increase the parental benefits (Dobrotić & Zrinščak, 2014). However, the proposal has never been sent to parliament procedure with the main argument that the proposed reforms would be too expensive (Jutarnji list, 2015). Still, the need to increase parental benefits become advocated by all bigger political parties in the pre-election campaign for parliament in 2015 (see Dobrotić, 2018). The need for this reform become again framed within the ex-

PLICIT pronatalist agenda, which continued when the current right-wing government led by the HDZ came into the office. In line with that, the increase of the ceiling on parental benefits was one of the first reforms they implemented in 2017 (Figure 1). In July 2017 the ceiling on parental leave benefit increased from €355 to €532 per month (from 0.44 to 0.68 average net salary; Dobrotić, 2018), arguing that this measure will contribute to «demographic renewal» (e.g. Vlada RH, 2017a). In parallel with that, in 2018 the government also started to invest additional funds (mostly the EU funds) in early childhood education and care.

The current government also announced a withdrawal of a ceiling on parental leave, but also a paid profession of parent-caregiver for families with more children (Vlada RH, 2016) which invoke an explicit familialistic policy proposals anew, deeply gendered in its character. Together with current public discussions, it also point at ambiguousness of current ideas related to future leave development. On the one hand, a paid profession of parent-caregiver is also supported by few demographers, some of them being able to influence public agenda, who also explicitly stated how this measure aims at unemployed and lower-earning families, i.e. women (Večernji list, 2016). Moreover, in 2016 the major of the City of Zagreb was running a pre-election campaign for parliament elections, and in the middle of this campaign the City of Zagreb, without public discussion, actually introduced a cash-for-care scheme for unemployed parents of three or more children («parent-caregiver» status, which was actually first introduced as a «mother-caregiver» status!), which allows them to receive an allowance of ca. €520 per month (65% of average net wage and 150% of minimum wage) until the youngest child turns 15 (Dobrotić, 2017b). This measure clearly oppose EU employment and education agenda as significant number of women and men withdraw from the labour market and children

²⁴ It is interesting to notice that since the 1990 the early childhood education and care system was not a subject of any reforms which would increase availability and affordability of childcare services, and their development has been left to the capacities of local communities (see e.g. BARAN et al., 2011; DOBROTIĆ et al., 2010). That resulted in the fact that in 2016 there were only 21.2 per cent of children included in nurseries, and 58 per cent of children in kindergartens, with pronounced systemic regional differences where more developed areas perform better (see DOBROTIĆ et al., 2018).

from ECEC services²⁵ as well as the gender equality agenda. On the other hand, the EU proposal of directive on work-life balance that argues for gender-equality in leave policy design (see European Commission, 2017), actuated a discussion on paternity leave and shared parental leave in Croatia. While at first the government did not give unconditional support to this proposal (Vlada RH, 2017b), it seems that they have changed their position, at least when it comes to paternity leave. Namely, at the round table organised in Croatian Parliament by the Swedish embassy and NGOs who have run a one-month public campaign advocating for introduction of paternity leave in Croatia, the government's representative explicitly stated that they plan to support a ten-days paternity leave, what was framed by active fathering ideas and a need for better work-life balance, both inherent to the social investment paradigm, however, still within the explicit aim to contribute to growing fertility rates and not a gender equality per se (Croatian Parliament, roundtable «Engaged parenting and active father's role in child upbringing», April 17th, 2018).

4. CONCLUSION

After the collapse of state socialism, Croatia inherited a one-year post-natal maternity leave paid at the level of previous salary. Although being a result of state-led process of women's emancipation (see Puljiz and Zrinščak, 2002) the leave policy design was based on gendered assumptions and it supported solely working mothers, while the father's role as a primary breadwinner was not questioned. It thus created a parenting

model within which it was expected from women to temporarily withdraw from the labour market in early childhood, deeply ingrained even today (see e.g. Dobrotić et al., 2013; Jugović, 2015).

Since 1990s this leave policy design was under constant pressure for reforms, with initiatives coming from both domestic and international actors. As shown in this paper, these initiatives relied on ideas and elements inherent to different policy paradigms, asking for different goals as well as the features of leave policy design. On the one hand, with the onset of transition, Croatia has experienced a shift in main paradigm driving the leave policy development which brought in new policy goals and instruments. There was a clear shift from stated promotion of dual-earner family model, which reposed on one-year maternity leave and for that time moderately developed ECEC services (see e.g. Zrinščak, 2002), prefiguring in some respects the activation dimension of the social investment paradigm (see e.g. Saraceno, 2015), towards the familialistic paradigm. Familialistic paradigm aimed to endorse a pronatalist goals and traditional gender roles, assigning women a reproductive function as a primary one, and asked for leave policies which would allow them to withdraw from the labour market in order to contribute to fertility rate. After a failure of policy proposals which aimed to directly undermine leave policies inherited from socialist period (e.g. introduction of compulsory three-year leave and of a paid profession of mother caregiver, followed by the withdrawal of nurseries), these demands eventually resulted in introduction of three-year maternity leave for parents of three or more children and in the case of multiple births. On the other hand, leave policies development in Croatia has been driven also by opposing ideas and domestic-driven pronatalist agenda which asked for familialistic reforms was occasionally confronted with ideas coming from international actors. First, international financial agencies

²⁵ According to the last available data from April 2018, around a half of eligible parents have been granted this status, i.e. 3,376 of them (around 10% of men), most of them of lower socio-economic status and working in low-earnings professions (Utarnji list, 2018). Most of their children attended early childhood education and care services, and were withdrawn from there.

demanded a liberal-residual welfare regime, asking for cuts also in the area of leave benefits which were implemented in 1990s and early 2000s. After that also the EU entered the policy arena with its ambiguous gender equality agenda, and demanded father's quotas within the leave policy design, which were implemented in 2013. However, quotas were implemented solely for dual-earner families and in the case of 8-months parental leave which may be used in the case of the birth of the first and the second child, imposing different gender arrangements for different groups of parents.

Croatia failed to formulate a coherent policy paradigm which would drive a leave policy reforms, what resulted in often, ill-advised and uncoordinated reforms and brought an ambivalent amalgam of leave policy design. It combines both familialist (e.g. comparatively long maternity leave, a three-year leave for some parents, parent-caregiver status in the City of Zagreb) and gender equality (e.g. two-months father's quotas) oriented elements as well as pronatalist elements (e.g. longer leaves and cash-for-care scheme target families with more children), and run the risk to encourage women with more children and of lower socio-economic status to withdraw from the labour market. Leave policies remained highly instrumental and primary seen as a policy instrument which may serve pronatalist agenda, and not a gender equality per se. Recent reforms and discussion, i.e. the reliance on elements of both familialistic and social investment paradigm in reform proposals and actual introduction of parent-caregiver status in the City of Zagreb, which started to be advocated as a solution appropriate especially for low-skilled mothers and low-earnings families, also living in depopulated areas, only strengthen this. It also strengthened an ambiguity of leave policy design, and pose a risk of further development of leave scheme inconsistent in its character, which will insist on different gender arrangements divided along social lines.

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ABSTRACT The paper explores the development of childcare-related leave policies in Croatia, putting a specific focus on «rationale» behind the reforms, with the leave policies development being considered primary through a gender lens. Namely, depending on dominant ideas and norms in particular country and time, leave policy design may have various features, involving different gender and class-related assumptions. Their understanding is particularly important if one wants to understand the outcomes of particular leave policy design as well as to work to transform the gendered nature of leave policies. Croatia makes an interesting case to explore the interaction between different policy ideas and the gendered dimension of leave policy design. On the one hand it demonstrates a resistance of once established policies as changeable and incoherent ideas behind the leave policy-making failed to undermine directly once established leave scheme; however, on the other hand these ideas succeed in gradual introduction of new elements in leave policy design, which foresee specific gender arrangements along social lines.

An intense development of leave policies in Croatia started after the Second World War, when Croatia formed a part of socialist Yugoslavia. Leave policies formed a lynchpin of policy package which aimed to expand women's labour market supply, greatly needed in the context of extensive industrialisation. The state-led process of women's emancipation thus brought a one-year, post-natal maternity leave aimed at employed women, paid at the level of previous salary – divided into *maternity leave* which could be used 28 (or 45) days before the birth and until the child turns six months of age, and *additional maternity leave* which may be used until the child turns one. The leave policy design was based on gendered assumptions and it supported solely working mothers, while the father's role as a primary breadwinner was not questioned. It explicitly supported a parenting model within which it was expected from women to temporary withdraw from the labour market after the childbirth, deeply ingrained in present values and norms in Croatia.

After the collapse of state socialism, Croatia inherited a one-year, post-natal maternity leave paid at the level of previous salary, and the basic elements of the leave scheme have shown a high resistance to new policy ideas coming from both national and international actors. However, few new policy elements become gradually integrated within this scheme, relying on ideas coming from various policy paradigms and eventually bringing in an inconsistent character of leave policy design. As shown in this paper, reform initiatives since 1990s relied on ideas and elements inherent to different policy paradigms, asking for different goals as well as the features of leave policy design. On the one hand, with the onset of transition, Croatia has experienced a shift in main paradigm driving the leave policy development, which brought in new policy goals and instruments. There was a clear shift from state-led promotion of dual-earner family model, which reposed on one-year maternity leave and for that time moderately developed early childhood education and care services, prefiguring in some respects the activation dimension of the social investment paradigm, towards the familialistic paradigm. Familialistic paradigm aimed to endorse pronatalist goals and traditional gender roles, assigning women a reproductive function as a primary one, and asked for leave policies which would allow them to withdraw from the labour market in order to contribute to «demographic renewal». After a failure of policy proposals, which aimed to directly undermine leave policies inherited from socialist period (e.g. introduction of compulsory three-year maternity leave and a paid profession of mother caregiver, followed by the withdrawal of nurseries), these demands eventually resulted in introduction of three-year maternity leave for parents of three or more children and in the case of multiple births as well as increased leave benefits. On the other hand, a domestic-driven pronatalist agenda which asked for familialistic reforms was occasionally confronted with ideas coming from international actors. First,

international financial agencies demanded a liberal-residual welfare regime, asking for cuts also in the area of leave benefits which was implemented in 1990s and early 2000s. After that also the EU entered the policy arena with its ambiguous gender equality agenda, and demanded father's quotas within the leave policy design, bringing in two-months fathers quotas in 2013. However, the quotas were enacted solely for dual-earner families and in the case of eight-months parental leave (former six-months additional maternity leave), which may be used in the case of the birth of the first and the second child, imposing different gender arrangements for different groups of parents.

Croatia thus failed to formulate a coherent policy paradigm, which would drive a leave policy reforms, what resulted in often, ill-advised and uncoordinated reforms and brought an ambivalent amalgam of leave policy design. It combines both familialistic (e.g. comparatively long maternity leave, a three-year leave for some parents, parent-caregiver status in the City of Zagreb) and gender equality (e.g. two-months father's quotas) oriented elements as well as pronatalist elements (e.g. longer leaves and cash-for-care scheme target families with more children), and run the risk to encourage women with more children and of lower socio-economic status to withdraw from the labour market. Leave policies remained highly instrumental and primary seen as a policy instrument, which may serve pronatalist agenda, and not a gender equality per se. Recent reforms and discussion, i.e. the reliance on elements of both familialistic and social investment paradigm in reform proposals and actual introduction of parent-caregiver status in the City of Zagreb, which started to be advocated as a solution appropriate especially for low-skilled mothers and low-earning families (also families living in depopulated areas), only strengthen this. It also strengthened an ambiguity of leave policy design, and pose a risk of further development of leave scheme inconsistent in its character, which tend to insist on different gender arrangements divided along social lines.

Keywords: Childcare-related leave policies; maternity leave; parental leave; policy paradigms; Croatia.

RESUMEN

En este artículo se analiza el desarrollo de las políticas de permisos parentales en Croacia, haciendo hincapié en las razones para las reformas y considerando dicho desarrollo como prioritario desde el punto de vista de la igualdad de género. Más concretamente, dependiendo de las ideas y normas dominantes en un país y época dados, el diseño de las políticas de permisos parentales presenta varios aspectos que implican diferentes supuestos en cuanto a la igualdad de género y clase social. Conocer esto es especialmente importante si se quieren comprender los resultados del diseño concreto de una política de permisos, así como trabajar en la dirección necesaria para transformar la igualdad de género dentro de las políticas de permisos parentales. Croacia presenta un caso interesante para analizar la interacción entre las diferentes ideas sobre las políticas de permisos y la dimensión sesgada por la igualdad de género en cuanto al diseño de las mismas. Por un lado, demuestra la resistencia al cambio de unas políticas establecidas anteriormente y evidencia que las ideas incoherentes en el nuevo diseño de políticas de permisos no sirven para reemplazar directamente a las establecidas. Sin embargo, por otro lado, estas ideas sirven para introducir nuevos elementos de forma gradual en el diseño de dichas políticas, que pronostican cambios específicos en la igualdad de género a lo largo de la línea social.

Tras la Segunda Guerra Mundial, cuando Croacia formaba parte del Estado socialista de Yugoslavia, se produjo un gran desarrollo de las políticas de permisos parentales. Dichas políticas formaban parte de un paquete de medidas cuyo objetivo era ampliar el mercado laboral femenino, muy demandado dentro del contexto de la industrialización extensiva. El proceso de emancipación de la mujer dirigido por el gobierno introdujo un permiso de maternidad postnatal de un año de duración destinado a las mujeres trabajadoras, con un nivel de prestación similar al salario previo y dividido en *permiso de maternidad*, que podía utilizarse 28 (o 45) días antes del parto y hasta que el hijo cumpliera los seis meses de edad, y un *permiso de maternidad adicional* hasta el primer año de vida del hijo. El diseño de esta política de permisos estaba basado en el supuesto de igualdad de género y dirigido exclusivamente a madres trabajadoras, en tanto que no se cuestionaba el papel del trabajo del padre como sustento principal del hogar. Se fomentaba de forma explícita un modelo paternal dentro del cual se esperaba que, tras el parto, la mujer abandonara el mercado laboral de forma temporal, lo cual está profundamente arraigado dentro de los valores y normas sociales actuales de Croacia.

Tras la caída del Estado socialista, Croacia heredó este permiso postnatal de maternidad de un año de duración con el nivel de prestación del salario previo y los elementos básicos del régimen de permisos parentales han mostrado una fuerte resistencia a las nuevas ideas procedentes tanto de los actores nacionales como internacionales. Sin embargo, unos pocos elementos de estas nuevas políticas se han integrado de forma gradual dentro de este régimen, basándose en ideas procedentes de varios modelos de políticas y que, finalmente, han acabado aportando un carácter contradictorio en el diseño de las políticas de permisos. Como se muestra en este artículo, las iniciativas de la reforma desde 1990 se han basado en ideas y elementos intrínsecos de diferentes modelos con distintos objetivos y características para el diseño de las políticas de permisos. Por un lado, con la llegada de la transición, Croacia ha experimentado un cambio en el modelo que guía el desarrollo de las políticas de los permisos, el cual ha traído consigo nuevos objetivos e instrumentos. Se ha producido un cambio evidente desde el modelo de familia de doble renta promocionado por el Estado hacia el modelo centrado en la familia; el primero se basaba en el permiso de maternidad de un año y los servicios de Educación y Cuidado de la Primera Infancia desarrollados moderadamente en aquel momento (según sus siglas en inglés ECEC), que anticipaban la activación del modelo de inversión social. El

modelo centrado en la familia proponía refrendar los objetivos pronatalistas y los roles de género tradicionales, asignando a la mujer la función reproductiva como rol primario y demandaba políticas de permisos que les permitieran abandonar el mercado laboral para contribuir a la «renovación demográfica». Tras el fracaso de las propuestas de dichas políticas, que pretendían suplantarse a las políticas de permisos parentales heredadas del período socialista (por ejemplo, con la introducción de un permiso de maternidad obligatorio de tres años y la profesión remunerada de cuidadora maternal, seguida de la eliminación de guarderías), estas demandas llevaron finalmente a la introducción de un permiso de maternidad de tres años para los padres que tuvieran tres o más hijos y en el caso de múltiples nacimientos, así como al aumento de la prestación. Por otro lado, las políticas pronatalistas nacionales que solicitaban reformas centradas en la familia se enfrentaban de forma ocasional con las ideas que provenían de los actores internacionales. En primer lugar, las instituciones financieras internacionales exigían un modelo liberal-residual de bienestar, demandando recortes también en el área de los permisos parentales, que se puso en marcha en la década de 1990 y primeros años de la de 2000. Posteriormente, la UE saltó al ruedo con sus políticas ambiguas de igualdad de género y exigió las cuotas de los padres dentro del diseño de las políticas de permisos, implantando en 2013 las cuotas de dos meses para ellos. Sin embargo, las cuotas solamente se aprobaron para las familias de doble renta y para el caso de los permisos parentales de ocho meses (anteriormente seis meses para el permiso de maternidad adicional), los cuales pueden utilizarse en el caso del nacimiento del primer y segundo hijos, imponiendo diferentes acuerdos de género para diferentes grupos de padres.

Por todo ello, Croacia fracasó en la formulación de un modelo coherente de políticas que llevaran a reformas en los permisos; sin embargo, solo se consiguieron unas reformas desacertadas y faltas de coordinación que introdujeron una amalgama ambivalente en el diseño de políticas de permisos. Así, se combina el modelo centrado en la familia (un largo permiso de maternidad, un permiso de tres años para algunos padres, la condición de padre-cuidador en la ciudad de Zagreb) con elementos orientados hacia el modelo de igualdad de género (cuotas de dos meses para padres) así como con elementos pronatalistas (permisos más largos y régimen de cuidados retribuidos para familias con más hijos), con el riesgo de fomentar que las mujeres con más hijos y un nivel socioeconómico más bajo abandonasen el mercado laboral. Las políticas de permisos jugaron un papel totalmente decisivo y se consideraron principalmente como un instrumento político a favor de las políticas pronatalistas y no como un instrumento de igualdad de género en sí mismas. Las recientes reformas y debates, esto es, el hecho de basar las propuestas de reforma en elementos tanto del modelo familiar como el de gasto social y la introducción real de la condición de padre-cuidador en la ciudad de Zagreb, que abogaba por una solución apropiada especialmente para las madres sin cualificación profesional y familias con bajos ingresos (también familias que viven en zonas despobladas), solamente han servido para fortalecer las políticas mencionadas anteriormente. También han fomentado la ambigüedad del diseño de políticas de permisos e introducido un riesgo del desarrollo adicional de regímenes de permisos contradictorios en su forma, que tienden a insistir en diferentes acuerdos de igualdad de género divididos según las líneas sociales.

Palabras clave: Políticas de permisos relacionados con el cuidado de niños; permiso de maternidad; permiso parental; paradigmas de políticas de permisos parentales; Croacia.

Maternity/paternity and paid employment: progress in and obstacles to the exercise of the right to care in Uruguay*

Maternidad y paternidad en el trabajo: avances y barreras en el ejercicio del derecho al cuidado en Uruguay

KARINA BATTHYÁNY**

VALENTINA PERROTTA**

INTRODUCTION

Uruguay is moving toward the inclusion of care as the fourth pillar in its social protection scheme, after health, education and social security. The National Care System instituted in 2015 aims to convert the family-based care model into one in which men and women share responsibility with the State, the marketplace, families and the community. It purposes to change the present division of work along sex lines through a number of regulatory mechanisms and service offerings. It was in that context that the former leave system was amended to

guarantee all private sector workers the right to care.

In addition to extending maternity and paternity leave, the main innovation in the new legislation was the introduction of paid (subsidised half-day) voluntary part-time leave, for which either parent is eligible for the first 6 months of the child's life. Part-time leave can be transferred between the parents and the duration divided into alternating periods.

The present family-based care model is visible not only in the scant and concentrated public care service offering for children under 2 years of age, but also in the gender-mediated cultural mandates associated with care. Prior studies confirmed that for most Uruguayans, children under the age of 2 are best cared for at home by their families and essentially by the women of the household (Batthyány, Genta and Perrotta, 2012). The new legislation, in keeping with the gender equality principles that inform the System, seeks to steer family childcare practice in that age bracket toward greater male involvement.

Whilst these amendments constituted major formal progress for the exercise of the right to care, they failed to close the well-known

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divide between rights enshrined in the legislation and their actual exercise. Much of the blame for that situation can be laid on a labour market with persistent gender inequalities and the near negligible furtherance of co-responsible childcare. A number of studies have reported that working women confront discrimination when exercising their maternity rights (Aguirre, 2003; Batthyány, 2002 and 2004; Espino and Salvador, 2016).

This article discusses and analyses the main findings of a survey on paternity/maternity leave and gender roles in childcare¹ that explored the use of full- and part-time leaves, the obstacles to their use, factors affecting decision-making and perceived costs, among others. Conducted in August to November 2017, this nationwide survey targeted potential users of the leaves governed by Act 19.161 with children under the age of 4.

CARE ON URUGUAY'S PUBLIC POLICY AGENDA

For several years care has been the object of both research and, increasingly, public policy in Uruguay. In the former, it has acquired growing importance in gender studies, where it is distinguished from other types of unpaid work (Aguirre et al., 2014). That distinction is largely attributable to its close association with gender inequality. Research shows that the relational and affective features of care are associated with the female identity, making it one of the issues with a substantive effect on women's exercise of their social citizenship (Aguirre et al., 2014).

The conceit has been defined very broadly, covering all life-sustaining activities (Fisher

and Tronto, 1990)². While acknowledging the utility of that definition for understanding and enhancing the awareness of care, for the intents and purposes of the study of public policy, the notion is defined here as the provision of the material, economic and psychological assistance that enables a dependent person to go about their daily living activities (Aguirre, 2003; Batthyány, 2002). That is in line with Hochschild's focus (1990 in 2008), according to which care constitutes the emotional, normally reciprocal, relationship between carer and caree. In that vein, carers assume responsibility for the welfare of carees while performing mental, emotional and physical work. Care is, then, the outcome of a large number of small subtle actions, conscious or otherwise, that involve time, feelings, acts and thoughts.

Caring is a most generic activity and at the same time women's gender identity is built around care. Women's position in the family, their employment opportunities and their relationships with their relatives are defined in terms of their potential as carers and the implementation of their capacity to provide care (Batthyány, 2004).

Academic research on care and the generation of evidence of the inequality involved in its present distribution have come to bear on the public agenda, calling on the State to assume a lead role in providing and regulating care and to guarantee the exercise of this right. The care model based on unpaid family, primarily female, caregiving has succumbed under the weight of the demographic and cultural change that has called it into question and determined its unviability. The «care crisis» is the outcome of such change, induced by the sustained growth of the number of people requiring care and the simultaneous decline in the number available to provide it.

¹ The dimensions addressed in the survey and the questions posed were based on the research project «El uso social de los permisos parentales en España» conducted by the Autonomous University of Madrid's «Analysis of Family Change» research group coordinated by GERARDO MEIL LANDWERLIN. The same questions were used wherever possible with a view to future comparative analysis.

² The reference is to the definition proposed by FISHER and TRONTO (1990) «Care is a specific activity that includes everything that we do to maintain, continue and repair our «world» so that we can live in it as well as possible. That world includes our bodies, our selves and our environment, all of which we seek to interweave in a complex, life-sustaining web.»

The assimilation of care as a public issue incumbent upon the State is associated with another dimension of the conceit: its conceptualisation as a universal right. As Pautassi (2010) notes, care is a right to which everyone is entitled and should be State-regulated, supported and guaranteed through institutional and budgetary measures. It should consequently cease to be a benefit geared exclusively to women seeking employment under the fallacy that it «supports» women who need or want to work.

If care is viewed as a State-guaranteed right it can be dissociated from formal employer-employee relationships and the concomitant work-family balance arrangements. It can also be disconnected from any particular group deemed to be vulnerable for reasons of socioeconomic status, gender, ethnicity or age and established as an inalienable, universal and individual human right (Pautassi, 2016). Pautassi contends that this approach was driven in Latin America by the inclusion on agendas of mechanisms for women's advancement. The ECLAC's Regional Conference on Women in Latin America and the Caribbean has fostered a consensus around adopting a «rights approach» to care, subsequently mirrored in some countries» national legislations and international instruments. Nonetheless, whilst the right to care is present in the region's legal texts and discourse, it has yet to cross public institutional lines and remains largely rhetorical (Pautassi, 2016).

Pautassi stresses that this approach calls for legislative and jurisdictional measures that ensure the effective exercise of the right to care in the political arena. Legislative measures extending male leaves to enable them to be carers or implementing longer leaves for both parents have been scantily promoted in the region, however, nor have they been actively demanded by men. The author notes that explicit policies should be implemented to distribute the responsibility for caring for children, parents or people with disabilities equitably between the spouses. Otherwise,

the societal model that lays the burden of care on women will persist, turning an alleged responsibility into an obligation to be borne exclusively (Pautassi, 2016).

The literature often classifies care policies into three categories: time-based, service-based and economic transfer-based. Leaves are time-based policies. They regulate absence from work or the interruption of routine remunerated tasks (and/or other public social protection systems) for reasons of childbirth, childcare or to care for ill or severely dependent adults (Escobedo and Navarro, 2005).

Blofield and Martínez (2014) classify such measures as «sequential» policies, in which working time is alternated with time devoted to family care. Whereas these policies keep care within families, «de-familisation» policies transfer it from families to services entailing some manner of State intervention. These authors also classify provisions that regulate the private outsourcing of care under the category of care policies. Such a classification is useful for gender-gearred analysis, for it highlights the possible effects of the various types of policies on the redistribution of care and therefore on gender equality and the move away from the sex-based division of work. The three types of policies differ qualitatively and complement work-life balance. From that perspective, intensifying one type of policy (such as lengthening leaves for carers) does not necessarily offset the absence of the others. They should consequently be analysed jointly to understand their impact on the redistribution of care and gender equality.

The aforementioned authors distinguish two types of sequential policies for carers, depending on their impact on the redistribution of care. «Maternalistic» policies reinforce the idea that mothers are primarily responsible for childcare. Whilst they also seek to enhance social esteem for that role, they associate it with women and their greater ability to enact it. Such measures include long maternity leaves (particularly where no or only very short paternity leave is available) or tax

incentives or monetary transfers aiming to encourage women to stay at home to provide care.

«Minimal maternity» measures, in turn, acknowledge women's need for recovery after childbirth and time to nurse their babies, as well as to undertake initial routines and relationships, in keeping with the respective cultural consensus. The authors note that while the boundary between the two may vary, it is generally based on ILO definitions. They regard maternity leaves as «maternalistic» when they are longer than the ILO 14-week minimum (Convention 183) and classify leaves of that length under the «minimal maternal» category. Policies are deemed to encourage «co-responsibility» when they further the redistribution of care from families to the State (State co-responsibility) and from men to women (paternal co-responsibility) (Blofeld and Martínez, 2014).

In Uruguay the inclusion of care on the public agenda and its translation to the creation of a Care System was the outcome of a long struggle conducted by civil society and the feminist movement. The information and evidence generated by specialised research was instrumental in the acknowledgement in Uruguay of the care crisis and its introduction on the public agenda from a gender perspective. Most of that evidence was in the form of indicators drawn from time use surveys (TUS) and researchers' conceptual arguments. Information from the 2003, 2007 and 2013 TUSs revealed social and gender inequalities in the distribution of unpaid work and care and enlisted the support of political actors who placed the subject on their governmental agendas.

The leftist coalition elected into office in 2005 also prioritised the social agenda and induced a fresh approach to the social protection scheme in place. The design of the country's Care System consequently forms part of a broader process of social reform undertaken in 2005 that included, among others, the health system, social security and tax re-

form. This System proposes to contribute to convert the family-based care model into one in which men and women share responsibility with the State, the marketplace, families and the community to change the present division of work along sex lines through a number of regulatory mechanisms and service offerings. Created under Act 19.353 in 2015, it is defined as the suite of public and private actions that attend directly to the basic daily living activities and needs of dependent persons. It covers a series of new benefits, the coordination, consolidation and expansion of existing services, and regulations applicable to carers.

URUGUAY'S NEW CHILDCARE LEAVES FROM A GENDER PERSPECTIVE

Act 19.161 on private sector workers' childcare leaves was enacted in the context of the new System. One of its innovations is the extension to self-employed workers, who were not formerly eligible for such leaves. The act also extended maternity (from 12 to 14 weeks) and paternity (up to 13 days for wage earners) leaves and instituted part-time leave. Unprecedented in the country's private sector, this new leave enables either parent to reduce their working hours to a half-day for the first six months of their child's life. Maternity leave is mandatory for the entire duration, whereas paternity and part-time leaves are voluntary. The latter may be transferred between the parents, who may alternate its use. Part-time childcare leave was previously non-existent in the private sector and in the public sector it was available for women only³. Prior to the act, private sector women were allowed 2 hours for nursing, which could be distributed across the working day at their discretion. The act's three innovations, then, are: coverage for self-employed workers, the institution

³ Further to a Labour Agreement adopted in June 2017, men working in the public sector for the Central Government are eligible for part-time leave.

of part-time leave and the extension of its use to men.

The ability of the new legislation to impact care practice is highly conditioned by social representations of gender and men's and women's roles in childcare as well as the preference for in-family solutions. The National Survey on Social Attitudes toward Care (Batthyány, Genta and Perrotta, 2012) explored the childcare models identified by the population as ideal for children under the age of 2. Sixty-five per cent of the population deemed that children under 2 should ideally be cared for by close family, a situation in which women are known to shoulder most of the burden (Batthyány, Genta and Perrotta, 2012). The survey also showed that over half of Uruguayans felt that mothers are obliged to care for their children personally for the first year, while only one-third extended that same obligation to fathers (Batthyány, Genta and Perrotta, 2012).

The 2013 Time Use Survey revealed that women devoted more hours to actively caring for dependent persons, a tendency that remained unchanged relative to earlier surveys. The latest data available show that whereas one in three Uruguayan women (35.1 %) cared for dependent persons, only one in four (24.3 %) men were so engaged (Batthyány, 2015). In households with dependent persons, 80 % of the women and 59.2 % of the men were involved in childcare (children under 12). Care was observed to be divided along sex lines, both quantitatively (greater female participation and more hours devoted) and qualitatively (women assumed the more routine, inevitable and inflexible tasks) speaking (Batthyány, 2015).

Moreover, men's and women's participation on the labour market was found to be affected in opposite ways by the presence of children under 12 in the household. Further to data for 2016, 78.1 % of childless men were actively employed, compared to 82.3 % who had three or more children. In contrast, women's participation on the labour market declined with

the rising number of small children. In households with no children, 68.6 % of the women were actively employed, whereas just 52.2 % with three or more children had paid work (SIG, 2017). The weight carried by families in childcare is further illustrated by the scant institutional coverage of care during the early years of life. Only 8.9 % of children under the age of 1 attended a childcare institution, with the value rising to 30.3 % for 1-year-olds and 50.3 % for 2-year-olds. A majority (68.3 %) of children aged 3 attended⁴.

Whilst the new legislation is in line with the ideal of direct family childcare for infants, at the same time it seeks to steer practice toward greater male involvement, enabling men to work part-time to participate in care. That possibility, along with paternity leave itself (which can be extended to 13 days), are novelties in Latin America, although as noted much ground has yet to be covered to reach the levels of good practice observed in Nordic countries.

A brief regional review showed that most Latin American countries provide for 12-week maternity leaves, although in Brazil, Chile and Venezuela the duration is 17 or 18 weeks. In Brazil, public officials are allowed leaves of up to 6 months (Pautassi and Rico, 2011; Blofield and Martínez, 2015). The extension from 12 to 14 weeks for the private sector in Uruguay honours the ILO's minimum recommendation and is in keeping with both regional and international arrangements. The act at issue grants men a 10-day leave after childbirth (added to the 3 days for wage earners stipulated in Act 18.345 of 2008). That provision makes Uruguay's one of the most generous schemes in South America. Venezuela heads the list with 14 days, whereas in El Salvador there is no paternity leave (Pautassi and Rico, 2011; Blofield and Martínez, 2015).

⁴ Source: Authors' formulation based on the microdata from the 2015 edition of the Uruguayan National Statistics Institute's Continuous Household Survey.

Of the 20 Latin American countries studied by Rico and Robles (2016), only four legislate parent leaves: Brazil, Chile, Cuba and Uruguay. In Brazil three paid options are available: full-time leave for 3 months, part-time for 12 or alternating full- and part-time leaves. In Chile two post-natal childcare options are available: 12 fully paid weeks at full time or 18 part-time weeks at 50 % of the salary. Gender perspective analyses of those provisions are critical of the fact that fathers can only take a few weeks at the end of the period and that mothers must formally and explicitly express their consent for them to do so (Lupica, 2015). In Cuba the leave can extend to the first year of the child's life at 60 % of the pay received during maternity leave (Rico and Robles, 2016).

Blofield and Martínez analysed the reforms instituted in Argentina, Brazil, Chile, Costa Rica and Uruguay from 2003 to 2013 in connection with family/work conciliation policies and the implications of the design of these measures for socio-economic and gender equality. Their findings showed that over those 10 years the measures adopted sought to extend maternity leaves to the most vulnerable workers, establish early childcare services as a children's right and regulate outsourced domestic work. For these authors, the measures impacted low-income women the most, furthering greater socioeconomic equality. They also note that reform in Chile and Uruguay have different implications for gender equality. In Chile, maternity leave was extended to 18 weeks, i.e., beyond the maternalistic minimum, whereas in Uruguay in the private sector it was set at that minimum.

Among the positive aspects identified in the Uruguayan arrangements is paternity leave duration, twice as long as in Chile, and its funding primarily by social security and only marginally by employers, who in contrast defray the full cost in Chile (and Brazil) (Blofield and Martínez, 2014).

In light of international precedents, the measures adopted in Uruguay cannot be expected to have any significant impact on the

division of work along sex lines or change male involvement in care. European experience showed that absence from work exclusively for fathers had to be instituted to effectively induce the desired change toward co-responsibility for care.

As Uruguayan legislation does not define non-transferable part-time leave for fathers, that benefit is in practice used by mothers, as discussed below. The concurrence of the 6-month part-time leave with the time recommended for breastfeeding also fails to favour co-responsibility in childcare. In a context of social representations around family- and mother-based early childcare and unequal distribution of time, the political efforts made to involve men in childcare would seem to be insufficient.

The act's strengths in furthering co-responsibility must nonetheless be acknowledged. The extension of the right to self-employed workers indisputably constitutes substantive progress in terms of gender equality in a group whose right to care was unprotected. In addition, the mere existence of the right to paternity leave and its duration, up to 13 days, is noteworthy, particularly in a regional environment reluctant to acknowledge that right. The data also show that paternity leave uptake is high, at nearly the same rates as maternity leave (Table 1). The existence of part-time leave and men's eligibility to use it is another progressive feature, regionally speaking, that may impact gender equality. Enabling men to opt for part-time leave for the entire period or alternate the time off flexibly with their partners furthers gender equality and contrasts with provisions in Chile where men can only take a few weeks at the end of the period. A third feature of the Uruguayan arrangements mentioned in the literature is that both full- and part-time leaves are paid at the full salary, which is funded primarily by social security.

An analysis based on Banco de Previsión Social data showed that whereas the use of maternity leaves did not rise in the first 3 years

after the enactment of Act 19.161, paternity leave-taking increased substantially, from 8799 users in 2014 to 15 862 in 2016. In other words, the extending eligibility entailed no substantive change in the use of maternity leave, very likely because the number of self-employed mothers accounted for a small fraction of the total female workers. In contrast, paternity

leave-taking rose by 80 % between 2014 and 2016, a significant upswing in men's exercise of their right to care for their children, at least during the first few days after childbirth.

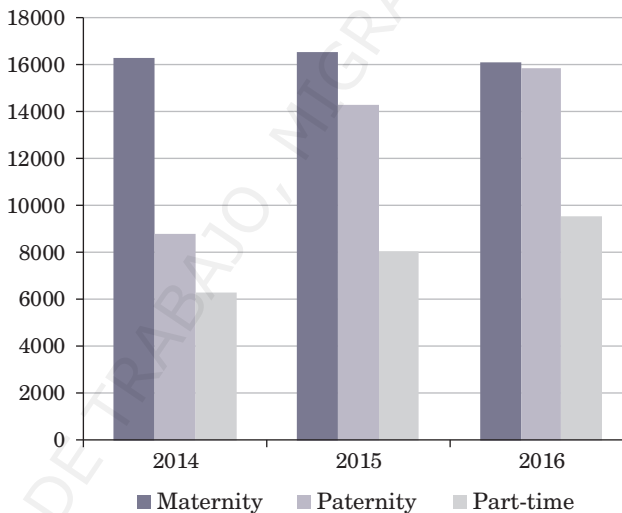
The use of part-time leave also rose in that period, although less steeply, from 6258 users in 2014 to 9525 in 2016, for a 52 % increase.

TABLE 1. ANNUAL USE OF MATERNITY, PATERNITY AND PART-TIME CHILDCARE LEAVES, 2014-2016

	2014	2015	2016
Maternity	16 281	16 533	16 108
Paternity	8799	14 256	15 862
Part-time	6258	8054	9525

Source: Authors' formulation based on BPS data.

FIGURE 1. ANNUAL USE OF MATERNITY, PATERNITY AND PART-TIME CHILDCARE LEAVES, 2014-2016



Source: Authors' formulation based on BPS data.

The data also reveal the gap between the use of maternity and the use of part-time leave, an indication that not everyone who was eligible for the latter took the time off. Based on the number of maternity leaves, in 2016 59.1 % of

all the workers who qualified for part-time leave used it, compared to 38.4 % in 2014. Studies to determine the reasons for that low uptake are therefore in order as a prelude to furthering measures geared to reversing such underuse.

The gap initially observed between the number of maternity and paternity leaves

narrowed significantly in the three years considered, nearly disappearing in 2016.

TABLE 2. PROPORTION OF PATERNITY AND PART-TIME LEAVE-OVER MATERNITY LEAVE-USERS

Year	Paternity leave-takers/ maternity leave-takers (%)	Part-time leave-/maternity leave-takers (%)
2014	54.4	38.4
2015	86.2	48.7
2016	98.4	59.1

Source: Authors' formulation based on BPS data.

According to the data on the distribution by sex of part-time leave users, 98 % were taken by women. As observed in international precedents, when either parent is eligible for the benefit, it is normally used by women. In Uruguay, use reflects a rigid gender contract in social representations around childcare. Over half of Uruguayans believe that mothers are obliged to care for their children personally for the first year, while only one-third extend that obligation to fathers (Batthyány, Genta and Perrotta, 2012). The impact of social representations around childcare is reinforced by the State's strong promotion of exclusive breastfeeding in the first 6 months. National regulations adopted in 2009 (Ministry of Public Health Ordinance 217/09) establish the importance of exclusive nursing in the first 6 months and supplementary breastfeeding up to the age of 2, while defining the obligations of health services in that regard. Such recommendations form part of campaigns conducted by the State and health provider institutions.

In other words, the shared use of part-time leave is discouraged by an apparent contradiction: on the one hand women are advised to breastfeed their children during the first 6 months and on the other they are afforded the opportunity to transfer their right to part-time leave to their partners in the same 6 months. In Chile that contradiction was identified (Lupica, 2015) as one of the factors explaining men's minimal use of part-time

leave. Lupica notes that mothers receive contradictory messages, with recommendations to nurse their children up to the age of 6 months but at the same time to transfer part of their leave to fathers (Lupica, 2015).

METHODOLOGY

The research underlying this article aimed to determine the processes involved in parents' decision-making around the use or otherwise of leave and the factors impacted by such use. It sought to identify the factors that favour or hamper mothers' and fathers' use of part-time leave. From a gender perspective the objective was to establish the reasons why the vast majority of users of this leave are women. The project further aimed to provide evidence, based on the results, that could guide the design of public policy that would favour greater co-responsibility in childcare.

To that end a survey was conducted from August to November 2017 of a representative sample of the Uruguayan population to explore the social use of leaves to care for young children, the factors conditioning the decision to use such leaves or otherwise and the implications for leave-takers' careers. The survey was based on a stratified random sample with data representative of the entire potential leave-user population.

The universe included men and women over 18 from all socioeconomic levels and urban geographies within Uruguay, with paid employment (private sector employees, self-employed with or without premises or investment, company owners, members of productive cooperatives) paying into social security and with children from 0 to 4 years of age. The sample of 1000 respondents had a confidence level of 95 % and a confidence interval of ± 3.1 %.

RESULTS

The childcare leave-user population studied was nearly universally aware of the existence of maternity (98 %) and paternity (94 %)

leaves and extensively aware of the existence of part-time leaves (88.7 %). Knowledge of leave duration was less common, however, with only 21.2 % of respondents correctly informed of the 14-week duration of maternity leave and 30 % believing that it had not changed from the former 12 weeks. The inference was that the change whereby Uruguay became compliant with the ILO's minimum recommendation had yet to be internalised by the user population.

The groups least aware of the existence and characteristics of childcare leaves, i.e., people with less schooling, a lower socioeconomic level or elementary occupations⁵ and those working in construction or agriculture, constitute a priority target for campaigns publicising such rights.

TABLE 3. AWARENESS OF AND OPINIONS ON MATERNITY, PATERNITY AND PART-TIME LEAVES, BY SEX. NATIONWIDE, 2017

		Maternity leave	Paternity leave	Part-time leave
Awareness of existence	Men	96.3	91.8	83.3
	Women	100	96.7	95.1
	Total	98	94	88.7
Correctly informed of duration	Men	13.7	54.9	38.2
	Women	29.2	60	72.5
	Total	21.2	57.3	53.9
Proportion in favour of a longer duration	Men	61.6	58.4	49.3
	Women	85.1	74.7	73.6
	Total	72.4	65.9	60.5
Proportion claiming they entail economic costs	Men	58.3	58.9	57.6
	Women	54.1	49.5	54.5
	Total	56.4	54.5	56.1

Source: Authors' formulation based on microdata from the Survey on Childcare Leave Use and Gender Roles in Childcare (GISG - DS-FCS-UDELAR).

The data revealed considerable discontent with the present duration of maternity and paternity leaves, an indication that male and female workers' expectations around childcare are unmet by the existing legislation. Seven

⁵ Elementary occupations include farm work; bird breeding; electricity / painting / joinery / mechanics / appliance repair; bakery / crafts; chauffeuring; machine operation; manual work / skilled work / factory work; cleaning and maintenance / janitorial / domestic work; parcel delivery / distribution

of every ten respondents overall deemed that maternity leave should be longer, whilst among women the percentage was 85.1 %.

Most (65.9 %) of the population also felt that paternity leave should be extended. The population of potential leave-users can therefore be said to favour an extension of both maternity and paternity leaves. Nonetheless, in contrast to the general opinion across all socioeconomic levels in favour of a longer duration for maternity leave, six of every ten respondents in the lower socioeconomic bracket were amenable to the present duration of paternity leaves. That very likely mirrors more traditional attitudes toward men's role in childcare in that socioeconomic level, attested to by earlier research (Batthyány, Genta and Perrotta, 2012), along with a possible fear of the costs associated with longer paternity leaves.

The failure of leave duration provisions to meet user demands leads to the adoption of compensatory strategies to extend parents' post-leave involvement in childcare. A substantial portion of female (four in ten) and male (one in three) private sector workers postponed their return to work by taking their yearly holidays immediately after expiration of their leave time. The aim of yearly holidays, with a standard duration of 20 business days, is not of course to care for dependents, but to take what is deemed a necessary rest from work. Some parents nonetheless reserved that rest time to care for their babies after the end of their maternity or paternity leave.

Respondents with less schooling, a lower socioeconomic level, an elementary occupation or working in agriculture or construction were the ones most amenable to full- and part-time leave duration and least prone to extend it. Earlier studies conducted in Uruguay showed that family- and mother-based childcare patterns were more common among people in lower socioeconomic brackets. They would consequently be expected to be more favourable to extending mothers' presence at home after childbirth and hence to a longer maternity leave. On the contrary, however, longer

childcare leaves were demanded by those with more schooling and a higher social status.

At least three hypotheses may be put forward to explain those findings. According to one, workers with less schooling and in lower quality jobs may believe that extending leave duration entails a risk of lower employability or higher costs. As discussed subsequently, these respondents perceived or found childcare leaves to be associated with higher economic costs. Secondly, this group of workers may well be less accustomed to exercising labour rights that for others are routine, making them less demanding in such matters. A third hypothesis has to do with «adaptive preference». From that perspective, the most vulnerable population develops adaptive preferences to adjust to situations in which desires are frustrated. The reaction to overcome the frustration consists in playing down what was initially desired and according higher value to an alternative that is realistically within reach (Pereira, 2007). This group, more vulnerable from the standpoint of employability and educational resources, may adapt their preferences to the leave duration to which they may potentially aspire (Batthyány, Genta and Perrotta, 2018).

The limitations and obstacles to using leaves identified by respondents included the possible economic costs incurred by leave-takers. The act at issue establishes a salary at 100 % of the mean earned over the last 6 months in the case of wage earners, and the last 12 for the self-employed. That feature of the act must be stressed, as well as the fact that the cost of maternity and part-time leaves are wholly assumed by social security, which also assumes most of the cost of paternity leaves (10 of the 13 days).

Nonetheless, six of every ten respondents associated leaves with economic costs. More precisely, the belief that leave-takers incurred costs was held by 56.4 % with respect to maternity leave, 54.5 % to paternity leave and 56.1 % to part-time leave. Such perceived costs were confirmed by leave-taking respondents when

asked about their impact. One of every three women who used maternity leave and one-fourth of those using part-time leave claimed to have earned less. Such values are surprisingly high, given that leave-users are paid their full salary. They attest to a need to explore the question of associated economic costs in greater detail in future studies to identify worker profiles, situations and mechanisms that signify a loss of income for childcare leave-takers, as this may discourage leave use and limit the exercise of the right to care.

Another limitation to leave use is the perception of possible workplace discrimination against leave-takers. Two-thirds (66 %) of the respondents deemed that women taking maternity leaves are discriminated against. Such discrimination was regarded as «severe» by more than one-fourth (26.3 %) of women respondents on the whole, and by an even larger proportion (29.1 %) of women with a low socioeconomic status. The significance of those figures lies in the fact that the women at issue had taken maternity leave very recently. Paternity leave-related discrimination was

perceived to be lower (41.7 %), most certainly due to the shorter duration and a favourable attitude toward men's participation in childcare in the first few days after birth. Nonetheless, six of every ten respondents perceived discrimination against both men and women taking part-time leave.

Such findings are consistent with the results of a recent study by Espino and Salvador (2016) on the constraints affecting women's relationship to the labour market in eight Latin American countries, Uruguay among them. Their paper reported labour market discrimination against women applying for or trying to keep a job or seeking a promotion or a raise. More specifically, it revealed pregnancy-related discrimination and identified employers' negative attitudes in that respect. Such attitudes, based on the mother-caregiver stereotype, were observed to underlie constraints on the access to certain positions and employers' preference for men, even where the women concerned were neither mothers nor planned to become mothers in the medium term (Espino and Salvador, 2016).

TABLE 4. PERCENTAGE OF RESPONDENTS CLAIMING THAT TAKING MATERNITY, PATERNITY OR PART-TIME LEAVES ENTAILS DISCRIMINATION OR IS DETRIMENTAL NATIONWIDE, 2017

	Part-time leave		Maternity leave	Paternity leave
	When the users are women	When the users are men		
Men	53.1	56.5	64.1	41.3
Women	64.5	63.7	68.1	42.2
Total	58.4	59.9	66	41.7

Source: Authors' formulation based on microdata from the Survey on Childcare Leave Use and Gender Roles in Childcare (GISG - DS-FCS-UDELAR).

Of the three types of leave, maternity leave was the one most commonly used, with an uptake of 96.6 %. Nonetheless, not all women took the time specified in the legislation. Of the respondents eligible for the leave, 83.7 % took the time legally stipulated and 9.5 % took more under arrangements with the employer

institution or organisation. In contrast, 3.3 % shortened the time taken and 3.4 % took no time at all. Although the survey explored the reasons for not using maternity leave or using it incompletely, no inferences could be drawn because the fraction of cases was too small to be statistically significant.

No schooling-based differences in the use of this leave were observed, although women in the lower socioeconomic bracket were more prone to shorten the duration (78.5% vs 54.4% in the highest bracket)⁶. The former group's more precarious working conditions in terms of instability and earnings may constrain their exercise of this right.

Occupation did not appear to affect the use of maternity leave, although a higher tendency to extend it by agreement with employers was found among women engaging in sectors such as education, information or communication. Company size did seem to impact the use of maternity leave, with higher rates observed in larger companies. Women working in companies with a majority of male employees also made less use of maternity leave.

Paternity leave was taken by 83% of eligible men. Of those, 67% took the full number of days set out in the legislation and 12.2% arranged to take more time with their employers. As 3.8% took only part of the allotted time, in all one in five fathers either failed to take paternity leave or took it for less than the entire duration. Nonetheless, the steep rise in the use of paternity leave in recent years noted earlier is indicative of a noteworthy consolidation of this right.

Age affected the use of paternity leave, with higher rates among younger (18 to 29) than older (40 or over) men (86.1% vs 50.4%). Such more intensive use among younger males concurs with European precedents. According to a study by Escot and Fernández (2012), the youngest (16 to 21) and most mature (50 to 64) fathers exhibited higher use rates than the intermediate age groups. Older Uruguayan fathers were not

⁶ It should be considered that the distribution of the surveyed population (private sector workers who contribute to the Banco de Previsión Social with children under four years of age) according to socioeconomic level indicates an over-representation of the middle sector that reaches 57.4%, 15% belongs to the low level and 27.6% the high level. Therefore, the percentages of responses within the categories low or high level do not have an impact on the total figures.

observed to follow that trend, associated in the literature with a more economically and professionally stable and consolidated status, in which leaves would be more accessible.

European precedents also showed that fathers' work situation and professional qualifications impact the use of childcare leaves, with higher levels of schooling, salary (although up to a limit) and job stability attendant upon greater use (Castro and Pazos, 2007). In Uruguay, irrespective of schooling and socioeconomics, around 17% of men failed to use paternity leave. The fact that schooling and socioeconomic level had little effect on men's direct involvement in unpaid work and care was also observed in the time use studies conducted in the country, with practically homogeneous behaviour patterns across all groups of men, despite significant socio-economic and educational differences (Aguirre, 2009; Batthyány 2009; Batthyány, Genta and Perrotta, 2015).

As observed for maternity leaves, paternity leave-taking was somewhat higher among workers in large companies. The inference is that conditions in larger companies seem to be more favourable to maternity and paternity leave-taking. Men also used such leaves more intensively in feminised companies (larger number of women) or where the male and female headcount was similar. Obstacles to maternity and paternity leave-taking would appear to be greater in masculinised companies.

European precedents show that men's use of paternity leaves rises with the number of hours worked by mothers (Castro and Pazos, 2007). The same trend was identified in Uruguay: men whose spouses worked over 40 hours/week were more prone to take paternity leave. In terms of their own working hours, however, the trend diverged from European experience. According to the latter, fathers with long hours were less prone to leave-taking (Castro and Pazos, 2007), whereas in Uruguay men working over 40 hours/week made greater use of paternity leave. When men were the main breadwinners they tended not to take paternity leave or to

take it for less time than when their partners were the main providers.

In keeping with national precedents drawn from BPS data (Baththyány, Genta and Perrotta, 2015) and international studies (Castro and Pazos, 2007; Meil et al., 2018; Flaquer and Escobedo, 2014; Lupica, 2015), women used part-time leaves more intensively than men, with seven in ten (69.6 %) claiming to have done so.

Women with the highest levels of schooling and socioeconomic status made significantly greater use of this type of leave, as shown in Table 5. Other characteristics, such as non-salaried employment or employment in microcompanies, elementary occupations, agriculture, construction or masculinised industries, led to less frequent use of part-time leave. It was also taken less often by women not living in the capital city.

TABLE 5. PROFILE OF WOMEN TAKING PART-TIME LEAVE NATIONWIDE, 2017

		Full time	Part of time	Not taken	Total
Age	18 to 29	54.2	10.5*	35.3	100
	30 to 39	70.1	4.0*	25.8	100
	40 or over	55.1	6.7*	38.2	100
Highest level of schooling	Primary or secondary	59.6	6.0*	34.4	100
	Tertiary	67.6	6.2*	26.2	100
Socioeconomic bracket	Low	39.5*	5.5*	54.9	100
	Medium	63.4	6.8*	29.7	100
	High	73.7	4.9*	21.4	100
Occupation	Professionals and technicians	64.9	5.1	30.0	100
	Office and retail	64.9	6.9	28.1	100
	Elementary	48.4	4.9	46.7	100
Sector	Trade and services	62.0	7.1	30.9	100
	Agriculture and construction	49.2	2.9	48.0	100
	Manufacturing	60.0	4.4	35.6	100
	Teaching, information and communication	69.3	4.7	26.0	100
Total		63.5	6.1	30.4	100

Source: Authors' formulation based on microdata from the Survey on Childcare Leave Use and Gender Roles in Childcare (GISG - DS-FCS-UDELAR).

* Non-representative number of cases.

Whilst among men the reasons for not taking part-time leave most commonly revolved around the gender role that assigns early childcare to women (breastfeeding, women as better carers), the reasons cited by women

were job-related (loss of income, difficulty to balance work and care). Men's major reason (72.1 %) for not using part-time leave was its concurrence with the nursing period, an attitude more widely held by less schooled men in

lower socioeconomic levels. The next most frequent reason given by fathers (six out of ten respondents) was that they deemed the baby to be better cared for by their partners. One-third of the men replied that caring for babies in the first year is incumbent upon mothers. Among women, the most frequently mentioned reason was associated with the loss of earnings (38.1 %), followed by the detriment it would entail for their job dynamics / functions where they held management positions or responsibility for people working under them (31.7 %).

Despite the scant use of part-time leave by men, the present findings confirmed the presence of a favourable context in the country for the implementation of measures that enhance fathers' participation in childcare: the Uruguayan population deemed them to be beneficial and useful for inducing men to become involved in such tasks.

Asked about the utility of the paternity leave for involving men in childcare, seven of ten respondents (71.8 %) found it to be very useful, with a higher rate among men. A similar proportion (72.1 %) agreed that men's use of part-time leave was highly useful with a view to such involvement. Nine in ten respondents (91.5 %) agreed to men's use of part-time leave.

That general consensus about the utility of men's use of part-time leave stands in stark contrast with actual practice: less than 3 % of leave-users were men. That may be explained by mothers' socially assigned irreplaceability immediately after childbirth and health campaigns stressing the importance of breastfeeding. Nonetheless, such a high rate of acceptance of men's use of part-time leave should serve as encouragement for introducing a non-transferable instrument subject to a timeframe in which it could be used only by fathers. The specialised literature is known to criticise transferability because when the choice between father and mother must be made, fathers tend not to become involved. Evidence accumulated in countries with man-

datory «fathers' quotas» that are forfeited if not used inform international recommendations identifying that approach as the most effective avenue to inducing co-responsibility. The high rate of acceptance observed in the survey discussed here shows that Uruguayan society is ripe for such a measure (Batthyány, Genta and Perrotta, 2018).

This majority support for fathers' use of part-time leave should encourage policy makers to introduce and expect intensive use of such leaves exclusively for fathers (as is the case with paternity leave). The time frame for such use should not mandatorily overlap with the time recommended for breastfeeding (first 6 months of the baby's life). One of the grounds for that claim is that the reason adduced by 72.1 % of male respondents for not taking part-time leave was that it concurred with the timeframe for nursing.

In addition, 75.4 % of survey respondents agreed with the assertion that «part-time leave is primarily for women'. To prevent this leave from being so closely associated with women, the time allotted exclusively to men should not mandatorily concur with the nursing period nor be incompatible with its simultaneous use by mothers. The time envisaged should be unrelated to mothers' use of the leave, and families should themselves be entitled to decide when during the first year it should be taken. Experience in other countries shows that for fathers to become significantly involved by subjectively playing the carer role rather than simply helping their partners, leave duration should be at least a full month (O'Brien and Wall, 2017).

The survey also explored employers' participation in managing part-time leave. Ninety-five per cent of women users encountered no resistance from superiors to take the leave, with no significant differences observed by age, schooling or socioeconomic status. Adverse impact on users' workplace was reported, however, in the form of a heavier burden on co-workers. Women users also claimed that their earnings declined (25.6 %), reported jok-

ing complaints from co-workers (25.4 %) and career interruption (18 %). Such findings may denote the lack in a substantial number of companies of active distribution by management of the workload resulting from the use of part-time leave. That attitude clashes with the existence of provisions that facilitate replacement hiring by exempting employers from indemnifying such workers upon termination of their contracts.

Seven of every ten users reported that their workload was not lightened, despite the reduction of their work week by half. That result concurs with data for Spain, where 70 % of women taking part-time leave deemed that their workload did not decline (Meil et al., 2018). In a related vein, only 31.7 % of the women taking the leave asserted that their employer hired a replacement for the duration. Inasmuch as employers are key actors in furthering co-responsibility for care and the collective assimilation of the tasks involved by market, State and families, companies' reasons for not hiring replacements and for adopting other attitudes or omissions that may obstruct the exercise to the right to care merit further exploration.

CONCLUSIONS

Further to academic studies on the subject and its conceptualisation as a universal right, care is presently one of the highlights of the Uruguayan public agenda. The institution and impact of the National Care System constitute an element of particular interest for gender studies, for the System purposes to redistribute care among the various providers and between men and women to contribute to gender equality.

This article analyses the amendments introduced in childcare leaves for private sector workers (Act 19.161) from a gender perspective and against the backdrop of international and regional experience. The new legislation contains two innovative elements from that perspective: a lengthening of paternity leave

from 3 to 13 days and the institution of part-time leave, for which fathers are eligible. Such measures position the country in the regional avant-garde in terms of male caregiving. International experience shows, however, that time allotted exclusively to fathers is the most effective avenue for involving men in care. Therefore, scant progress in paternal co-responsibility and redistribution of care can be expected where part-time leave is transferable.

The article also analyses the most prominent results of the survey on use of childcare leave and gender roles in childcare, discussing the strengths and weaknesses of the new leaves in terms of gender equality. The population of potential users was found to be keenly aware of these leaves, although less of part-time leaves than of the other two. They were less informed about exact leave duration, as only a small proportion knew that maternity leave had been extended by 2 weeks. Awareness and use of leaves were observed to depend on socioeconomic status, occupation, sector and company size, among other variables that placed the most vulnerable part of the population at a disadvantage for exercising the right to care.

A gap was observed between the leave duration deemed appropriate by the population and the actual time allotted. Most respondents believed leaves should be longer and a substantial proportion of workers reported adding their yearly holidays to the end of their leave as a strategy to postpone their return to work after childbirth.

Maternity leave was the instrument most frequently used, at a rate of 96.6 % of all eligible women, followed by paternity leave, at 83 % of all men qualifying. Those figures denote high uptake of both by mothers and fathers working in the private sector. Paternity leave-taking was observed to grow substantially in recent years.

Part-time leave, used essentially by women, was taken by seven in ten and consequent-

ly foregone by one-third of eligible women. Women with higher quality employment made more intensive use of part-time leave, an obvious indication of social inequalities in access to this right.

Men's and women's reasons for not using part-time leave differed. Women specified a decline in earnings as the main reason and the adverse effect of their absence from the workplace in the case of women with management responsibilities. Men, in turn, mentioned breastfeeding and a preference for maternal care where babies are concerned, as might be expected given that the time envisaged concurs with the period recommended for exclusive nursing.

Respondents' perception of economic costs for and discrimination against workers taking leaves may constitute an obstacle to the exercise of these rights. Six of ten people claimed the use of leaves comes at a cost, whilst most of the population deemed that women are discriminated against for taking maternity or part-time leave. The figures for paternity leave were lower, in all likelihood due to its shorter duration.

Economic costs also formed part of the post-leave impact identified by respondents. One of every three women who used maternity leave and one-fourth of those using part-time leave claimed to have earned less. Those findings attest to the need for more in-depth study of the costs involved in taking fully paid leaves covered by social security.

Employers were observed to adopt a passive attitude toward leave management. While not explicitly opposing the use of such leaves, they failed to take active measures to prevent overburdening leave-takers' co-workers. Given the low percentage of substitutes hired to take the place of employees on part-time leave, seven in ten leave-takers bore their normal workload while working just half-time.

Favourable attitudes toward extending care measures for men are promising from the standpoint of gender equality and redis-

tribution of such tasks. Respondents were optimistic about the utility of leaves in involving fathers in care. Such attitudes favouring co-responsibility in care clashed with present practice, for whereas nine of every ten respondents agreed that fathers should use part-time leaves, less than 3 % of actual users are men.

This research reveals that paternity leave is used intensively and often extended by taking yearly holidays immediately after the time allotted to enable fathers to stay at home for the first month of the infant's life. It also shows that the present provisions on part-time leave, with use restricted to the first 6 months and transferrable between mothers and fathers, are scantily conducive to greater use by men.

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ABSTRACT

This article discusses and analyses the most prominent findings of a survey on paternity/maternity leave and gender roles in childcare that explored the use of such full- and part-time leaves, the obstacles to their use, factors affecting decision-making and perceived costs, among others. Conducted between August and November 2017, it covered the entire country, targeting the population of potential users of the leaves governed under Act 19.161 (2013) with children under the age of 4.

The article begins by describing how care became a key issue of public concern and policy in Uruguay. It addresses the notion of care and its association with gender inequalities, discussing the approach to care policies and the position occupied by childcare leaves in the analytical context of gender studies. A distinction is drawn between policies furthering co-responsibility and those in which women's role as primary carers is reinforced. Leaves form part of the Care System, an initiative that purposes to transform a family-based model to one in which responsibility is shared socially and by the sexes.

In addition to extending maternity and paternity leave, the main innovation in the new legislation is the introduction of paid voluntary part-time leave, for which either parent is eligible for the first 6 months of the child's life. Part-time leave can be transferred between the parents and the duration divided into alternating periods.

The article then places these leaves in a regional context, showing that they position the country at the avant-garde in terms of paternal caregiving. It discusses the use of the three types of leaves in recent years, highlighting the substantial rise in the use of paternity leave and somewhat slower growth in part-time leave-taking.

One of the first findings gleaned from the survey is that the population is highly aware of these leaves, albeit slightly less so of the existence of part-time leaves. Respondents were less informed about exact leave duration, as only a small proportion knew that maternity leave had been extended by 2 weeks. Awareness and use of leaves depend on socioeconomic status, occupation, sector and company size, among other variables that place the most vulnerable part of the population at a disadvantage in exercising the right to care.

A gap is observed between the leave duration deemed appropriate by the population and the actual time allotted. Most believe leaves should be longer and a substantial proportion of workers adds their yearly holidays to the end of their leave as a strategy to postpone their return to work after childbirth.

Maternity leave is the instrument most frequently used, at a rate of 96.6 % of all eligible women, followed by paternity leave, at 83 % of all men qualifying. Those figures denote high uptake of both by mothers and fathers working in the private sector. Part-time leave, used essentially by women, is taken by seven in ten and consequently foregone by one-third of eligible women. Women with higher quality employment make more intensive use of part-time leave, an obvious indication of social inequalities in access to this right.

Men's and women's reasons for not using part-time leave differ. Women specify a decline in earnings as the main reason and the adverse effect of their absence from the workplace where they have management responsibilities. Men, in turn, mention breastfeeding and a preference for maternal care where babies are concerned, as might be expected given that the time envisaged concurs with the period recommended for exclusive nursing.

Respondents' perception of economic costs for and discrimination against workers taking leaves may constitute an obstacle to the exercise of these rights. Six of ten people claim the use of leaves comes at a cost, whilst most of the population deems that women are discriminated against for taking maternity or part-time leave. The figures for paternity leave are lower, in all likelihood due to its shorter duration.

Economic costs also form part of the post-leave impact identified by respondents. One of every three women using maternity leave and one-fourth of those using part-time leave claim to have earned less.

Employers are observed to adopt a passive attitude toward leave management. While not explicitly opposing the use of such leaves, they fail to take active measures to prevent overburdening leave-takers' co-workers. Given the low percentage of substitutes hired to take the place of employees on part-time leave, seven in ten leave-takers bear their normal workload while working just half-time.

Uruguayans are favourable to enhancing measures for men's caregiving. Respondents are optimistic about the utility of leaves in involving fathers in care. Such attitudes favouring co-responsibility in care clash with present practice, for whereas nine of every ten respondents agree that fathers should use part-time leaves, less than 3 % of actual users are men.

This research reveals that paternity leave is used intensively and often extended by taking yearly holidays immediately after the time allotted to enable fathers to stay at home for the first month of the infant's life. It also shows that the present provisions on part-time leave, with use restricted to the first 6 months and transferrable between mothers and fathers, are scantily conducive to greater use by men.

Keywords: Childcare leaves; co-responsibility for childcare; care; care policies; gender equality.

RESUMEN

El objetivo del artículo es presentar los principales resultados de la encuesta «Uso de licencias parentales y roles de género en el cuidado», que indagó acerca del uso de la licencia por maternidad, paternidad y reducción horaria para cuidados, sus barreras de uso, los factores de decisión, los impactos y costos percibidos, entre otras dimensiones. La misma fue llevada a cabo de agosto a noviembre de 2017 y cubrió a todo el territorio nacional, focalizándose en la población potencialmente usuaria de los permisos regulados por la Ley 19.161 (2013) con hijos/as menores de 4 años.

El artículo inicia ilustrando el proceso por el cual los cuidados adquieren un lugar protagónico como objeto de conocimiento y de política pública en Uruguay. Se desarrolla la noción de cuidados y su vínculo con las desigualdades de género. A continuación se conceptualiza el abordaje de las políticas de cuidado y cómo se ubican las licencias para el cuidado dentro del marco analítico de los estudios de género, distinguiendo las políticas que fomentan la corresponsabilidad de género de aquellas que mantienen a las mujeres como principales responsables del cuidado. Estos permisos, se enmarcan en el Sistema de Cuidados, una iniciativa que se propone contribuir a la transformación de un modelo familista de cuidados, hacia uno de corresponsabilidad social y de género.

Además de ampliar la licencia maternal y paternal, la mayor innovación de la nueva normativa es la reducción de jornada voluntaria y retribuida, que puede ser tomada tanto por el padre como por la madre hasta los seis meses de vida del bebé. Es transferible entre la madre y el padre y su duración puede ser fraccionada entre ambos en forma alternada. Seguidamente, el artículo realiza una contextualización regional de estos permisos, que ubica al país a la vanguardia en permisos para el cuidado para los padres. Se muestra la evolución en el uso de los tres permisos en los últimos años, mostrando un aumento sustantivo en el uso de la licencia por paternidad, y también en la reducción horaria, aunque en menor medida.

A continuación se presentan los principales resultados de la Encuesta, evidenciando que estos permisos son ampliamente conocidos por la población, siendo la reducción horaria el menos conocido. La duración exacta se conoce menos, observándose que la ampliación de dos semanas de la licencia maternal presenta un bajo conocimiento entre la población usuaria. El conocimiento y el uso de los permisos se ve afectado por el nivel socioeconómico, la ocupación, la rama de actividad y el tamaño de la empresa, entre otras variables que colocan a la población más vulnerable en peores condiciones para el ejercicio del derecho al cuidado.

Se evidencia una demanda insatisfecha en relación a la duración de los permisos y lo que la población considera adecuado. La gran mayoría considera que deberían durar más tiempo, y una proporción no despreciable de trabajadores/as implementa como estrategia compensatoria el uso de su licencia de descanso anual para extender su permanencia en el hogar al cuidado de los bebés al culminar el período de licencia.

La licencia maternal es la más utilizada, alcanzando al 96,6% de mujeres, seguida de la licencia paternal (83%). Se observa por tanto una apropiación de ambos permisos por parte de madres y padres del sector privado. La reducción horaria es utilizada fundamentalmente por mujeres, alcanzando a siete de cada diez. Por tanto, una proporción cercana a un tercio de mujeres no utiliza este permiso aun teniendo el derecho. Las mujeres insertas en ocupaciones con mejores niveles de calidad de empleo son quienes más hacen uso de la reducción horaria, lo que evidencia desigualdades sociales en el acceso al ejercicio de este derecho.

Mujeres y varones presentan motivos distintos para no hacer uso de la reducción horaria. Las mujeres mencionan la pérdida de ingresos como principal motivo, y dificultades vinculadas al perjuicio que conlleva su ausencia en su lugar de trabajo por llevar adelante responsabilidades de dirección. Por su parte, los varones mencionan la lactancia y la

preferencia por el cuidado materno de los bebés, lo cual condice con lo esperado respecto a la coincidencia de este permiso con el período de lactancia exclusiva.

La población encuestada percibe que existen costos económicos y discriminación para quienes usan los permisos, lo que puede operar como barreras al ejercicio de estos derechos. Seis de cada diez personas identifican que existen costos asociados al uso de las licencias, mientras que la mayor parte de la población opina que se discrimina a las mujeres por hacer uso de la licencia por maternidad y a quienes hacen uso de la reducción horaria. Estas cifras son más reducidas en el caso de la licencia paternal, seguramente debido a su corta duración.

Los costos económicos también quedan evidenciados en los impactos que la población menciona haber experimentado luego de hacer uso de los permisos. Una de cada tres mujeres que han hecho uso de la licencia maternal y un cuarto de quienes hicieron uso de la reducción horaria declara haber perdido ingresos.

En relación a la gestión de los permisos por parte de las empresas, se observa una actitud pasiva por parte del mercado laboral. Al tiempo que no se oponen explícitamente al uso de estos permisos, tampoco asumen una actitud activa para no perjudicar y sobrecargar a los trabajadores/as. Se observa una baja contratación de trabajadores/as de reemplazo para cubrir la reducción horaria, lo que lleva a que siete de cada diez usuarias mantengan su carga de labor trabajando la mitad de la jornada.

Finalmente, se observa un contexto favorable para la extensión de medidas de cuidado para los varones. La población se muestra optimista respecto a la utilidad de estos permisos en el involucramiento de los padres en el cuidado. Se aprecia una contradicción entre un discurso que favorece la corresponsabilidad de género en los cuidados y las prácticas actuales, ya que mientras nueve de cada diez personas acuerdan con que los padres hagan uso de la reducción horaria, menos del 3% de los usuarios son varones.

La investigación presenta evidencias acerca de un elevado uso de la licencia por paternidad, sumado a un uso frecuente de la licencia reglamentaria para extender la presencia paterna durante el primer mes de vida del bebé. Al mismo tiempo, muestra que dadas las actuales características de la reducción horaria, concentrada en los primeros seis meses y transferible entre la madre y el padre, la posibilidad de impactar en un uso extendido de los varones es muy limitada.

Palabras clave: Permisos parentales para el cuidado; corresponsabilidad de género; cuidados; políticas de cuidados; igualdad de género.

Time to care. Analysis of maternity, paternity and parental leaves in Latin America and the Caribbean

Tiempo para cuidar. Análisis de las licencias por maternidad, paternidad y permisos parentales en América Latina y el Caribe

CARINA LUPICA*

INTRODUCTION

Most Latin American and Caribbean countries are facing a change in paradigm in the form of growing variability in family morphologies and in-family gender roles, the latter associated with women's higher levels of formal schooling and gradual entry on the labour market.

Today 117 million Latin American and Caribbean women form part of the workforce, an unprecedented number in the history of the region's labour markets. In late 2017, women's national employment rates in the region amounted to 50.2 %, exceeding 50 % for the first time. At 74.4 %, men's employment rate was nearly 25 percentage points higher (OIT, 2017), however, an indication of an employability divide.

The region's women encounter greater difficulty than men to land a job and when they

do, they tend to be concentrated in a narrow spectrum of more unstable, lower paid occupations, which also compromises their quality of life in old age (Lupica, 2015b).

One of the main obstacles to women's advancement in the working world is the unequal distribution of the time men and women devote to reproductive work and care¹. An essential consideration for reversing that situation is advancement toward social co-responsibility for care from a parenthood perspective, involving families, the State, the marketplace and society to foster a more equitable distribution between men and women. Such changes would seek to build a society in which women and men can be paid workers as well as carers (OIT-PNUD, 2009; Lupica, 2013).

¹ Work can be defined as the physical or mental effort that people make with the aim of generating wealth. When this work is carried out in the market in exchange for pay, it is referred to as employment. One special case is unpaid employment, that is, work carried out within the scope of the market without pay. Unpaid work performed at home has been termed «reproductive» work because it contributes to societal reproduction, for it includes care work. Paid work cannot be analysed independently of reproductive and care work, for the two are closely related and mutually impacting, in particular where women are concerned (CEPAL, 2010, cited in LUPICA, 2014).

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The distribution of domestic and family care tasks is important not only for women's advancement in the working world. Physically present and responsible paternity also enhances children's psychological and emotional development and benefits men themselves, for whom the relationship with their children is psychologically rewarding (IPPF/WHR and Promundo, 2017; Barker y Verani, 2008).

Labour legislation on maternity protection and the support for workers with family responsibilities is a basic tool for furthering the shared assimilation of care by women and men. Such rules assign the State the role of guarantor of a basic level of protection for male and female workers. The primary aims are to prevent labour market discrimination for reasons of family responsibilities and to guarantee the right to paid employment without having to waive the right to care for family members (Lupica, 2010).

With a view to understanding these subjects more fully, this article first reflects on the unequal distribution of child and family care responsibilities between men and women in Latin American society today and identifies the obstacles and the areas where support is needed to further men's greater involvement in these tasks. It also analyses whether legislative provisions in the region's countries favour or hamper sharing family care and paid work-care interrelationships. Thirdly, it characterises recent measures aimed to further parenthood such as Chile's parental leave, focusing on the challenges to its uptake by men. A fourth section discusses how to formulate and implement parenthood-favouring public policies as a supplement to work/life balance and social co-responsibility policies and analyses initial progress towards modernising labour legislation on maternity protection. Given the diversity of situations in place in Latin American and Caribbean countries, the study necessarily adopts a general view of the issues in which application country-by-country is subject to national particularities.

CARE IN THE CONTEXT OF SOCIAL INSURANCE

Care is a specific activity that includes everything that we do to maintain, continue and repair our world so that we can live in it as well as possible. That world includes our bodies, ourselves and our environment, all of which we seek to interweave in a complex, life-sustaining web. Care refers to the management and generation of assets, services and activities through which people are afforded nourishment, education and health and an appropriate habitat (Tronto 2007 and Arriagada 2010, cited in Lupica, 2014).

Everyone, at least at some time in their lives, needs care. By the same token, someone must assume the responsibilities associated with its provision. As caring entails time, knowledge, resources and energy and its delivery generates direct and/or indirect value for the beneficiaries, it is regarded as work (CEPAL, 2010).

Care can be concluded to be a vital necessity and a fundamental human right, but also an essential public asset for societal reproduction and operation (Rico and Robles, 2016). The need for care is nothing new. There are always people in any society who need the help of others to perform their daily activities. Today, however, the traditional approach to attending to such needs is in crisis due to the variation in their magnitude and complexity. The imbalance between the supply and demand for care as a result of the larger number of people requiring care and a simultaneous decline in the proportion of people in a position to provide it has been called the «care crisis» (CEPAL, 2010).

Gradual population ageing and the rise in life expectancy for people with chronic diseases or disabilities, along with health service reform that emphasises home health care (early hospital discharge, outpatient surgery programmes, reforms in psychiatric care), raises both the number of individuals requiring care and the complexity of the care needed. In addition, the

rising number of dual-earner families and of female heads of household in the region reduces the offering for home-based care (Lupica, 2010).

Care work can be done within the family but it also includes work performed outside the domestic realm in the sphere occupied by the State, private enterprise, not-for-profit organisations and societies. The roles and responsibilities of the actors overlap and interconnect in the complex social organisation of care. Understanding care as part of societal organisation entails addressing not only microsocial considerations but also the role of social policy in providing for and regulating the relationships, activities and responsibilities surrounding care assigned to institutions and individuals (Faur, 2012 and Rodríguez Enriquez, 2013, cited in Lupica, 2014)².

The division of responsibility for care has significant social and gender implications. Those with more resources have greater access to quality care, whereas people with fewer resources are at a dual disadvantage, for not only are they unable to afford commercially delivered care, but they must shoulder a heavier family and domestic workload. Historically and at present, the main burden for care work has been borne by families and more specifically by their women members, who are thereby prevented from entering the labour market and contributing with their earnings to household welfare. That mutual reinforcement between socioeconomic and gender inequalities would explain in part the high level of female poverty in the region (Lupica, 2013).

The region has seen no significant rise in the public provision of care services nor have the institutions that govern social life been reorganised. In a scenario where no substantial change has been forthcoming in prevalent cultural attitudes that regard social reproduction

as women's rather than a societal responsibility, the care crisis and its implications pose specific social insurance demands in terms of access to social services and care policies (Lupica, 2014).

Social protection can be defined as the intervention on the part of public and private entities that pursue the coverage of individuals' and households' basic social needs by ensuring earnings and the access to independent welfare services (Bertranou, 2004). In that context, care should be understood as a basic civil right assumed and guaranteed by the community to maximise individual and social welfare. Care service provision and the regulation of the responsibilities assumed by other institutions and actors should be directly incumbent upon the State.

Including care in social insurance entails transferring income to guarantee access to care, including paid leave, and directly providing services to those requiring them as part of the basic conditions that enhance standard of living and ensure survival. In other words, socially provided care has three basic components: time, money and care services. Maternity, paternity and parental leaves form part of time-based care policies (Provoste Fernández, 2012).

MEN'S PARTICIPATION IN CARE

The changing trends in cultural representations of men's and women's social and public roles have not translated into the equitable distribution of domestic tasks between them. A positive portrayal of women's capacity to perform well in any social realm, including work and politics, as well as of the discourse around equality between the sexes and the rejection of discrimination against women, has become more widespread across the region. But even though women have advanced in the productive sphere, they continue to be trapped by domestic inequality, for the representation and practice that characterise men as breadwinners and women as home managers continue to carry substantial weight in regional households' everyday reality (Pautassi, 2007).

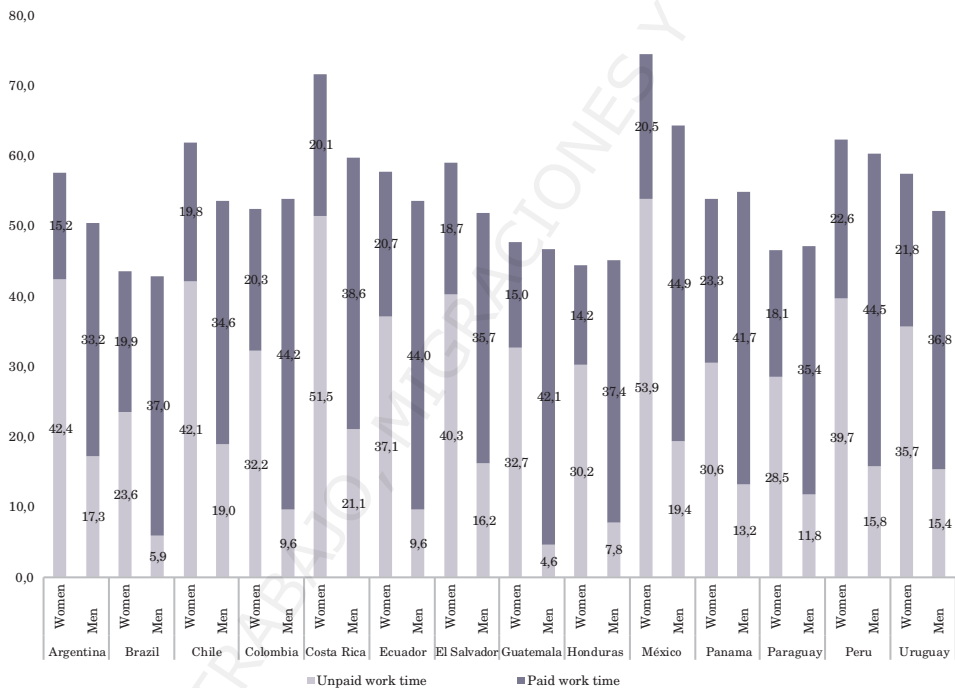
² Social organisation of care refers to the configuration resulting from inter-relating the institutions that regulate and provide care and the ways in which households with differing socioeconomic status and their members benefit from such services (Faur, 2012, cited in LUPICA, 2014).

Whilst male participation in care within the family is growing in Latin America, men have yet to engage in such tasks to the degree called for by new social realities. They collaborate but fail to assume the same responsibility as women in managing care and household activities. The patriarchal model has proven to be highly resistant to change and time use has not been successfully restructured (Hochschild, 2008, cited in Lupica, 2013).

Time use surveys have focused light on the unpaid workload that continues to be borne nearly exclusively by women. Figure 1 shows that women devote almost three times as many hours per week to unpaid work as men (37.2 vs 13.3), whereas men spend twice as much time in paid work (39.3 vs 19.3). Women work more total hours than men in 10 of the 14 countries analysed³.

FIGURE 1. TOTAL TIME DEVOTED TO WORK

Latin America (14 countries): average time (hours per week) spent on paid and unpaid work by the population aged 15 and over by sex and country: latest available data



Source: ECLAC - Gender Equality Observatory for Latin America and the Caribbean. <https://oig.cepal.org/es/indicadores/tiempo-total-trabajo> (consulted online on 19 April 2018).

There are two chief reasons for resistance to change toward more equitable time distribution between men and women. Firstly, men identify strongly with their jobs as a result of cultural and symbolic ideals deeply rooted in the traditional «father as provider» model. As a result, most men neither claim care as a right nor the equal opportunity to perform care-related tasks.

³ Unpaid work is assessed by quantifying the time devoted by a person to work for the self-consumption of goods, domestic tasks and unpaid care within the home or as support for other families. Paid work is calculated as the sum of time devoted to employment, job search and commuting. Total work time is the sum of paid and unpaid work time (CEPAL-Observatorio de Género de Igualdad de Género de América Latina y el Caribe, 2018).

At the same time, labour market organisation discourages men's greater commitment to care. Viewed from a gender perspective, the model informing regional labour legislation, traditional two-parent families resulting from stable conjugal unions, determines the profile of the ideal worker: a male who works overly long hours and devotes very little time to family responsibilities or his personal life. In that context, the cost of unpaid household work and care is defrayed by women's time.

Consequently, the provisions on work/life balance in most of the region are geared nearly exclusively to women in their dual role as workers and mothers, rather than to men, whose role as workers appears to rest on the existence of a woman able to meet their children's needs for care. That assumption is implicit in the distribution of mothers' and fathers' leaves and the regulation of on-site day care services and their association with working women.

The resulting pattern, which mirrors cultural mores in Latin American countries, is reinforced by the State through legislation and policies that assign women a dual role in the same stipulations that regulate worker/employer relations (Pautassi and Rico, 2011).

LEGISLATION ON CARE IN LATIN AMERICA AND THE CARIBBEAN

Labour legislation on maternity protection and the support for workers with family responsibilities is a basic tool for furthering the shared assimilation of care by women and men. Such rules assign the State the role of guarantor of a basic level of protection for male and female workers. The primary aims are to prevent labour market discrimination for reasons of family responsibilities and to guarantee the right to paid employment without having to waive the right to care for family members (Lupica, 2010).

Maternity protection was created to safeguard the mother's and child's health during the first few weeks after birth and protect women from discrimination for reasons of motherhood. In most cases, it consists in maternity leave, job protection and nursing leave.

Maternity leave provides for time off a few days before, during and immediately after labour, during which women are entitled to monetary and health benefits for their own and their child's sustenance. Although maternity leave is normally available only for mothers, in some cases and circumstances it can be partially transferred to other carers.

Legislation on working women has been amended over time: from protecting women in connection with their reproductive role or as the target of discrimination to the pursuit of equal opportunities and the same treatment as received by male co-workers. Paternity and parental leaves arose in that context. The former is a time set aside for fathers, normally taken shortly after childbirth, to enable men to spend time with their partner, the newborn and older children.

Parental leaves are periods of men's or women's absence from work after the birth, adoption, guardianship or care of a child, with guaranteed job protection, time and income. This type of leave may entail: i) an individual and non-transferable right (i.e., both parents are entitled to the same leave); ii) an individual right that can be transferred to the other parent; or iii) a family right that the parents can divide between them as they choose (Moss, 2014, cited in Batthyány et al., 2015).

Parental leaves form part of a substantial legal change characterised by the neutral assignment of work/life conciliation rights, which are acknowledged to workers irrespective of their sex. They rest on the assumption of a dual-earner family model more in keeping with today's realities (Caamaño, 2008).

Internationally, the acknowledgement of mothers' and fathers' participation in family responsibilities and women's and men's pro-

tection against discrimination on the grounds of responsibilities for care is laid down in International Labour Organisation Conventions No. 183 on Maternity Protection adopted in 2000 and No. 156 on Workers with Family Responsibilities adopted in 1981.

Although parental leave is not included per se in either of those conventions, the acknowledgement of fathers' participation in family responsibilities in general and parental leaves in particular is implicit in ILO Recommendation No. 191 that complements Convention No. 183 and Recommendation No. 165 that complements Convention No. 156. Both recommendations stipulate that after maternity leave the mother or the father should be able to take parental leave without losing their job or any of the related rights.

ILO conventions and their respective recommendations have had a substantial impact on conceptual frameworks and domestic legislation in Latin American countries. Progress has been greater in the rules on maternity protection than in protection for workers with family responsibilities.

Most prominently, all the countries in the region have instituted maternity leaves and some even extend them to adoptive mothers. In most countries the cost of maternity benefits is defrayed by the State, not employers. All the countries in the region have legislated maternity-related job protection, which covers mothers during maternity leave and in most cases also during pregnancy and nursing leave. Most countries also guarantee the worker's right to return to the same or an equivalent position after maternity leave, whilst pregnancy tests for women applying for a job are banned (except for high-risk activities) (Lupica, 2013).

While such beneficial provisions should not be underplayed, maternity protection legislation in the region is subject to certain limitations that affect women's full development in the work and family domains. Firstly, as the legislation applies only to formally

employed women, it excludes those working in the informal economy or small enterprises, generating major inequalities. According to recent estimates, nearly half of working women are employed in the informal sector, which normally entails job instability, low earnings and lack of social insurance and rights. In addition, certain characteristics recently identified should be borne in mind when analysing women's participation on the labour market. One is that around 70 % are employed in the service and retail sector, where job instability, even contractless employment, prevails (OIT, 2016).

Several countries explicitly exclude certain worker categories from maternity legislation: domestic workers, employers' family members or women working in family-run companies, part-time workers and farmworkers. That affects a substantial number of working women in the region, including around 17 million domestic workers, an occupation in which the rate of informal employment continues to a very high -70 % (OIT, 2016).

Secondly, labour legislation tends to focus on pregnancy and recovery after childbirth within a very clear-cut timeframe that fails to cover conciliation demands as children grow. Furthermore, workers having to care for other direct family members such as elderly or ill adults or people with special needs are scantily protected, if at all. Today's provisions envisage leaves of 1-3 days, depending on the country, for workers in the event of death of their parents or parents-in-law (Lupica, 2013).

The region's legal frameworks in support of childcare sharing by men and women are poorly developed. As men's role is not envisaged in the legislation, women are at a disadvantage vis-à-vis employers, who assume that they constitute a higher relative cost.

At least three obvious examples of such inequality can be identified. First, as men are not entitled to job protection, they can be dismissed during their child's gestation or even after birth, during paternity leave. Second,

paternity leave has a very short duration (2-15 days), even though in many countries the cost is defrayed by the employer. Third, on-site day care service is designed for and restricted to women, must be provided by employers and in general is obligatory, depending on the number of women employees. Those provisions ignore working fathers' responsibility for care and discourage hiring more women than legally mandated (Lupica, 2010).

Labour provisions assuming that workers of both sexes have family responsibilities are practically non-existent in the region. Only four Latin American countries have legislated mothers' and fathers' right to parental leave. In Brazil (where parental leave is known as the «licença parental complementar») three paid options are available: full-time leave for 3 months, part-time for 12 or alternating full- and part-time leaves. Chile's «permiso post-

natal parental (PPP)» envisages two parental leave options: 12 fully paid weeks at full time or 18 part-time weeks at 50 % of the salary. In Cuba the leave can extend to the first year of the child's life at 60 % of the pay received during maternity leave. In Uruguay under parental leave provisions, either the father or the mother can work half-time for 6 months after maternity leave expires (Rico and Morales, 2016).

In synthesis, the legislation presently in place in most of the region is strongly sex-biased and reinforces the traditional view of women as carers and men as breadwinners. The limitations on men's benefits reasserts women's responsibility for family care and household tasks, hampering their employability and occupational development as well as men's effective exercise of active and affective paternity.

**TABLE 1. MATERNITY AND PATERNITY LEAVES
IN LATIN AMERICA AND THE CARIBBEAN**

Country	Maternity leave			Paternity leave		
	Duration	Pay during leave	Source of pay	Duration	Pay during leave	Source of pay
Antigua and Barbuda	13 weeks	100 % ¹	Joint ⁹	Not envisaged		
Argentina	90 days	100 %	Soc Sec	2 days	100 %	Employer
Bahamas	12 weeks	100 %	Joint ¹⁰	7 days	Unpaid	-
Barbados	12 weeks	100 %	Soc Sec	Not envisaged		
Belize	14 weeks	100 %	Soc Sec*			
Bolivia	90 days	95 % ²	Soc Sec			
Brazil	120 days private sector 180 days public sector	100 %	Soc Sec	5 days 20 days if employer forms part of the «Citizen Enterprise» programme	100 %	Employer
British Virgin Islands	13 weeks	66.7 %	Soc Sec	**		
Chile	18 weeks 30 weeks if the mother takes the entire parental leave	100 % ³	Soc Sec	5 days	100 %	Soc Sec
Colombia	18 weeks	100 %	Soc Sec*	8 days	100 %	Soc Sec
Costa Rica	4 months	100 %	Joint* ¹¹	5 days		

Country	Maternity leave			Paternity leave		
	Duration	Pay during leave	Source of pay	Duration	Pay during leave	Source of pay
Cuba	18 weeks	100 %	Soc Sec	After postnatal and nursing leave, the parents decide how to distribute childcare during the first year		
Dominica	12 weeks	60 %	Soc Sec	Not envisaged		
Ecuador	12 weeks	100 %	Joint ¹²	10-25 days, depending on child's health	100 %	Employer
El Salvador	16 weeks private sector 12 weeks public sector	75 %	Soc Sec*	3 days	100 %	Employer
Grenada	12 weeks	100 % ⁴	Joint ¹³	Not envisaged		
Guatemala	12 weeks	100 %	Joint* ¹⁴	2 days	100 %	Employer
Guyana	13 weeks	70 %	Soc Sec	Not envisaged		
Haiti	12 weeks	100 % ⁵	Employer			
Honduras	12 weeks	100 % ⁶	Joint* ¹⁵	Not envisaged		
Jamaica	12 weeks	100 % ⁷	Employer			
Mexico	12 weeks	100 %	Soc Sec*	5 days		
Nicaragua	12 weeks	100 %	Joint* ¹⁶	5 days		
Panama	14 weeks	100 %	Soc Sec*	Not envisaged		
Paraguay	18 weeks	50 % ⁸	Soc Sec	2 weeks	100 %	Employer
Peru	98 days	100 %	Soc Sec	3 days		
Puerto Rico	8 weeks	100 %	Employer	**		
Dominican Republic	12 weeks	100 %	Joint* ¹⁷	2 days	100 %	Employer
Saint Kitts and Nevis	13 weeks	65 %	Soc Sec	Not envisaged		
St Lucía	13 weeks	65 %	Soc Sec			
Saint Vincent and the Grenadines	13 weeks	65 %	Soc Sec			
Trinidad and Tobago	13 weeks	100 %	Joint ¹⁸			
Uruguay	14 weeks	100 %	Soc Sec	13 days (wage earners) 10 days (self-employed)	100 %	Employer
Venezuela	26 weeks	100 %	Soc Sec	14 days ¹⁹	100 %	Soc Sec

Source: authors' formulation based on CEPAL (2017) and OIT (2014) data.

Notes:

- ¹ 100 % 6 weeks and 60 % 7 weeks
- ² 100 % up to minimum wage, 70 % on rest of salary
- ³ 100 % up to a ceiling
- ⁴ 100 % for 2 months and 65 % in the last month
- ⁵ 100 % for 6 weeks
- ⁶ 100 % for 10 weeks

- ⁷ 100 % for 8 weeks
⁸ 50 % for 9 weeks
⁹ 60 % Social Security (Soc Sec) and 50 % employer in first 6 weeks
¹⁰ 2/3 Soc Sec for 13 weeks and 1/3 employer for 12 weeks
¹¹ 50 % Soc Sec and 50 % employer
¹² 75 % Soc Sec and 25 % employer
¹³ 65 % for 3 months and 35 % for 2 months
¹⁴ 2/3 Soc Sec and 1/3 employer
¹⁵ 2/3 Soc Sec and 1/3 employer
¹⁶ 60% Soc Sec and 40% employer
¹⁷ 50% Soc Sec and 50% employer
¹⁸ 2/3 employer and 1/3 Soc Sec
¹⁹ 5 consecutive days
²⁰ Public officials can take 10 days
²¹ 14 consecutive days

* If the worker is not covered by Social Security but qualifies for maternity leave, her employer must defray the full cost of maternity leave.

** Information not available

PARENTAL LEAVE IN LATIN AMERICA: CHILE⁴

Chile's parental leave is one of the most recent amendments to regional legislation favouring shared care. The leave and the respective subsidy, established under Act 20.545, published in the Official Journal on 17 October 2011, form part of the Maternity Protection System laid down in the Workers' By-laws. They apply to all working women with social insurance.

Under these provisions, workers are entitled to paid absence from work for 12 weeks after the postnatal period to care for their newborn, providing the baby lives at the beginning of the 12-week period⁵. While on such leave, the worker receives sick leave pay, a Social Security benefit consisting in money paid to replace public or private sector workers' salary or eligible self-employed workers' earnings.

Women may choose to take parental leave full-time for a total of 12 weeks or part-time for 18 weeks. Women taking full-time paren-

tal leave receive a subsidy equal to 100 % of their salary to a ceiling of 66 «unidades de fomento»⁶ (-\$2944), whereas women taking half-day leave are entitled to 50 % of their salary. These subsidies are funded by the Single Family Benefits and Severance Subsidies Fund (Spanish initials (FUPFySC), in turn funded exclusively with tax moneys.

When both parents have paid employment, beginning in the seventh week the mother can transfer the remaining weeks to the father. Fathers must take the time at the end of parental leave for full weeks (1 week = 7 consecutive days) and under the same option (full- or part-time) as the mother. Consequently, if the mother opts for 12 weeks of full-time parental leave, she may transfer up to 6 weeks to her partner, whereas if she chooses 18 weeks of part-time leave, she can transfer up to 12 weeks to the father. Parental leave is independent of paternity leave, a 5-day paid leave for fathers after their child is born.

⁶ The «unidad de fomento» is an inflation-adjusted unit of account used in Chile. Created in 1967, its primary and initial use was for mortgages, which could be revalued in accordance with inflation. One UF is presently worth 26 968.69 Chilean pesos, whilst the US dollar is valued at 604.54 Chilean pesos (Banco Central de Chile, Indicadores Diarios, consulted online on 10 April 2018:

<https://si3.bcentral.cl/indicadoresiete/secure/indicadores-diaros.aspx>).

⁴ For a detailed analysis of the institution of parental leave in Chile and its inclusion on the political agenda, as well as the initial results of its implementation, see LUPICA (2015a).

⁵ If postnatal leave is extended (premature and multiple births), parental leave begins after expiration of the extension.

To transfer the leave, the mother must formally and explicitly specify her desire to do so and the father must have social insurance coverage. When fathers use parental leave, the subsidy is calculated on the grounds of their own

salary, subject to a monthly ceiling of 66 UF. Fathers are afforded job protection for double the period taken at full-time or a maximum of 3 months if they take part-time leave, counting from 10 days prior to taking the leave.

TABLE 2. MATERNITY PROTECTION IN CHILE

Maternity leave		Paternity leave	Parental leave	Leave to care for a severely ill minor child (EGNM)
Prenatal leave	Postnatal leave	5 days	Can be shared by parents	
6 weeks	12 weeks*		12 weeks full-time, 6 of which can be transferred to the father	Until the child is 1 year old, compatible with parental leave only where taken part-time
18 weeks total			or 18 weeks part-time, 12 of which can be transferred to the father	

Source: Lupica (2014), based on Act 20.545 (2011) amending the Maternity Protection System.

Note: (*) May be extended by 42 days in the event of premature birth or babies weighing < 1500 g and by 7 or more additional days for multiple births.

The labour legislation on maternity protection in Chile is one of the most generous worldwide and has gradually introduced the notion of paternal responsibility for care. Nonetheless, it does not institute equality of family responsibilities, inasmuch as the right to leaves for childcare and to extend postnatal leave is vested primarily in mothers, with fathers eligible only where mothers so choose. Although the right is established for both parents, it is subject to the woman's discretion.

The statistics show that in practice parental leave has become an extension of maternity leave. Between 2011 and 2016, only 1157 parental leaves were taken by fathers, accounting for just 0.24 % of the total initiated in that period, an indication of how seldom this leave is transferred from mothers to fathers (SUCESO, 2016). The number of fathers exercising this right has tended to decline year after year, even though fathers who use it do so for a relatively long time, with an average of 34 of the maximum 42 days allowed.

TABLE 3. NUMBER OF PARENTAL LEAVES INITIATED AND TRANSFERRED TO FATHERS, BY YEAR: NOVEMBER 2011 – SEPTEMBER 2016

Year	Number of parental leaves initiated	Number of leaves transferred to fathers	Ratio of total subsidies to transfers	Mean number of days transferred
2011*	22 320	1	0.00%	42
2012	91 249	292	0.32%	30.9
2013	96 195	277	0.29%	32.8
2014	101 974	218	0.21%	36.6
2015	105 116	220	0.21%	35.3
2016**	75 299	149	0.20%	34.6
Total	492 153	1 157	0.24%	33.8

Source: Superintendencia de Seguridad Social (2016), SIMAT database.

Notes: * The data cover the months of November and December only, for parental leave came into effect in late October 2011. ** Information for January to September 2016.

Although the number of men using parental leave is too small to draw general conclusions, the group most prone to using this leave included men aged 31-35 and with high incomes. The time of use rose with fathers' age (SUCESO, 2016).

Two major categories of reasons for not using the leave can be distinguished: cultural and social obstacles to care sharing and certain characteristics of leave design (Lupica, 2015a).

Cultural expectations around male participation in childcare play a very important role in such scant paternal uptake. Further to *Barómetro Mujer y Trabajo* (2011) data, only one in every two mothers (54.4%) surveyed before parental leave was instituted was willing to share care for their new born with the father. *IMAGES* (2011), a quantitative survey, showed that prior to introduction of parental leave, 76.6 % of the male respondents had not taken the 5-day paternity leave. Approximately half (51.9 %) claimed that work prevented them from doing so, 13.9 % that they were not economically able to take the leave and 10.2 % that they simply preferred not to. In light of those results, the uptake rate of parental leave by men could feasibly have been predicted to be less than extraordinary. In addition to those traditional cultural views on who should attend to and care for small children, the present social and work environment in Chile, characterised by long working days, the fear of losing one's job and deeply indebted families, constitutes a substantial obstacle to male participation in care (Lupica, 2015a).

Parental leave, in turn, was conceived as a new leave for mothers, who could transfer part of it, voluntarily, to fathers to enable them to care for their children. International experience has shown that one of the characteristics that contributes to a more egalitarian use of parental leave between men and women is non-transferability of some part of their leaves, for fathers are more prone to take the quota of parental leave reserved to them exclusively (Meil, 2017; Lupica, 2013).

In addition, Chilean parental leave overlaps with the 6 months' time recommended by the World Health Organisation and the United Nations Children's Fund (UNICEF) for exclusive breastfeeding. The messages mothers receive may consequently be contradictory: on the one hand they are told to exclusively breastfeed their baby for the first 6 months and the other they are urged to transfer part of their leave time to fathers during that period.

The uptake rate for parental leave is also associated with the presence or absence of other instruments, resources and day care and life/work conciliation services. The potential and overall implementation of maternity, paternity and parental leaves, leaves to care for a severely ill infant under 1 year of age and childcare services must be analysed as part of a comprehensive system of harmonisation policies geared to families. In that context, furthering shared care through parental leave while excluding male workers from benefits such as on-site day care appears to be at least paradoxical.

By way of summary, the conclusion to be drawn from the Chilean parental leave experience is that legislative reform is necessary but not in itself sufficient. As long as the State and society fail to attend to care needs through co-responsibility and from a parenthood perspective, this activity will continue to be assumed by the group that has traditionally borne its weight: women.

FINAL CONSIDERATIONS

When leave is viewed as a basic social need and a civil right, the State has an indisputable role to play in establishing a new social and fiscal compact. The respective responsibilities must be redistributed among the State itself, the marketplace and families (social co-responsibility for care) and a more equitable division of tasks between men and women (parenthood approach) must be furthered,

also by the State. The aim is to foster social and gender equality society-wide and within families and build a society in which men and women care for their children and families while participating on the labour market on an equal basis.

Policies should be formulated in keeping with each country's particularities, needs, existing policies, resources and social and political-institutional context, for Latin America-the Caribbean is a heterogeneous region with high poverty and job insecurity rates.

Nonetheless, most countries in the region need to take the same first step toward shared care: the generation of new information and indicators. The gaps in and heterogeneity of the existing information constitute an obstacle to accurately depicting the present care situation in Latin American and Caribbean countries.

The State should incentivise and favour an understanding of the issues around family responsibilities. More than merely developing databases for an accurate diagnosis of such issues, it should support and further cost-benefit studies of the existence relative to the non-existence of work/life conciliation policies and establish a system of indicators to monitor and assess public policies. Such information should include, among others: i) the formulation and periodic implementation of time use surveys to assess fathers' participation in care; ii) the introduction of questions on the organisation of care in workforce surveys; iii) the compilation of information on public and private care services; iv) the study of work/life conciliation measures (mechanisms, perceptions and impacts of their presence or absence) on collective bargaining agreements and trade unions; v) the actual use of maternity, paternity, parental and other care-related leaves and the identification of factors that favour or inhibit their uptake. A periodic supply of reliable information would be conducive to the development of the tools needed for public policy decision-making.

Secondly, countries in the region should review the legislation governing the timing of care-related leaves for male and female workers to further shared caring. That entails extending measures and benefits not exclusively linked to women's reproductive or biological function (pregnancy, childbirth, recovery and nursing) to both spouses and furthering men's involvement in care tasks. Countries that have not already done so should introduce Social Security-funded paternity leaves of a suitable duration in their legislations.

An analysis should be conducted of the possibility in each country of legislating Social Security-paid parental leave of a suitable duration, to be taken full- or part-time by both spouses after maternity and paternity leave, with a non-transferable quota for each and a separate time set aside to be shared between them. All the foregoing should be attendant upon guaranteeing workers' job protection and associated rights. That would allow men to assume greater responsibility in childcare, incentivise labour market equality between men and women by dissociating the indirect costs of hiring women attributable to caring and afford children the advantage of being cared for by both parents.

In parallel, legislation should be adopted to qualify either partner for leaves to attend to family responsibilities (ill children or other dependents). Such leaves might also consist in shorter or flexible hours and could include the possibility of leaves of absence, i.e., unpaid job-protected leaves.

Thirdly, countries should establish stimuli to further men's use of leaves through awareness and cultural transformation policies. State and marketplace responsibility in conciliating productive and reproductive work as well as the equitable distribution of family responsibilities for care between men and women should be enhanced. Vital to the latter are policies furthering change in cultural patterns that perpetuate the prevailing distribution of work. The State could implement long-term communication and awareness policies via in-

formation campaigns, sensitise social actors, include these subjects in the formal education system and pursue media involvement.

That it is incumbent upon the State to protect and further all civil rights must be stressed. The list of issues meriting urgent attention in the region includes eliminating the disadvantages affecting women's employability, improving the working conditions of those employed in the informal economy and solving the social insurance system crisis. That calls for extending the right to care to all citizens, for it is presently associated primarily with salaried workers in the formal economy, thereby excluding informal economy and self-employed workers, as well as individual entrepreneurs and paid and unpaid domestic workers.

A need is consequently identified to design a new social contract in which care-related tasks are assumed as a responsibility shared by the State, the marketplace and society at large, and within families between men and women. Maternity, paternity and parental leaves are a useful tool for materialising the Sustainable Development Goals adopted by the UN General Assembly in 2015, particularly Goals 5 and 8 and the targets associated with furthering shared responsibility within families and fostering gender equality and decent working conditions for men and women. Effective progress in that direction affords an opportunity to foster regional sustainable development and improve the lives of women, men, children and families that must not be forgone.

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ABSTRACT Parenthood or parental responsibilities may be defined as parents' practical and functional capacities to care for and raise their children and ensure their healthy development. Such capacities are acquired through parents' or carers' biology, heredity, life experience and interaction with the sociocultural context. Parenting skills and behaviours can be learned and exercised irrespective of conjugal arrangements (Lupica, 2013).

One of the factors impacting parenthood most heavily in recent years is women's wholesale entry on the labour market and the family role changes involved. At year-end 2017, 50.2 % of Latin American and Caribbean women were engaged in paid employment (OIT, 2017).

Despite their substantial implication in the working world, women continue to assume the primary responsibility for household and family care tasks. On average, women devote nearly three times as many hours per week to unpaid work as men (37.2 vs 13.3), whereas men spend twice as much time in paid work (39.3 vs 19.3). (Observatorio de Igualdad de Género de América Latina y el Caribe-CEPAL, 2018).

One essential consideration for furthering women's employability is advancement toward social co-responsibility for care, i.e., with the intervention of families, the State, the marketplace and society from the perspective of parenthood, to foster greater equality between men and women. Such changes would seek to build a society in which women and men can be paid workers as well as carers (OIT-PNUD, 2009; Lupica, 2013).

Greater male involvement in family care also has a beneficial effect on children's future and personal development, not to mention the fatherly satisfaction experienced by men who establish a rewarding and happy relationship with their children (IPPF/WHR and Promundo, 2017; Barker and Verani, 2008).

The traditional identification of men with paid and women with reproductive work largely explains why restructuring women's and men's working time meets so much social resistance. Labour market organisation reinforces that resistance, which also hampers men's greater commitment to care. The model informing regional labour legislation, traditional two-parent families resulting from stable conjugal unions, determines the profile of the ideal worker: a male who works overly long hours and devotes very little time to family responsibilities and his personal life (Lupica, 2013).

Consequently, the provisions on work/life balance in most of the region are geared nearly exclusively to women in their dual role as workers and mothers, rather than to men, whose role as workers appears to rest on the existence of a woman able to meet their children's needs for care. That assumption is implicit in the distribution of mothers' and fathers' leaves and the regulation of on-site day care services and their association with working women.

The acknowledgement of fathers' right to participate in the care for their newborn children in the form of short-term paternity leave (2 to 15 days) is the regional legislative measure that has had the greatest impact on men's and women's joint participation in care work. Men are not, however, entitled to job protection and in most cases their access to on-site day care services is restricted. Very few national legislations envisage leave to care for workers' children or other family members when ill and parental leave has only been implemented in four countries: Brazil, Chile, Cuba and Uruguay.

Countries in the region consequently need to undertake legislative reform to provide for parenthood-focused maternity protection and support for workers with family responsibilities to enable mothers and fathers to share the tasks involved in care.

Under parental leave provisions workers can extend the right to care beyond women's reproductive role (pregnancy, childbirth, recovery and nursing) and upend the old «male breadwinner, woman carer' model. That notwithstanding, legislative provisions do not suffice to ensure that responsibility for care is shared by men and women. Affirmative action and social policies are also needed to further the necessary social and cultural change, foster active or committed paternity and make social responsibility for care effective in practice.

Keywords: Paternity leave; maternity leave; parental leave; care; maternity; paternity; co-responsibility; family responsibilities; gender equality.

RESUMEN

La parentalidad o las responsabilidades parentales son las capacidades prácticas y funcionales que tienen las madres y los padres para cuidar, educar y asegurar el sano desarrollo de sus hijos. Estas se conforman a partir de factores biológicos y hereditarios y su interacción con las experiencias vitales y el contexto sociocultural de desarrollo de los progenitores o cuidadores. Las habilidades y comportamientos que incluyen el ejercicio de la parentalidad se pueden aprender y ejercer más allá de cualquier tipo de arreglo conyugal (Lupica, 2013).

Uno de los factores de mayor influencia en la historia reciente del ejercicio de la parentalidad ha sido el ingreso masivo de las mujeres al mercado de trabajo y los consecuentes cambios en los roles de los miembros de la familia. A fines de 2017, la tasa de participación laboral de las mujeres en América Latina y el Caribe era del 50,2 por ciento (OIT, 2017).

Pese al avance sustancial de las mujeres en el mundo del trabajo, ellas aún asumen la principal responsabilidad de las tareas del hogar y de cuidado de la familia. En promedio, las mujeres dedican casi el triple del tiempo semanal al trabajo no remunerado que los hombres (37,2 horas semanales vs. 13,3 horas semanales, respectivamente), mientras que ellos dedican el doble del tiempo al trabajo remunerado en comparación con las mujeres (39,3 horas semanales vs. 19,3 horas semanales, respectivamente). (Observatorio de Igualdad de Género de América Latina y el Caribe-CEPAL, 2018).

Una dimensión fundamental para promover la participación de las mujeres en el mercado de trabajo consiste en avanzar hacia la corresponsabilidad social de los cuidados –es decir, con intervención de las familias, el Estado, el mercado y la sociedad–, y desde un enfoque de parentalidad, para promover su reparto más equitativo entre los hombres y las mujeres. Se trata de cambios que apuntan hacia una sociedad en la que las mujeres y los hombres puedan ser trabajadores remunerados y, a la vez, cuidadores (OIT-PNUD, 2009; Lupica, 2013).

El mayor involucramiento de los hombres en los cuidados familiares también influye positivamente en el destino y desarrollo personal de los hijos y en los sentimientos de satisfacción de los propios varones, para quienes la relación filial es una esencial fuente de bienestar y felicidad (IPPF/WHR y Promundo 2017; Barker y Verani, 2008).

La histórica identificación de los hombres con el trabajo remunerado y de las mujeres con el trabajo reproductivo es una de las principales causas de las resistencias a la reestructuración de los tiempos dedicados por las mujeres y los hombres al trabajo para el mercado y en los hogares. Pero, por otra parte, la organización del mercado de trabajo también dificulta el mayor compromiso de los hombres con el cuidado. El ordenamiento jurídico laboral de los países de la región fue creado sobre un modelo de familia biparental, con uniones conyugales formales y estables, que habilita el modelo de trabajador ideal: un hombre que asume horas de trabajo en exceso y destina un tiempo muy limitado a las responsabilidades familiares y a su vida personal (Lupica, 2013).

De esa manera, las disposiciones para facilitar la articulación entre trabajo y familia en la mayor parte de la región se pensaron casi exclusivamente para las mujeres –asumiendo su doble función de trabajadoras y madres– y no para los hombres –cuya función como trabajadores parece partir del supuesto de que existe una mujer que cubrirá las necesidades de cuidado de sus hijos e hijas–. Esta presunción se encuentra implícita en la distribución de licencias para las madres y los padres, y en la regulación sobre guarderías y espacios de cuidado infantil asociados al trabajo de las mujeres.

El principal avance en la legislación laboral de los países de la región para promover los cuidados compartidos entre hombres y mujeres ha sido el reconocimiento del derecho del padre a participar en el cuidado y la atención de los hijos e hijas recién nacidos mediante la licencia de paternidad, que tiene una corta duración (entre 2 a 15 días). Sin embargo, los hombres no tienen derecho al fuero paternal y en la mayoría de los casos tienen res-

tringido el acceso a los servicios de cuidado en el lugar de trabajo. Son pocas las legislaciones que consideran el permiso en caso de enfermedad de los hijos o de otros miembros de la familia directa de los trabajadores, y las licencias parentales solo se han implementado en cuatro países: Brasil, Cuba, Chile y Uruguay.

Así, en los países de la región se vuelve necesaria una reforma institucional que incorpore el concepto de parentalidad en los marcos normativos sobre protección de la maternidad y apoyo a los trabajadores con responsabilidades familiares, para que ambos miembros de la pareja puedan asumir las funciones de cuidado de manera compartida.

Los permisos parentales permiten extender a los trabajadores las garantías de cuidado que no están ligados a la función exclusivamente reproductiva biológica de las mujeres (embarazo, parto, recuperación y lactancia) y avanzar hacia la superación del viejo modelo «hombre proveedor y mujer cuidadora». Pese a lo cual, para que el cuidado sea una responsabilidad compartida entre hombres y mujeres, no bastan solo las modificaciones normativas. También se requiere de acciones positivas y de políticas sociales que impulsen el cambio social y cultural necesario, para potenciar la paternidad activa o comprometida y hacer realidad la efectiva corresponsabilidad social de los cuidados.

Palabras clave: Licencias por Paternidad; Licencias por Maternidad; Permisos Parentales; Cuidados; Maternidad; Paternidad; Corresponsabilidad; Responsabilidades Familiares; Igualdad de Género.

II. Documents

An initiative to support work-life balance for working parents and carers*

Una iniciativa para promover la conciliación de la vida familiar y la vida profesional de los progenitores y los cuidadores

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

1. INTRODUCTION

Across the European Union, women remain underrepresented in the labour market. The economic loss due to the gender employment gap amounts to €370 billion per year¹. Women are increasingly well qualified and more women than men graduate from universities in Europe but many disappear from the labour market due to their responsibilities as parent or as carer of family relatives. Existing policies have not brought equal opportunities that allow fathers and mothers to work and care together for the welfare of children and society at large.

In parallel, the workforce in the European Union is shrinking, the population is ageing and the demographic curve remains a challenge. Lower participation of women in the labour market is linked to a persisting gen-

der pay gap and an increasing pension gap which often leads to social exclusion and an increased risk of poverty.

Taking action is not only a question of fairness, gender equality and optimal allocation of skills but also a question of countries' fiscal sustainability. It is both a social and an economic imperative.

This initiative has been developed to address this challenge. With this initiative, the Commission presents an ambitious set of legislative and non-legislative actions to modernise the existing European Union legal and policy framework to support better work-life balance for men and women with caring responsibilities and a more equal use of leave and flexible work arrangements. The current EU legal framework for family-related forms of leaves and flexible working arrangements was set in the 1990's². Two decades later we

* Bruselas, 26.4.2017, COM (2017) 252 final.

¹ Eurofound (2016) «The Gender Employment Gap: Challenges and Solutions».

² The maternity leave Directive 92/85 was adopted in 1992 and was not changed since. The parental leave Directive

need to draw lessons from the experience gained and the lower than expected progress achieved in equal treatment of women and men on the labour market, while ensuring that this framework is in line with new work patterns and future trends.

While addressing women's underrepresentation in the labour market and supporting their career progression through modern work life balance policy, this initiative contributes to the Treaty-based objectives of equality between men and women with regard to labour market opportunities and equal treatment at work. It also helps employers to retain workers, improve the motivation and productivity of employees, reduce absenteeism and avoid wasting talent. Companies should benefit from a wider talent pool and a more diversified workforce.

A modern work-life balance policy will contribute to improving employment rates and to reducing poverty and social exclusion, in line with EU priorities reflected in the Europe 2020 targets and with Commission's priorities of jobs and growth outlined in President Juncker's political guidelines.

As one of the key deliverables of the European Pillar of Social Rights, this initiative strengthens the social dimension of the

Union³. It is also part of the implementation of the Commission's Strategic Engagement for Gender Equality 2016-2019 and of UN Sustainable Development Goal 5 on gender equality.

This initiative follows the withdrawal in 2015 of the Commission proposal for a revision of Directive 92/85/EEC on maternity protection, when the Commission committed to present a new initiative taking a broader perspective to improve the lives of working parents and carers.

1.1. Economic and societal context: current challenges

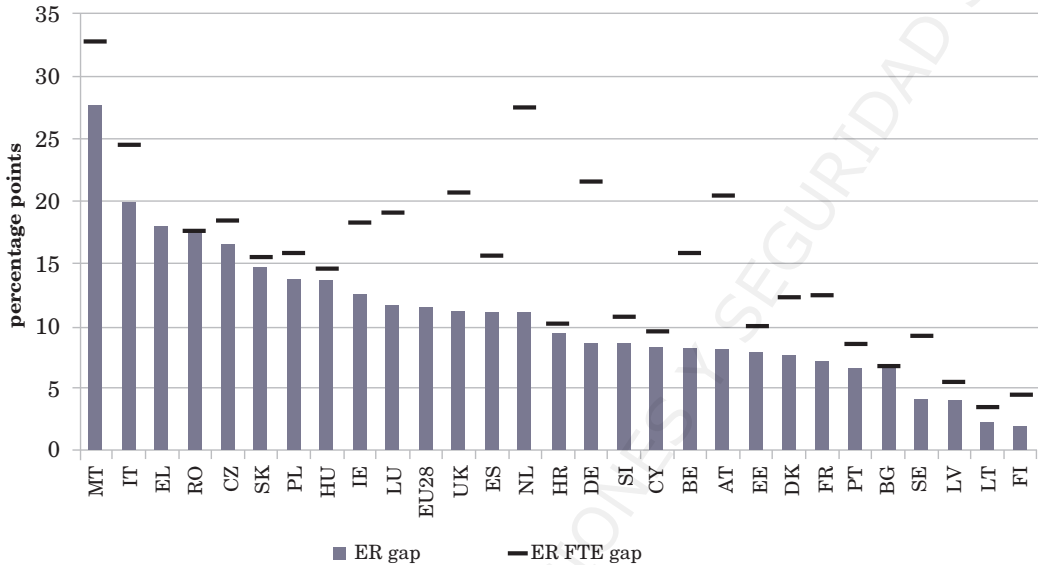
While women across the European Union are increasingly well qualified and tend to out-perform men in terms of educational achievement⁴ their participation in the labour market, and hence their economic independence, remains considerably lower than that of men. In 2015, the average employment rate of women aged 20-64 in the EU was of 64.3 %, compared to 75.9% for men (11.6 percentage points gap); the gap reaches an average of 18.1 percentage points when considering full-time employment, taking into account the higher prevalence of part-time work among women.

was initially adopted in 1996 and partially amended in substance and improved in 2010.

³ https://ec.europa.eu/commission/sites/beta-political/files/gender-equality-work-life-balance_en.pdf

⁴ In 2015, 43.4% of women (aged 30-34) had tertiary education or higher compared to 34% of men. Unless stated otherwise statistics come from Eurostat.

FIGURE 1. GAPS IN EMPLOYMENT RATE (20-64) AND FULL-TIME EQUIVALENT EMPLOYMENT RATE BETWEEN MALE AND FEMALE, 2015



Source: Eurostat, OECD.

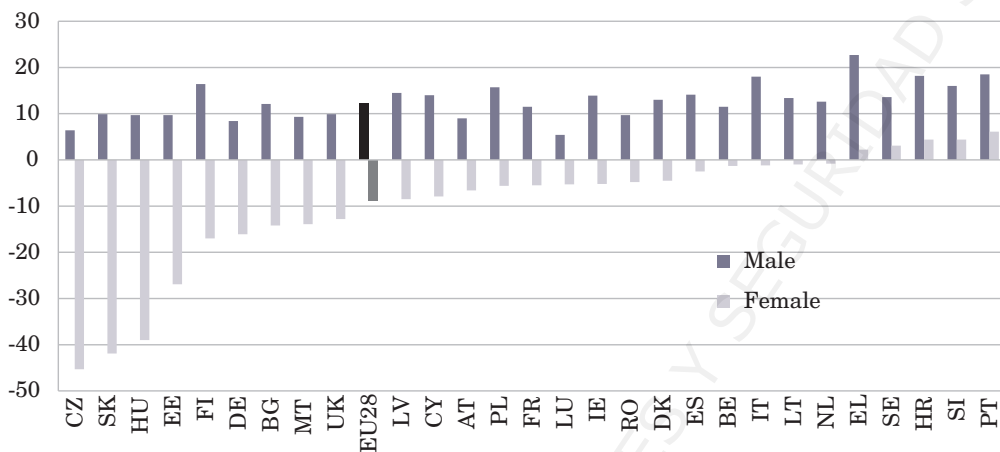
One of the main drivers for the employment gap is the unequal distribution of caring responsibilities between women and men. The gender employment gap widens substantially once families have children, reflecting the difficulty for women to reconcile child-raising and care responsibilities with their work. In 2015, the average employment rate of women with one child under 6 years of age was 8.8 percentage points lower than that of women without young children, and in several Member States this difference is above 30 percentage points⁵. Conversely, parenthood has the opposite effect on the employment rates of men, which was 12 percentage points higher than that of non-fathers and in some countries this difference reached 18 percentage points. Many

men report that they would like to work fewer than their actual hours and consider this is interfering with family life. In some countries more than 25% of inactive women are inactive because of caring responsibilities⁶. There are additional discrepancies for women in the 55 to 64 age bracket⁷.

⁵ In a number of countries, the impact of parenthood is particularly high and the employment rate of women with children under the age of 6 is more than 20 percentage points lower than the employment rate of childless women (Hungary, the Czech Republic, Slovakia, Estonia and Finland).

⁶ United Kingdom, Czech Republic, Estonia, Slovakia, Ireland, Hungary

⁷ The gender gap in the employment rate for the 55-64 age cohort exceeds 35% in Malta, Greece, Slovenia, Croatia, Romania and Luxembourg.

FIGURE 2. EMPLOYMENT IMPACT OF PARENTHOOD FOR ONE CHILD UNDER 6, 2015

Source: Eurostat.

Inadequate measures to reconcile work with care responsibilities tend to impact women disproportionately⁸, with many men discouraged from taking up family-related leaves and flexible working arrangements and many women pushed to leave the labour market or to reduce their working hours. On average, women in the EU are far more likely than men to work part-time (31.3% of women compared to 8.3% of men).

At the same time, the digital transformation of the economy is reshaping the way people work and do business, creating new opportunities for remote work, increased autonomy and flexible schedules which can be used better to reconcile work and family commitments. Business models are changing, opening up opportunities and new routes into work. Many sectors are undergoing rapid change and offer new opportunities, with in-

creased possibilities for self-employment and new types of activities⁹, leaving behind the traditional working models.

In parallel, Europe's working age population is ageing and shrinking. In the future, the impact of an ageing population will become even more pronounced¹⁰. According to projections, the EU would move from having four working-age people in 2013 to only two working-age persons by 2060 for every person aged over 65 years¹¹. This may have a disproportionate impact on women who are current-

⁸ Working women spend on average 22 hours per week in unpaid work, while working men spend fewer than 10 hours. Eurofound (2015).

⁹ At the same time, they may also increase precarious part-time work, casual work and blur the boundaries between work and personal life. See for example: Eurofound & ILO (2017) Working anytime, anywhere: The effects on the world of work. <https://www.eurofound.europa.eu/publications/report/2017/working-anytime-anywhere-the-effects-on-the-world-of-work>

¹⁰ White paper on the future of Europe European Commission COM(2017)2025.

¹¹ European Commission (2015) The 2015 Ageing Report: Economic and budgetary projections for the 28 EU Member States (2013-2060).

ly more likely to perform the primary role of informal carers to look after ill or elderly relatives.

In sum, reduced earnings, higher concentration in part-time work and career gaps linked to caring responsibilities make many women economically more dependent on their partners or the state and contribute substantially to the gender pay gap (on average 16% in the EU) and gender pension gap (on average 40% in the EU). This results in a higher risk of exposure to poverty and social exclusion for women, with negative impacts also extending to their children and families.

This evidence on current economic and societal challenges points at the need to **better-designed work-life balance policies** that facilitate more equal sharing of care responsibilities within couples and remove barriers to women's labour market participation and career advancement.

1.2. Leaves, flexible working arrangements, care facilities and economic disincentives

Several factors need to be considered to improve gender equality in the labour market. Global surveys show that both women and men would prefer that women work in paid jobs¹². Evidence demonstrates that the availability of adequate leave arrangements has a strong influence on female employment. The availability and use of such arrangements for fathers (second parents) also has a considerable impact on participation of women in the

¹² Worldwide, a total of 70 per cent of women and a similar 66 per cent of men would prefer that women work at paid jobs (combining those who prefer women to only work at paid jobs and those who prefer them to be able to work at paid jobs and care for their homes and families). Each of these figures is more than double the percentages of those who would prefer for women to just stay at home. ILO (2017) Towards a better future for women and work: Voices of women and men. World Gallup Poll. http://ilo.org/global/publications/books/WCMS_546256/lang--en/index.htm

labour market as it alleviates some of the care responsibilities of mothers and thus allows for easier return of women to the labour market.

Availability of flexible working arrangements –such as telework, flexitime, reduced working hours or job sharing– also plays an important role.

Childcare and long-term care, are important tools to remove obstacles to employment, especially for women¹³. The availability, accessibility and affordability of care infrastructure are crucial elements to allow parents and carers to stay on or join the labour market.

Tax-benefit disincentives can also discourage second-earners¹⁴, most often women, from entering the labour market or working additional hours. When coupled with high costs for childcare and long-term care services, high tax rates and reduced benefits for second earners in a household can magnify the financial disincentives for women to stay or enter into work¹⁵.

1.3. The EU approach

The EU addresses issues related to gender equality in the labour market and promoting work-life balance through legal provisions¹⁶,

¹³ BRILLI, Y., DEL BOCA, D. & PRONZATO, C.D. (2016) Does childcare availability play a role in maternal employment and children's development? Evidence from Italy. Review of Economics of the Household 14: 27-51. FP 7 Project Families and Societies.

¹⁴ Commission Recommendation: Investing in children: breaking the cycle of disadvantage (2013) <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013H0112>

¹⁵ European Commission (2015) Secondary earners and fiscal policies in Europe.

¹⁶ See Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by Business Europe, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (OJ L 68, 18.3.2010); Directive 2006/54/EC 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) (OJ L 204, 26.7.2006), Council Directive 92/85/EEC of 19 October 1992 on the intro-

the European Semester of policy coordination¹⁷, EU funding and policy guidance¹⁸. In a rapidly changing environment, more needs to be done.

To modernise the existing legal framework, the Commission is proposing a directive on work-life balance which will preserve existing rights and build on them with improved and new rights for both women and men. The proposal fully respects the individual freedom of workers and families and does not prevent Member States from providing for higher standards where desired. This initiative also proposes new measures aimed at strengthening the application of the Maternity leave Directive while leaving the rights granted under its provisions intact.

The Commission is proposing non-legislative measures to address lack of sufficient or adequate care services or to tackle economic disincentives to work for second earners. It aims to assist Member States in their national reforms and promote a change of mind-sets at organizational and societal level.

Evidence shows that legal developments on maternity and parental leave at national level have to a large extent been triggered by EU legislation. Building on the existing acquis, and limiting the burden on businesses (and notably on SMEs), further minimum legal requirements on work-life balance arrangements will help to provide a level-playing field for companies and workers. Only EU

duction 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 (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992), Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC (OJ L 14, of 20.01.1998) and to the 2008 Commission proposal for a revision of Directive 92/85/EEC on maternity protection (quoted above).

¹⁷ For more information, please see https://ec.europa.eu/info/strategy/european-semester_en

¹⁸ Already in 1992, the Council gave a Recommendation on child care (92/241/EEC, OJ L 123, 08/05/1992).

level action will address differences between existing national legal provisions, ensure that Member States move in the same direction and foster equality between men and women regarding labour market opportunities. The EU-added value in modernising its *acquis* is to ensure a minimum level of equal protection for EU citizens, men and women, across the EU.

The combined legislative and non-legislative measures set up a modern policy framework that seeks to:

1. increase female participation in the labour market and reduce the gender gap, including pay and pension gaps;
2. give workers more opportunities and choice to balance their professional and care responsibilities by updating and modernising the current legal and policy framework, with particular attention to the role of men;
3. support Member States' modern family policies including to address demographic and societal challenges;
4. address shortcomings in care services facilities and eliminate economic disincentives to work for second earners.

The preparation of the initiative has been informed by an extensive consultation process and an impact assessment of a potential range of legislative and non-legislative measures. The Commission completed a two-stage consultation with the European social partners in 2015 and 2016¹⁹. There was no agreement among social partners to enter into direct negotiations on the issues raised during the consultations. An open public consultation was also carried out to seek the views of citizens and other stakeholders. The Council held

¹⁹ Between November 2015 and January 2016, the social partners were first invited to give their views on the possible direction of EU action. A second-stage consultation was conducted from July to September 2016, in which social partners provided their views on a range of possible EU-level measures.

a discussion on work-life balance in December 2015 and the European Parliament adopted a Report on *Creating Labour Market Conditions Favourable to Work-Life Balance*²⁰ and a Resolution on a *European Pillar of Social Rights*²¹.

Successful results depend on the commitment of many players including national governments, regions, local authorities, social partners, individual businesses and employees. In particular, the social dialogue will have a key role to play in ensuring this initiative on work-life balance is successfully developed and implemented.

2. PRIORITY AREAS FOR ACTION

This initiative puts forward a package of measures which mutually reinforce each other. In addition to the benefits for workers and their families, the combination of the legal and policy measures will strongly benefit companies and the wider society.

The Commission's impact assessment has examined the estimated costs and benefits of the proposed measures on individuals, businesses –especially microbusinesses– and the wider society between 2015-2055. The analysis showed that, while the costs of the proposed measures, mainly due to lost production, processing applications and replacement costs, arise in the short- to medium-term, in a longer perspective the package represents a limited cost for companies, which should not overburden employers, including those of micro-businesses²². As the combination of measures proposed should have positive effects on the fiscal position of Member States, the lim-

ited costs on companies can be compensated by targeted interventions at national level to promote a modern work-life balance policy, while fully preserving the competitiveness of businesses. Higher employment rates will also help to address the challenge of demographic ageing and contribute to Member States' financial stability.

2.1. Improving the design and Gender-Balanced take-up of Family-Related Leaves and flexible working arrangements

EU legislation requires Member States to provide for maternity leave and parental leave. Member States can provide for further measures to facilitate work-life balance, improve female labour market participation and more equal gender share of care. The type and content of the measures taken by Member States vary considerably.

The EU legislative framework on equality between men and women with regard to labour market opportunities and treatment at work and working conditions does not sufficiently support parents and workers with care responsibilities and its design does not encourage a gender-balanced take-up of available entitlements²³.

The Parental Leave Directive²⁴ provides for an individual right to four months of **parental leave** for each parent to take care of a child until he or she is eight years old. One month is non-transferable between parents and the Directive does not foresee obligatory monetary compensation. This encourages mostly second-earners in the household (most often women) to take parental leave and does

²⁰ 2016/2017 (INI) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2016-0253+0+DOC+XML+VO//EN>

²¹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0010+0+DOC+XML+VO//EN>

²² Commission SWD Impact assessment accompanying the Communication «A new start to support work-life balance for parents and carers».

²³ See for example: OECD (2016) Dare to Share – Deutschlands Weg zur Partnerschaftlichkeit in Familie und Beruf. <http://dx.doi.org/10.1787/9789264263420-de>; «The role of men in gender Equality – European strategies and insights (DG JUST study of Dec. 2012)»

²⁴ Council Directive 2010/18/EU.

not sufficiently provide incentives for men. Evidence shows the positive impact of adequate compensation on the take up of leave by fathers' (second parent)²⁵, the value of flexible take-up (piece-meal or part-time) and of making it non-transferable between the parents.

The proposed Directive preserves the fundamental elements of the Parental Leave Directive and maintains existing rights, including the length of leave and the individual entitlement for each parent. It introduces payment at sick pay level and increased flexibility for taking parental leave, including by extending the age of the child from eight to twelve years where a parent may take parental leave. Four months will be non-transferable between parents. There are currently no specific EU-level provisions on entitlement to **paternity leave**²⁶. Introducing such an entitlement could have a sizeable impact on the sharing of care responsibilities between women and men. Fathers' involvement in childcare gives higher life satisfaction, physical and mental health of caring fathers and higher cognitive and behavioural outcomes for children²⁷. Fathers who take paternity leave after the birth of the child are more likely to contribute to the upbringing of their child and to subsequently use their parental leave entitlements. The proposed work-life balance Directive introduces 10 days of paternity leave paid at sick level.

The lack of adequate leave to provide care of other dependent relatives exacerbates

the unequal sharing of care responsibilities²⁸. No EU-level minimum standards exist for workers with dependent relatives, except for a limited right under the Parental Leave Directive to take time off on grounds of *force majeure* for urgent and unexpected family reasons²⁹. The proposed directive introduces such an individual entitlement of 5 days per year paid at sick pay level to contribute to a better reconciliation of work and caring responsibilities and to improve talent retention, in particular of women, on the labour market.

Protection against dismissal and unfavourable treatment is provided under EU law through the Maternity Leave Directive³⁰, the Part-time Work Directive³¹, the Gender Equality Directive³², the Directive on equal treatment between men and women engaged in an activity in a self-employed capacity³³ and the Parental Leave Directive. The protection has been reinforced by the case-law of the European Court of Justice. Unfavourable treatment of women when they become pregnant and for women and men due to take leave is still being reported in many Member States³⁴. It is therefore necessary to better inform workers and support them in the exercise of their rights to ensure that they are able to enforce them more effectively at the national level³⁵.

²⁸ It is difficult for working-age carers to combine paid work with caring duties and therefore carers may choose to reduce working hours or quit paid work. Caring may also cause burnout and stress. OECD (2011) *Help Wanted? Providing and Paying for Long-Term Care*. OECD Health Policy Studies.

²⁹ Clause 7 of Directive 2010/18/EU which stipulates rules on time off from work on grounds of *force majeure*.

³⁰ Council Directive 92/85/EEC.

³¹ Council Directive 97/81/EC.

³² Directive 2006/54/EC.

³³ Directive 2010/41/EU.

³⁴ Equinet (2016) *Responses from Gender Equality Working Group on Gender-Related Discrimination*; European Network of Legal Experts in the Field of Gender Equality (2012) *Fighting Discrimination on the Grounds of Pregnancy, Maternity and Parenthood*; UK Equality and Human Rights Commission (2016) *Pregnancy and Maternity-Related Discrimination and Disadvantage*.

³⁵ The Commission will notably support the enforcement of the existing Directive 92/85/EEC (Maternity Leave Directive).

²⁵ See for example: Castro-García, C. & Pazos-Moran, M. (2016) Parental leave policy and gender equality in Europe. *Feminist Economics*, 22 (3); Duvander, A-Z & Johansson, M. (2012) What are the effects of reforms promoting fathers' parental leave use? *Journal of European Social Policy*, 22 (3).

²⁶ Except for the provisions of Directive 2006/54/EC on dismissal protection in case such leave exists in Member States.

²⁷ Huerta, M. et al. (2013) *Fathers' Leave, Fathers' Involvement and Child Development: Are they Related? Evidence from Four OECD Countries*, OECD Social, Employment and Migration Working Papers, No. 140; OECD (2016) *Parental Leave: Where are the Fathers?* Policy Brief 3/2016.

The availability of **flexible working arrangements** can prevent workers from taking on jobs below their full professional potential and skills level or dropping out of the labour market when taking on caring responsibilities³⁶. Despite the new working trends and technological developments, the majority of employees in Europe still have fixed working schedules and do not fully embrace flexible working arrangements like remote working, flexible working schedules,

and reduced working hours (part-time work). The proposed Directive complements the current EU acquis in the Parental leave and Part-time work Directives by introducing a right to request flexible working arrangements for workers with children or other dependent relatives. This can significantly help to improve workers' work-life balance with a positive impact on women's participation in the labour market³⁷.

The Commission will take:

LEGISLATIVE ACTION

- Propose a **Directive** improving work life balance of parents and carers that preserves and builds on existing rights in particular under the Parental Leave Directive. The following new rights are proposed:
 - possibility for flexible uptake (piecemeal and part-time) of the 4 months entitlement to parental leave paid at sick pay level; the 4 months entitlement can be taken up until the child reaches the age of 12 and cannot be transferred between parents;
 - an entitlement to 10 working days of paternity leave when a child is born, paid at sick pay level;
 - an entitlement to 5 days of leave paid at sick pay level per year per worker to take care of seriously ill or dependent relatives;
 - a right to request flexible working arrangements for parents of children up to 12 years old and workers with caring responsibilities.

NON-LEGISLATIVE ACTIONS

1. Continue the monitoring of transposition of EU legislation and pursue and launch infringement procedures when necessary. Ensure better implementation of legislation and **promote compliance**, in particular through:

- financial support, within the Rights, Equality and Citizenship Programme for (trans)national projects aiming at better enforcement of EU law on work-life balance, including information campaigns;
- launch of a specific **study** on enforcement of dismissal protection and unfavourable treatment by the European network of legal experts in gender equality to assess the situation in Member States;
- a seminar, in cooperation with the European Network of Equality Bodies (**EQUINET**), on capacity building activities for equality bodies and other respective labor market supervisory bodies (Network of Labor Inspectorates, SLIC) in Member States, with a focus on dismissal protection.

2. Continue monitoring the design and the gender balanced take-up of family- related leaves and flexible working arrangements as part of the European Semester and in the annual report on gender equality.

3. Improve the collection of EU-level data by Eurostat on the take-up of family-related leaves and flexible working arrangements by women and men, in cooperation with employment policy committees (SPC, EMCO) and in coordination with the European Institute for Gender Equality (EIGE).

³⁶ Plantenga, J., Remery, C. and EU expert Group on Gender and Employment (2010) Flexible working time arrangements and gender equality. A comparative review of 30 European countries.

³⁷ To promote work-life balance, it is important that flexibility is employee-friendly, i.e. employees can maintain control over certain dimensions of employment such as working hours. See for example: Eurofound (2015) Policies to improve work-life balance. <https://www.eurofound.europa.eu/observatories/eurwork/articles/working-conditions-industrial-relations/policies-to-improve-work-life-balance-0>

4. Provide funding:

- Under the Programme for Employment and Social Innovation (EaSI) **fund new pilot schemes** addressed to employers for the development of **innovative working arrangements** such as family leaves and flexible working arrangements (through existing resources).
- Ensure, together with Member States, that the **European Social Fund and other structural and Investment Funds** are supporting adequately **work-life balance measures**.

5. Share best practices with social partners and Member States through seminars under the Mutual Learning programme on:

- gender-balanced uptake of family leaves and flexible working arrangements,
- initiatives such as labels and certifications for employers with good work-life balance practices,
- smooth transition between leaves and employment (e.g. provision of breastfeeding facilities at the workplace),
- crediting of family-related leave periods in the pension system.

2.2. Improving the Quality, Affordability and Access To Childcare and Long-Term Care

In 25 Member States, the demand for childcare places is higher than the available supply, especially for children below 3 years of age³⁸. Lack of formal care services for children and other dependants can lead workers with dependants, in particular women, to reduce their working hours or drop out of the labour market. Although the EU set the Barcelona targets in 2002 to improve the provision of formal childcare arrangements by 2010³⁹, a majority of Member States have still not achieved them. The EU average is 3 percentage points below the 33% target for children aged from 0 to 3 years and 7 percentage points under the 90 % target for children aged from 3 to the school age⁴⁰.

In many cases, early childhood education and care entitlement are limited to a part-time place. School hours and school holidays

are often incompatible with parents' full-time employment⁴¹.

Increasing the availability of early childhood education and care, out-of-school care and provision of long-term care services (including home-based services) for dependant persons will create more possibilities for women to enter or stay in employment, have a positive impact on children's development and help to reduce the risk of poverty and social exclusion for children⁴². Investing in early childhood education and good-quality care is also recognised as an effective social investment to address inequality and the challenges faced by disadvantaged children⁴³. Investing

³⁸ Eurydice (2014) Policy Brief Early Childhood Education and Care.

³⁹ Presidency Conclusions, Barcelona European Council, March 2002. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/71025.pdf

⁴⁰ No EU level benchmarks exist in the fields of out-of-school care and long-term care services.

⁴¹ This illustrates the importance of out-of-school services. These services provide a range of activities to children in pre-schools and primary schools before, between (lunch) and after school hours, as well as during school holidays. Charting the provision of out-of-school services is a complicated exercise, it nevertheless appears that the variation in out-of-school services is rather large – partly as a result of differences in the educational system. The development of more detailed harmonised data on out-of-school services may be extremely helpful in order to monitor and assess the provision of these services.

http://ec.europa.eu/justice/gender-equality/files/documents/130910_egge_out_of_school_en.pdf

⁴² An estimated 26.9% of children in the EU-28 were at risk of poverty or social exclusion in 2015. Eurostat (2017) http://ec.europa.eu/eurostat/statistics-explained/index.php/Children_at_risk_of_poverty_or_social_exclusion

⁴³ Commission Recommendation: Investing in children: breaking the cycle of disadvantage (2013)

in the care sector also has important potential in job creation⁴⁴. Similarly, in addition to its employment effects, the expansion of long-term care services can have a positive impact on the well-being and health of the carers and their dependants and lower the physical and psychological burdens of elderly care that are becoming more prevalent with an ageing population⁴⁵.

To allow parents to participate in employment, the number of available places but also the quality, accessibility and affordability of services (insufficient capacity, regional variation, distance, opening hours, eligibility criteria) needs to be considered. Childcare should be integrated with other social services⁴⁶, such as health and employment services, to better reach disadvantaged families and children⁴⁷.

Equality between women and men, including reconciliation of work and family life and improved access to quality social services is an investment priority of the European Social Fund (ESF)⁴⁸. ESF together with the European

Regional Development Fund (ERDF)⁴⁹ and the European Fund for Strategic Investments (EFSI)⁵⁰ provide opportunities for Member States to improve their social and childcare infrastructures and address variable levels of provisions. These funds should be exploited to support the provision of accessible, affordable and quality formal care services. In addition, the European Agricultural Fund for Rural Development (EAFRD)⁵¹ and the European Maritime and Fisheries Fund (EMFF)⁵² enable access to basic services and could be further utilized.

The European Semester is an essential instrument for the EU to address the economic challenges Europe faces, including employment friendly and accessible care services for parents and others who need to look after dependent relatives. This policy dialogue is important in itself but it also provides the evidence basis used to guide EU funding.

<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013H0112>

⁴⁴ International Trade Union Confederation (2016) Investing in the Care Economy. <https://www.ituc-csi.org/investing-in-the-care-economy-a>

⁴⁵ European Social Policy Network (2016) Work-life balance measures for persons of working age with dependent relatives in Europe – Synthesis report.

⁴⁶ OECD (2016) Who uses childcare? Background brief on inequalities in the use of formal early childhood education and care (ECEC) among very young children. http://www.oecd.org/els/family/Who_uses_childcare-Backgrounder_inequalities_formal_ECEC.pdf

⁴⁷ To provide information to the parents on the benefits of good-quality early childhood education and care for children's overall development, cognitive skills and health is also needed.

⁴⁸ EUR 1.5 billion have been allocated to the investment priority «equality between women and men» which is broader than work-life balance.

⁴⁹ ERDF supports investments in early childhood education and care infrastructure of EUR 1.3 billion in the 2014-2020 programming period.

⁵⁰ The European Fund for Strategic Investments (EFSI) is helping to finance infrastructure and innovation projects as well as small and medium-sized enterprises (SMEs). Private care services could get funding under this latter category, «the SME window».

⁵¹ EAFRD can support investment in basic services including childcare facilities and elderly care facilities.

⁵² Care services may also be supported by the EMFF through community lead local development measures (Fisheries Local Action Groups).

The Commission will take:

NON-LEGISLATIVE ACTIONS

6. Guidance and monitoring:

- **Continue guidance to** Member States on **employment friendly and accessible care services** and monitor their provision in the European Semester and the annual report on gender equality.
- Further support Member States in providing high quality early childhood education and care and step up efforts to help them learn from each other and identify what works best.

7. Targets and data collection:

- **Revise** the existing Education and Training 2020 target on early childhood education and care.
- **Improve the EU level data collection** on availability, affordability and quality of care services, particularly on formal long-term and out-of school care services, with the view to explore possibilities of developing benchmarks at EU level.

8. Provide funding:

- Develop a tailored approach with Member States to encourage the use of the **European Fund for Strategic Investment** (EFSD) to finance social infrastructure, notably of child and long-term care services; including through **Public-Private Partnerships**.
- **Continue to develop the provision of accessible, affordable and quality childcare, out-of-school and long-term care services**, including by using support from the ESF and the **ERDF**; In light of country-specific recommendations and in case of insufficient funding earmarked to address the relevant challenges identified in the European semester, **request Member States to review the programming of European Structural and Investment funds** (ESIF)⁵³.
- Explore the potential of addressing these concerns in the preparation of **the post-2020 EU funding programmes**, in particular drawing lessons from preparatory actions in this field.

2.3. Addressing Economic Disincentives for Parents and Carers to Work

Member States' tax and benefits systems vary in terms of the financial incentives or disincentives for second earners to enter employment or work more hours, for example through joint taxation systems, transferable tax credits or deductions for single earner households. Across the EU, women account for vast majority of second income earners (or those earning less in the couple). Only a minority of countries allow for significant deductions of out-of pocket childcare expenses via tax credits or in other forms⁵⁴. Among secondary earners, women

with young children are at the highest risk of labour market exclusion⁵⁵.

This initiative aims to help Member States to remove economic disincentives that hinder women's participation and outcomes in the labour market.

⁵³ ESIF include ESF, ERDF, EARD, EMFF and Cohesion Fund.

⁵⁴ BETTIO, F., VERASHCHAGINA, A. and EU Expert Group on Gender and Employment (2009) Fiscal system and female employment in Europe. <http://ec.europa.eu/social/BlobServlet?docId=5545&langId=en>

⁵⁵ European Commission (2015) Secondary earners and fiscal policies in Europe. http://ec.europa.eu/justice/gender-equality/files/documents/150511_secondary_earners_en.pdf

The Commission will take:

NON-LEGISLATIVE ACTIONS

9. Guidance and monitoring:

- Continue to **identify country-specific obstacles** resulting from tax-benefit systems and monitor progress in addressing them in particular through EU economic policy coordination in the European Semester and **provide Commission's guidance in the appropriate form.**
- **Share best practices** with social partners and Member States through a seminar under the Mutual Learning Programme on addressing economic dis/incentives that discourage second earners from working (more).

10. Improve EU level data collection on economic disincentives for second earners; develop and use benchmarks at EU level on work disincentives for second earners created by tax-benefit systems in the context of the European Semester.

3. CONCLUSION – THE WAY FORWARD

The 21st Century European way of life should allow for a good balance between family and professional commitments and provide equal opportunities for women and men in the workplace and at home. EU and national legislation and policies should help employees to reconcile work and family, help companies to retain talent, promote flexibility of both employers and employees, promote equal opportunities, generate economic growth and benefit society as a whole, including children and those dependent on family care.

With a broad set of complementary legislative and policy actions, this ambitious package seeks to modernise the way in which work-life balance policies are designed and to deliver measures that will improve the daily lives of many parents and carers.

One of the key goals of this initiative is to enhance the existing parental leave scheme, by facilitating uptake by women and men with new measures on payment, flexibility and non-transferability. In addition, the introduction of carers' leave and paternity leave will help workers to balance their personal and professional lives. The use of flexible working arrangements is also promoted and non-legislative measures provide for more and better care facilities, as one of the essential parts of the work-life balance initiative. To back-up these actions, financial instruments will be

mobilised and where appropriate, existing resources of the EU budget will be re-oriented towards priority investments contributing to the implementation of this initiative.

The Commission will also raise political awareness on the critical importance of work-life balance policies for Europe's jobs and growth prospects and will continue to work with Member States to design the best work-life balance policies for their national context. There will be close Commission monitoring of work-life balance policies in Member States. Regular reviewing of a set of work-life balance policy indicators will provide feedback and inform the preparations of the European Semester and gender equality policies at EU and national levels.

The success of this initiative will require a shared commitment. The Commission invites the European Parliament and the Council, the European Economic and Social Committee and the Committee of the Regions to endorse this Communication and to actively support its implementation, in close cooperation with social partners and all other relevant stakeholders at European, national and local level. The co-legislators are encouraged to reach a swift agreement on the legislative measures proposed in the package. The Commission invites Member States, Social Partners, and each relevant actor to step up their efforts in providing better work-life balance policies and allow for improved well-being of our European society.

Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU*

Propuesta de Directiva del Parlamento Europeo y del Consejo relativa a la conciliación de la vida familiar y la vida profesional de los progenitores y los cuidadores, y por la que se deroga la Directiva 2010/18/UE del Consejo

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Following the withdrawal of the Commission's 2008 proposal to revise 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 (hereinafter the Maternity Leave Directive), the Commission announced its intention to prepare a new initiative that would undertake a **broader approach** taking account the developments in society in the past decade¹.

This proposal for a Directive is part of a package of measures to deliver on the Commission's commitment. The package aims at addressing women's under-representation in employment and support their career progression through improved conditions to reconcile their working and private duties. It builds on the existing rights and policies and does not diminish the level of protection offered by the EU acquis and preserves the existing rights granted under the existing European Union law. It additionally improves existing rights and introduces new ones for both women and men, thereby addressing the equal treatment and opportunities in the today's labour market, promoting non-discrimination and fostering gender equality.

In 2015, the employment rate of women (age 20-64) reached 64.3%, compared to 75.9% of men. **The gender employment gap** in the labour market is most acute for parents and people with other caring responsibilities. On average in 2015, the employment rate of women with one child under 6 years of age is nearly 9% less than women without young

* Bruselas, 26.4.2017, COM (2017) 253 final.

¹ See the European Commission's 2015 Press Release: *Delivering for Parents; Commission withdraws stalled maternity leave proposal and paves the way for a fresh approach.*

children, and in several countries this difference goes over 30%². Similarly, women are much more likely to assume the role of informal carers for elderly or dependent relatives than men³. Women are also far more likely to work part-time due to caring responsibilities. This contributes substantially to the **gender pay gap** (amounting to 28% in some Member States), which over the working life accumulates into **gender pension gap** (on average 40% in the EU) and results in higher risk of female poverty and social exclusion, especially in old age. The projections on the baseline scenario show that the above challenges will not be sufficiently addressed without EU action. The gender employment gap is expected to still amount to 9 percentage points in 2055.

One of the main causes for this problem is an inadequate work-life balance policy. Unbalanced design of leave between genders, insufficient incentives for men to take leave to care for children and/or dependent relatives, limited possibilities to make use of flexible working arrangements, insufficient formal care services and economic disincentives have all been shown to exacerbate the female employment challenges.

The current legal framework at the Union and Member States' level provides limited provisions for men to assume an equal share of caring responsibilities with women. For instance, there is currently no EU legislation providing for paternity leave or leave to take care of ill or dependant relative, with exception of absence for force majeure. In many Member States, there is a lack of paid leave arrangements for fathers compared to mothers. The imbalance in the design of work-life balance provisions between women and men can thus reinforce gender differences in work and care. Conversely, fathers' use of work-life balance arrangements such as

leaves has been shown to have a positive impact on their involvement in bringing up children later on, reducing the relative amount of unpaid family work undertaken by women and leaving women more time for paid employment.

The **general objective** of this Directive is to ensure the implementation of the principle of equality between men and women with regard to labour market opportunities and treatment at work. Through adapting and modernising the EU legal framework, the Directive will allow parents and people with caring responsibilities to reconcile better their work and caring duties. The Directive builds on the existing rights and strengthens them in places or introduces new rights. It does maintain the level of protection already offered by the EU *acquis*.

The **specific objectives** of the Directive are defined as follows:

- to **improve access to work-life balance arrangements** – such as leaves and flexible working arrangements;
- to increase take-up of family-related leaves and flexible working arrangements by men.

The availability of leaves and flexible working arrangements has been shown to strongly mitigate the effect of caring responsibilities on women's employment outcomes. By providing parents and carers with greater choice in how to organise work and caring responsibilities it will help avoid that they drop out of the labour market altogether. Moreover, as opportunities and incentives for men to make use of work-life balance arrangements are generally scarce and their take-up is accordingly low in most Member States, improving the gender-balanced design of these arrangements can help rebalancing the distribution of care within the household³.

² Gender gaps in employment are 24.7 pp among those with 1 child below 6 years of age, 25.6 pp among those with 2 children (youngest below 6 years of age) and 35.4 pp for those with three children or more.

³ OECD (2013) Closing the Gender Gap.

This proposal is foreseen to strongly benefit individuals, companies and the wider society. While parents and carers will profit from work-life balance better adapted to the needs of today's families, an increase in women employment, their higher earnings and career progression will positively impact them and their families' economic prosperity, social inclusion and health. Companies will benefit from a wider talent pool, a more motivated and productive labour force as well as less absenteeism. The rise in female employment will also contribute in addressing the challenge of demographic ageing and ensuring Member States' financial stability.

- **Consistency with existing provisions in the policy area**

The EU *acquis* contains several acts of secondary legislation that are relevant to the policy field in which this proposal is framed. The most important ones are the following:

- *Directive 2010/41/EU 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 (OJ L 180, of 15.07.2010, p. 1).*

This Directive lays down a framework for putting into effect in the Member States the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, or contributing to the pursuit of such an activity. It notably ensures that female self-employed workers and female spouses and life are granted a sufficient maternity allowance enabling interruptions in their occupational activity owing to pregnancy or motherhood for at least 14 weeks.

- *Directive 2006/54/EC 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) (OJ L 204, of 26.07.2006, p. 23). This Directive aims to ensure the implementation of the principle of equal opportunities and equal treatment of men and women in employment and occupation and contains provision on equal pay, equal treatment in occupational social security schemes, equal treatment as regards access to employment, vocational training, promotion and working conditions, accompanied by rules on remedies and enforcement and promoting equal treatment through dialogue.

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 (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 348, of 28.11.1992, p. 1).

It sets out the basic rights of women before and after pregnancy, including the right to 14 weeks of paid maternity leave. It also sets out measures to ensure the occupational health and safety of pregnant women and provides for special protection against dismissal from the beginning of the pregnancy until the end of maternity leave.

- *Council Directive 97/81/EC, of 15 December 1997, concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC (OJ L 14, of 20.01.1998, p.9).*

It prohibits discrimination against part-time workers and provides that employers should give consideration to workers' request for part-time work. However, the Directive does not provide for the right to request other types of flexible working arrangements that are important for work-life balance.

- *Council Directive 2010/18/EU, of 8 March 2010, implementing the revised Framework Agreement on parental leave concluded by BUSINESS-EUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (OJ L 68, of 18.03.2010, p. 13).*

This Directive («the Parental Leave Directive») provides workers with an individual right to parental leave of at least four months on the grounds of the birth or adoption of a child. At least one month of parental leave is to be provided on a non-transferable basis. The Directive does not impose any obligations in relation to pay during parental leave and leaves it to the Member States or Social Partners to define the detailed rules and conditions for such leave. The Parental Leave Directive provides for protection against dismissal and less favourable treatment on the ground of applying for or taking parental leave, although the detailed arrangements for protection are not specified.

Council Recommendation 92/241/EEC, of 31 March 1992, on childcare (OJ L 123, of 8.05.1992, p. 16).

It recommends to the Member States to take initiatives to provide for special leave for working parents, to encourage increased participation of men in childcare responsibilities, to create the working environment that support working parents and to provide affordable and quality childcare services. *Commission Recommendation 2013/112/EU of 20 February 2013 Investing in children: breaking the cycle of disadvantage (OJ L 59, 2.3.2013, p. 5–16)*

It recommends to the Member States to support parents' access to the labour market and make sure that work pays for them. The Recommendation puts also emphasis on the need to improve access to affordable early childhood education and care services and to pro-

vide adequate income support such as child and family benefits.

The content of the above-mentioned acts has been duly analysed and taken into account during this proposal's preparation process. As a result, the proposal is, on the hand, coherent with the existing provisions and, on the other hand, introduces legislative developments there where it has been considered that the current legislation is insufficient and needs to evolve according to societal changes.

A Commission Staff Working Document reports on the public consultation accompanying the document Commission Communication on the European Pillar of Social Rights⁴.

The report takes stock of the results of the public consultations on the European Pillar of Social Rights. Regarding work-life balance, there was wide consensus that gender equality and work-life balance should be supported through a revised and coherent legislative framework covering maternity leave, paternity leave, parental leave and carer's leave, encouraging equal take-up of leave arrangements by men and women in order to improve women's access to and position on the labour market.

As regards the 2010 Parental Leave Directive, this proposal aims at repealing the entire act and replacing it by the provisions contained in the present text, while preserving the existing rights and obligations. As explained in the preamble, nothing in the proposed Directive should be interpreted as diminishing previously existing rights under the Parental Leave Directive. This Directive builds on those rights and strengthens them. The Parental Leave Directive should be repealed because, on the one hand, of the specific legal nature and legal basis (article 155(2) TFEU) of the Parental Leave Directive, which puts into effect an agreement by the European social partners, and, on the other hand, for

⁴ SWD(2017) 206

reasons of transparency, simplification (single act to regulate in a comprehensive way specific rights related to work-life balance), legal certainty and enforceability of rights.

- **Consistency with other Union policies**

This initiative will contribute to the Treaty-based goals of equality between men and women with regard to labour market opportunities and equal treatment at work and of promoting a high level of employment in the EU. According to the Treaty, the EU aims to eliminate inequalities and promote equality between men and women in all its activities. Gender equality lies at the heart of EU policies: since the gender gap in employment rates of women with children and men with children is wide, bridging that gap is vital if the EU target for employment rate is to be met. Reducing the gap is also crucial to achieving greater gender equality.

It would equally contribute to the Commission's priorities on jobs and growth, as outlined in President Juncker's political guidelines for the European Commission. This initiative is also linked to the European Pillar of Social Rights initiative, which seeks to strengthen the social dimension of the Union and enhance Member States' upward convergence in social performance.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Article 153 of the Treaty on the Functioning of the European Union (TFEU). More precisely:

- Article 153(1)(i) TFEU foresees that *«(W)ith 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 153(2)(b) TFEU establishes that *«(T)o this end, the European Parliament and the Council: (...)*
(b) may adopt, in the fields referred to in paragraph 1(a) to (i), by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The European Parliament and the Council shall act in accordance with the ordinary legislative procedure after consulting the Economic and Social Committee and the Committee of the Regions. (...)»

- **Subsidiarity**

There is already an EU legislative framework in place in relation to work-life balance policies including Council Directive 2010/18/EU, of 8 March 2010. This illustrates the common agreement that EU-level action in this area is necessary, in line with the principle of subsidiarity.

As explained in section 1, those existing legislative measures are not sufficient to address the challenges of combining properly work and family obligations in today's economic and social environments and ensuring equality between men and women with regard to labour market opportunities and treatment at work.

The burden of care still falls mainly on women, as the current legal framework is insufficient in encouraging and facilitating a more equal share of family and work responsibilities

between men and women. In relation to paternity leave, carers' leave (where currently no EU-level provisions exist) and flexible working arrangements there are many Member States where there are either no measures, or where measures in place are insufficient. Furthermore, when Member States do have legal provisions in place, they vary with regard to conditions (e.g. pay) resulting in uneven rights, unequal protection of EU citizens across the EU and differences in the functioning of labour markets.

Therefore, the modernisation of the existing legal framework aiming at providing common minimum standards for work-life balance policies can only be achieved by EU-level action rather than by the individual Member States alone.

The analysis of the problem to be addressed and the information currently available on the subject matter clearly show that:

- it is only when EU legislation is in place that there is also legislation in place in every Member State;
- only EU action will ensure that sufficient progress is achieved in all Member States;
- only EU-level intervention has the potential to mitigate trends currently present in some Member States to reduce work-life balance provisions;
- only EU-level action will address differences between existing national legal provisions on paternity, parental and carers' leaves and on flexible working arrangements; whilst EU-level action will not prevent Member States from offering higher levels of protection.
- only EU level action will provide common minimal requirements for work life balance supporting equality between men and women with regard to labour market opportunities and treatment at work; Common minimum standards are particularly relevant in

the context of free movement of workers and the freedom of providing services in the EU Internal Market.

In view of the arguments above, it is justified to undertake EU legislative and policy action in this field.

- **Proportionality**

Having established the added-value for intervention at EU-level, the legal instrument chosen, which provides for minimum standards, to implement it (see below) ensures that the degree of intervention will be kept to the minimum necessary in order to ensure that the objectives of the proposal are reached.

The Directive respects well-established national arrangements for leaves and flexible working arrangements and the possibility for the Member States and the social partners to determine the specific provisions thereof. Member States who have already in place more favourable provisions than those put forward in this Directive will not have to change their legislation. Member States may also decide to go beyond the minimum standards set out in this Directive.

The Directive fully respects the freedom and preferences of individuals and families to organise their lives and does not impose on them any obligation to use the benefit of its provisions.

Therefore the planned Union action leaves as much scope for individual and national decisions as possible, whilst still achieving the objectives of increasing female labour market participation and gender equality. The principle of proportionality is observed considering the size and nature of identified problems.

- **Choice of the instrument**

Article 153(2)(b) in combination with 153 (1)(i) TFEU foresees explicitly that the Di-

rective will be the legal instrument used in order to establish minimum requirements to be gradually implemented by Member States.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Ex-post evaluations/fitness checks of existing legislation

As part of the Impact Assessment work, the available information on the functioning of the current framework on work-life balance was consolidated and assessed.

This analysis was done on the basis of:

- a study by the external contractor, commissioned mid-2016 for the purposes of preparing the Impact Assessment, as well as a light evaluation of the Work-Life balance framework;
- available relevant research such as reports of the European Commission and other European Institutions as well as the European Network of Legal Experts, and, where available, national reports and information compiled by Equality bodies;
- data collected through mapping of work-life balance legislation at Member State level as well as collection of stakeholders' views.

Two of the Directives mentioned above, namely the Maternity Leave Directive (92/85/EEC) and the Parental Leave Directive (2010/18/EU), were evaluated in terms of effectiveness, efficiency, coherence, relevance and EU added value.

The evaluation concluded that the existing framework is not, to a large extent, an effective

tool to achieve the pursued objectives which, consequently, have not been fully reached.

As regards the Parental Leave Directive (2010/18/EU) the objective of achieving work-life balance through a more equal share of work and care between men and women has not been sufficiently achieved. The current design of parental leave does not lead to an equal uptake between the parents, with a vast majority of women taking leave. This is mainly owing to a lack of payment during leave in many Member States and the rule allowing parents to transfer most of their entitlement to the other parent. In practice men often transfer their share of parental leave to women.

• Stakeholder consultations

An open **public consultation** was carried out between November 2015 and February 2016 to seek the views of various stakeholders and citizens⁵. A wide range of stakeholders shared their opinions: Member States; social partner organisations; civil society organisations; equality bodies; and other organisations, as well as individuals. There was at least one response received from each Member State. In total 786 contributions were received, with 229 from organisations and 557 from individuals. The main results when it comes to policy options for the future were:

- converge of views across stakeholders regarding the importance on EU actions in the area of work-life balance;
- converge of views on the need to improve the possibilities and/or incentives for parents and others with dependents to take-up caring responsibilities and work-life balance measures;
- converge of views on the necessity to provide available and affordable child-care;

⁵ http://ec.europa.eu/justice/newsroom/gender-equality/opinion/1511_roadmap_reconciliation_en.htm

- converge of views on further EU-level policy guidance, monitoring and exchange of good practice;
- certain converge of views on the need of legislative actions by the EU.

The **EU Advisory Committee on equality between women and men** was also consulted and presented its views in a Committee meeting on 8 December 2016.

Pursuant to the TFEU, the Commission undertook a two-stage consultation with the **social partners** on the challenges related to work-life balance. While the social partners have largely agreed with the challenges related to work-life balance and the objective of improving women's labour market participation, their views were mixed on the need for further legislative action and there was no agreement among social partners to enter into direct negotiations to conclude an agreement at Union level. It is however important to improve protection in this area by modernising and adapting the current legal framework, while taking into account the outcome of those consultations. **Trade unions** indicated the desire for EU-level legislation on paternity leave and carers' leave; increasing the length, pay and dismissal protection for maternity leave; a right to request flexible working arrangements; and amending the parental leave directive to extend the length and non-transferability as well as introduce payment for the leave. Trade unions underlined that these measures should be combined with available, accessible, affordable and quality formal care services. **Employers' organisations** were not supportive to further EU legislative action, but they supported non-legislative measures for the development of formal care services.

The **European Parliament** has called for prolonging paid maternity leave and protection against dismissal, extending the duration of parental leave and introducing pay; introducing paternity leave and carers' leave; updating the Barcelona targets for childcare

and introducing targets for long-term care services.

Many other **stakeholders** have also called for increased EU legislative and non-legislative action in the area of work-life balance.

- **Collection and use of expertise**

The Commission awarded a contract for the analysis of the costs and benefits of possible EU measures to facilitate work-life balance for parents and caregivers.

The Commission additionally drew on its existing contracts to gather evidence that was used to support this impact assessment. This included:

- a thematic report prepared by the European Social Policy Network (ESPN) on work-life balance measures for people with dependent relatives;
- a review of the available literature on the costs and benefits of work-life balance measures undertaken by researchers at the London School of Economics;
- a number of other relevant studies at national, European and international level, including the evidence provided by EIGE.

In addition, the European Network of Equality Bodies prepared a survey of their members on reported incidents of workplace discrimination and dismissals related to parenthood.

- **Impact assessment**

According to Better Regulation requirements, a Commission inter-service steering group (ISG), chaired by the Secretariat-General, was established in September 2015 to work in the preparation of this initiative. The ISG met 5 times in the period from September 2015 to March 2017.

The Impact Assessment was presented to and discussed with the Regulatory Scrutiny Board (RSB) on 18 January 2017. A revised version of the Impact Assessment, duly addressing the issues raised by the RSB, was re-submitted on 8 March 2017. On 20 March, the RSB issued a positive opinion with comments which have been taken into account in the final impact assessment.

Throughout the Impact Assessment work, a range of non-legislative and legislative measures were considered across all areas shown to be important for addressing women's underrepresentation in the labour market, namely: maternity leave, paternity leave, parental leave, carers' leave, flexible work arrangements.

Following an assessment of the effectiveness, efficiency and coherence of each option, a preferred combination of options was identified. The preferred combination includes:

- **Maternity leave:** non-legislative measures to enhance the enforcement of current legislation on dismissal protection, raise awareness on the dismissal of pregnant women and give policy guidance on facilitating successful transitions between maternity leave and employment (including breastfeeding facilities and breaks).
- **Paternity leave:** introduction of an individual entitlement of 10 working days, paid at least at sick-pay level.
- **Parental leave:** revision of currently existing entitlement in order to provide for (i) the right for flexible uptake (i.e., part-time, piecemeal), (ii) 4 months leave non-transferable between parents, and (iii) payment of 4 months at, at least, sick-pay level.
- **Carers' leave:** introduction of an individual entitlement of 5 days per year, paid at, at least, sick pay level.

- **Flexible working arrangements:** right for parents of children up to 12 and carers to request flexibility in working hours, schedule or place of work for a set period of time, with no obligation for the employer to grant the requested change.

With regard to the expected impact of the combination of preferred options, the quantitative analysis carried out in the Impact Assessment shows that the combination of preferred options has a positive impact on GDP (+ € 840 billion, NPV 2015-2055), employment (+ 1.6 million in 2050) and the labour force (+ 1.4 million in 2050). The analysis shows that the increases in employment and labour force participation will mainly concern women. Real incomes are also expected to increase by 0.52% in 2050. Although relatively small, the combination represents a cost for companies. However, the majority of this cost is driven by the flexible working arrangements option which assumes a very high level of demand for and accommodation of flexible working arrangements although employers can refuse requests for flexible working, particularly where it would cause an excessive cost to the company. The total cost for companies of the combination could hence be significantly lower.

It should also be taken into account that the preferred options of the combination have strong synergies and that the costs of the combination of preferred options could be lower than the sum of the individual costs for each option.

• **Fundamental rights**

Equality between men and women is a fundamental principle of the European Union. Under Article 3(3), paragraph 2, of the Treaty on the European Union (TEU)⁶, pro-

⁶ «It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality be-

motoring equality between women and men is one of the European Union's aims. Article 8 of the Treaty on the Functioning of the European Union (TFEU) further states that the Union shall aim to eliminate inequalities and to promote equality between women and men in all its activities.

The proposal also facilitates the exercise of the rights recognised in Articles 23⁷ and 33⁸ of the Charter of Fundamental Rights, which specifically refer to equality between men and women and to the reconciliation of family and professional life.

4. BUDGETARY IMPLICATIONS

The proposal does not require additional resources from the European Union's budget.

5. OTHER ELEMENTS

- **Monitoring, evaluation and reporting arrangements**

Member States must transpose the Directive two years after the adoption and communicate to the Commission the national execution measures via the MNE-Database. In line with Article 153(4) TFEU they may entrust the social partners with doing it via an agreement.

tween women and men, solidarity between generations and protection of the rights of the child.»

⁷ «Article 23 – Equality between men and women

Equality between men and women 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.»

⁸ «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.»

To assess the effectiveness in achieving the general and specific objectives of the initiative, the Commission has identified core progress indicators to monitor successful implementation⁹. These indicators will be regularly monitored by the Commission and serve as the basis for the evaluation of the initiative. On the basis of these indicators and the information to be provided by Member States, the Commission can regularly report progress to other key EU institutions, including the European Parliament, Council, and European Economic and Social Committee. The Commission will in any event evaluate the impact of the legislative proposals five years after the entry into force and draw up an evaluation report.

The Commission will also continue to regularly monitor female employment and Member States' work-life balance provisions, including in the European Semester's annual Joint Employment Report and Country Reports.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 – Subject matter

This provision indicates the subject matter of the Directive and enumerates the individual rights for which minimum requirements are laid down at Union level.

Article 2 – Scope

This provision defines who are the individuals entitled to benefit from the rights regulated in this Directive.

Article 3 – Definitions

This provision defines a number of terms and concepts in order to make clear upfront

⁹ The core indicators chosen are mainly derived from comparative data sources (Eurostat, OECD) but where indicators do not exist, information can be taken from national data. The detailed list of indicators can be found in the Impact Assessment.

how they should be understood when they are mentioned in the text of the Directive.

Article 4 – Paternity leave

There are currently no minimum standards for paternity leave at EU level.

This provision introduces the right for fathers to take paternity leave in the form of a short period of leave, not less than 10 working days, on the occasion of the birth of their child. This leave is intended to be taken around the time of the birth and it has to be clearly linked to this event.

Introducing the right to paternity leave should help address the problem of unequal possibilities for women and men to take leave around the time of the birth of a child and to encourage men to bear a more equal share of caring responsibilities, thereby allowing for the early creation of a bond between fathers and children.

In order to avoid any discrimination between married and unmarried couples and between heterosexual and homosexual couples, the right to paternity leave should be without prejudice to marital or family status as defined in national law.

Article 5 – Parental leave

The Parental Leave Directive (2010/18/EU) already provides for individual rights of at least four months to parental leave on the grounds of the birth or adoption of a child to take care of that child. This provision therefore builds on the existing rights for parents and improves those rights for both women and men.

Following the analysis done in the preparatory phase, it is considered that the current Parental leave Directive has been insufficient in enabling both parents to make equal use of their entitlements. Given that it does not guarantee an allowance during parental leave, many families may not afford to do so. The Directive has also not succeeded in pro-

moting a greater involvement of fathers in caring responsibilities. Evidence shows that the majority of fathers do not avail themselves of their right to parental leave and transfer a considerable proportion of their leave entitlement to mothers. This has led to striking differences between average take-up rates of parental leave between mothers and fathers, which for the later remains still too low in many Member States.

This provision aims at tackling the shortcomings identified by (i) establishing a minimum period of parental leave of at least four months of parental leave which cannot be transferred between parents, (ii) introducing more flexibility as regards the forms in which the parental leave can be taken (full-time or part-time basis, or in other flexible forms), given that flexibility makes it more likely that parents, in particular fathers, will take up their entitlement to such leave. Another provision in this Directive address the issue of remuneration during leave as this has a major impact on the take up of leave by fathers.

The provision leaves it for Member States to decide on (i) the length of the notice period to be given by the worker, (ii) on whether or not the right to parental leave may be subject to a period of work qualification and/or a length of service qualification, and (iii) defining the circumstances in which the employer may be allowed to postpone the granting of parental leave by a reasonable period. Finally, this provision aims at ensuring that Member States should assess the need for adjusting the conditions of access and detailed arrangements of parental leave to the specific needs of parents in particularly disadvantaged situations related to disability or long-term illness and adoptive parents.

Article 6 – Carers' leave

This provision introduces the new annual right for workers to take a period of leave from work in the event of serious illness or dependency of a relative, as defined by the Directive itself. In order to protect the employer from

abuse of this right, proof of the illness or the dependency situation may be required prior to granting of the leave.

The rationale behind the introduction of this right is that improving the possibilities for workers to take a short period of time off to care for a relative can help to improve their work-life-balance and, at the same time, avoid them dropping out of the labour market entirely.

Article 7 – Time off from work on grounds of force majeure

This provision maintains the existing workers' right to take time off work in case of *force majeure*.

This right, already foreseen by the Parental Leave Directive¹⁰, can be used by all workers (not only parents or care-givers within the meaning of this Directive) for urgent family reasons.

Article 8 – Adequate income

The Parental Leave Directive (2010/18/EU) does not establish minimum requirements in relation to an adequate allowance.

This provision establishes the right for workers making use of the different types of leave to receive an adequate allowance during the minimum period of leave foreseen in this Directive. The level of the allowance should be at least equivalent to the level of sick pay.

Article 9 – Flexible working arrangements

The Parental Leave Directive already provides for the possibility to ask for two types of flexible working arrangements (working patterns and working hours) for parents returning from parental leave. The current proposal extends these two existing forms to a third form of flexible working arrangement (remote working possibilities) and further extends the personal scope of those rights to all carers and

workers with children up to a given age, which shall be at least twelve.

In order to encourage working parents with young children and carers to remain in the labour market, they should be able to adapt their working schedules to their personal needs and preferences.

This provision therefore introduces the possibility for the above-mentioned workers to make use of (i) reduction in working hours, (ii) flexible work schedules, and (iii) remote working possibilities.

In order to take account of the needs of employers and workers, this provision gives Member States the possibility to limit the duration of flexible working arrangements. This possibility is notably relevant to part-time work. While it has proved useful in allowing some women to remain in the labour market after having children, it has also been seen that long periods of reduced working hours may lead to lower social security contributions translating into reduced or non-existing pension entitlements later on.

Article 10 – Employment rights

The Parental Leave Directive (2010/18/EU) already provides for certain employment rights and ensures non-favourable treatment so that workers can exercise their right to parental leave¹¹. This includes the right to return to the same job or, if that is not possible, to an equivalent or similar job, the right to maintain rights acquired or in the process of being acquired by the worker on the date on which parental leave starts. Finally, it also encourages workers and employers to maintain contact during the period of leave and to make arrangements for any appropriate reintegration measures.

The provision of leave is intended to support working parents and carers during specific periods of time; this is aimed at main-

¹⁰ Clause 7

¹¹ Clause 5.

taining and promoting their continued labour market attachment while facing their responsibilities at home.

In order to make that possible, this provision builds on the existing rights and equally foresees the minimum protection of the employment rights of parents and carers through allowing them to return to their (equivalent) job, to benefit from any improvement of working conditions during their absence, to maintain their acquired rights and to maintain their employment relationship while being on leave.

Article 11 – Non-discrimination

The Parental Leave Directive already protects workers against less favourable treatment on the grounds of an application for, or the taking of, parental leave. Moreover, Articles 19 (1) of Directive 2006/54/EC puts the burden of proof on the employer in case of breach of the principle of equal treatment. Article 19(4) of Directive 2006/54 specifies that this rule on the burden of proof also applies to the Parental Leave Directive; the reference in Directive 2006/54 to the Parental Leave Directive remains intact as this Directive prescribes that references to the Parental Leave Directive shall be construed as references to the present Directive.

The protection provided at present in the Parental Leave Directive is maintained and extended so that workers making use of other kinds of leave or of flexible working arrangements are also protected against less favourable treatment and discrimination on the grounds of having applied for or used the certain rights granted by this Directive.

Article 12 – Protection from dismissal and burden of proof

The Parental Leave Directive (2010/18/EU) already provides protection against dismissal on the grounds of an application for, or the taking of, parental leave.

This provision aims at maintaining the existing protection of workers and extending

it, by providing protection from dismissal for workers making use of paternity¹², parental leave¹³, carers' leave and flexible working arrangements from dismissal during the period in which they apply for, or make use of these rights.

If, in spite of this protection, a worker considers that he or she has been dismissed on the grounds of applying for or enjoying the rights referred to in Articles 4, 5, or 6, or of exercising the right to request flexible working arrangements referred to in Article 9, this provision places on the employer the burden to prove that the dismissal was due to other objective reasons.

Article 13 – Penalties

This provision requires Member States to provide for effective, proportionate and dissuasive penalties, be it fines and/or compensations, for breaches of the obligations under this Directive, and to make sure that they are applied.

Article 14 – Protection against adverse treatment or consequences

This provision requires Member States to provide workers complaining about breaches of national provision adopted pursuant to this Directive with adequate judicial protection against any adverse treatment or consequences by the employer, without which the effective implementation of the principle of equal treatment would not be possible.

Article 15 – Equality bodies

Directive 2006/54/EC already provides that the Member States shall designate a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of

¹² Article 16 of Directive 2006/54 concerns protection from dismissal in case of paternity leave envisaged under national law.

¹³ See Clause 5(4) of the Parental Leave Directive.

sex, including any less favourable treatment of a woman related to pregnancy or maternity.

This provision establishes that national equality bodies should be competent in the areas covered in this Directive. This should reinforce, on the one hand, the level of protection of rights provided for in this Directive and, on the other hand, the monitoring of its implementation.

Article 16– Level of protection

In light of the existing EU *acquis* which has been transposed in Member States and the case law of the Court of Justice of the European Union, notably in relation to parental leave, it should be emphasized that the present proposal preserves the existing rights granted under the existing European gender equality directives, and builds upon them to improve rights for both women and men.

This is a standard provision allowing Member States to provide a higher level of protection than that guaranteed by the Directive.

Article 17 – Dissemination of information

This provision aims at ensuring awareness-raising in Member States on the rights granted by this Directive, as well as other already existing rights in the same field.

Article 18 – Reporting and review

This is a standard provision establishing the obligation for Member States to communicate to the Commission information concerning the application of this Directive, for the Commission to report to the co-legislator on this point and, if it considers necessary, make proposals to revise and update the Directive.

Article 19– Repeal

The annex to the Parental Leave Directive (2010/18/EU) contains the text of a framework agreement between the social partners laying down specific provisions for parental

leave. Since the social partners could not reach an agreement regarding the renegotiation of that framework agreement in order to introduce the necessary improvements to the current parental leave regime, the Commission decided to propose legislative changes on its own initiative.

Taking into account that an amendment of an act is to be done using the same legal basis that was used for adopting the original act, which is not possible in this case because of the specific legal basis used for the legislation based on social partners' agreements, it is considered that the most appropriate legal option available is the repeal and replacement of the Parental Leave Directive. A single comprehensive act in the area concerned is also considered to be the best option for reasons of transparency, simplification legal certainty and enforceability of rights.

It should be noted that the present proposal does not reduce in any way currently existing rights, but builds on the existing EU *acquis* and aims at extending or reinforcing the rights of working parents and carers.

Consequently, this provision stipulates the date on which Directive 2010/18/EU is repealed, while at the same time specifying that all references to the repealed Directive shall be construed as references to the new one.

Article 20– Transposition

This provision establishes the maximum period that Member States have in order to transpose the Directive into national law and communicate the relevant texts to the Commission. This period is set at two years. Moreover, it highlights that pursuant to Article 153(3) TFEU Member States may entrust the Social Partners with the implementation of the Directive, where Social Partners request to do so and as long as the Member States take all the necessary steps to ensure that they can at all times guarantee the results sought under this Directive.

Article 21 – Entry into force

This is a standard provision stipulating that the Directive is to enter into force on the twentieth day following its publication in the Official Journal.

Article 22 – Addresses

This is a standard provision on addresses, making clear that the Directive is addressed to the Member States.

MINISTERIO DE TRABAJO, MIGRACIONES Y SEGURIDAD SOCIAL

Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on work-life balance for parents and carers and repealing
Council Directive 2010/18/EU

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153 (1) (i) and (2)(b) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹⁴,

Having regard to the opinion of the Committee of the Regions¹⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 153(1)(i) of the Treaty on the Functioning of the European Union enables the Union to support and complement the activities of the Member States, in the field of equality between men and women with regard to labour market opportunities and treatment at work.
- (2) Equality between men and women is a fundamental principle of the Union. According to Article 3 of the Treaty on European Union the promotion of equality between women and men is one of the Union's aims. Similarly, Article 23 of the Charter of Fundamental Rights of the European Union requires equality between women and men to be ensured in all areas, including employment, work and pay.
- (3) Article 33 of the Charter of Fundamental Rights of the European Union provides for 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, to reconcile family and professional life.
- (4) The Union is party to the United Nations' Convention on the Rights of People with Disabilities. The provisions of that Convention are thus, from the time of its entry into force, an integral part of the European Union legal order and Union legislation must as far as possible be interpreted in a manner that is consistent with the Convention. The Convention provides, among other things, in its Article 7 that Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

¹⁴ OJ C, p..

¹⁵ OJ C, p..

- (5) Work-life balance policies should contribute to the achievement of gender equality by promoting the participation of women in the labour market, making it easier for men to share caring responsibilities on an equal basis with women, and closing gender gaps in earnings and pay. Such policies should take into account demographic changes including the effects of an ageing population.
- (6) At Union level, several Directives in the fields of gender equality and working conditions already address certain issues that are relevant for work-life balance, in particular Directive 2006/54/EC of the European Parliament and of the Council¹⁶, Directive 2010/41/EU of the European Parliament and of the Council¹⁷, Council Directive 92/85/EEC¹⁸, Council Directive 97/81/EC¹⁹ and Council Directive 2010/18/EU²⁰.
- (7) Work-life balance remains however a considerable challenge for many parents and workers with caring responsibilities, with a negative impact on female employment. A major factor contributing to the underrepresentation of women in the labour market is the difficulty of balancing work and family obligations. When they have children, women tend to work less hours in paid employment and spend more time fulfilling unpaid care responsibilities. Having an ill or dependent relative has also been shown to have a negative impact on female employment, leading some women to drop out of the labour market entirely.
- (8) The current Union legal framework provides limited incentives for men to assume an equal share of caring responsibilities. Lack of paid paternity and parental leave in many Member States contributes to the low take-up of such leave by fathers. The imbalance in the design of work-life balance policies between women and men reinforces gender differences between work and care. Conversely, use of work-life balance arrangements by fathers, such as leave or flexible working arrangements, has been shown to have a positive impact in reducing the relative amount of unpaid family work undertaken by women and leaving them more time for paid employment.
- (9) The Commission has undertaken a two-stage consultation with the social partners on the challenges related to work-life balance, in line with Article 154 of the Treaty on the Functioning of the European Union. There was no agreement among social partners to enter into negotiations on those matters, including on the parental leave. It is however important to take action in this area by modernising and adapting the current legal framework, taking into account the outcome of those consultations, as well as of the

¹⁶ Directive 2006/54/EC 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 (OJ L 204, 26.7.2006, p. 23).

¹⁷ Directive 2010/41/EU 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 (OJ L 180, 15.7.2010, p. 1).

¹⁸ 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 (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1).

¹⁹ Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC – Annex: Framework agreement on part-time work (OJ L 14, 20.1.1998, p. 9).

²⁰ 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 (OJ L 68, of 18.03.2010, p. 13).

open public consultation carried out to seek the views of various stakeholders and citizens.

- (10) It is appropriate to repeal and replace Directive 2010/18/EU which currently regulates parental leave by putting into effect a framework agreement concluded between the social partners. This Directive builds, in particular, upon the rules laid down in Directive 2010/18/EU and complements them by strengthening existing rights and by introducing new rights.
- (11) This Directive lays down minimum requirements related to paternity, parental and carers' leave and to flexible working arrangements for parents and workers with caring responsibilities. By facilitating the reconciliation of work and family life for parents and carers, this Directive should contribute to the Treaty-based goals of equality between men and women with regard to labour market opportunities, equal treatment at work and the promotion of a high level of employment in the Union.
- (12) This Directive should apply to all workers who have employment contracts or other employment relationships. As is currently the case under Clause 2(3) of the Annex to Directive 2010/18/EU, this should include contracts relating to employment or employment relationships of part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency.
- (13) In order to encourage a more equal sharing of caring responsibilities between women and men, the right to paternity leave for fathers to be taken on the occasion of the birth of a child should be introduced. In order to take account of differences among Member States, the right to paternity leave should be irrespective of marital or family status as defined in national law.
- (14) As the majority of fathers do not avail themselves of their right to parental leave or transfer a considerable proportion of their leave entitlement to mothers, in order to encourage the second parent to take parental leave, this Directive, while maintaining the right of each parent to at least four months of parental leave currently provided for by Directive 2010/18/EU, extends from one to four months the period of parental leave which cannot be transferred from one parent to the other.
- (15) In order to provide greater possibility for parents to use parental leave as their children grow up, the right to parental leave should be granted until the child is at least twelve years old. Member States should be able to specify the period of notice to be given by the worker to the employer when applying for parental leave and to decide whether the right to parental leave may be subject to a certain period of service. In view of the growing diversity of contractual arrangements, the sum of successive fixed-term contracts with the same employer should be taken into account for the purpose of calculating the period of service. To balance the needs of workers with those of employers, Member States should also be able to decide whether they define if the employer may be allowed to postpone the granting of parental leave under certain circumstances. In such cases, the employer should provide justification for the postponement.

Given that flexibility makes it more likely that second parents, in particular fathers, will take up their entitlement to such leave, workers should be able to request to take parental leave on a full-time or part-time basis or in other flexible forms. It should be up to the employer whether or not to accept such a request for parental leave in other flexible forms than full-time. Member States should also assess if the conditions and detailed arrangements of parental leave should be adapted to the specific needs of parents in particularly disadvantaged situations.

- (16) In order to facilitate the return to work following parental leave, workers and employers should be encouraged to maintain contact during the period of leave and may make arrangements for any appropriate reintegration measures, to be decided between the parties concerned, taking into account national law, collective agreements and practice
- (17) In order to provide greater opportunities to remain in the work force for men and women carrying of elderly family member and/or other relatives in need of care, workers with a seriously ill or dependant relative should have the right to take time off from work in the form of carers' leave to take care of that relative. To prevent abuse of that right, proof of the serious illness or dependency may be required prior to granting of the leave.
- (18) In addition to the right to carers' leave provided for in this Directive, all workers should maintain their right to take time off from work on the grounds of force majeure for urgent and unexpected family reasons, currently provided for by Directive 2010/18/EU, under the conditions established by the Member States.
- (19) To increase the incentives for workers with children and caring responsibilities, men in particular, to take the periods of leave provided for in this Directive, they should have the right to an adequate allowance while on leave. The level of the allowance should be at least equivalent to what the worker concerned would receive in case of sick leave. Member States should take into account the importance of the continuity of the entitlements to social security, including healthcare.
- (20) In accordance with Directive 2010/18/EU Member States are required to define the status of the employment contract or employment relationship for the period of parental leave. In accordance with the case-law of the Court of Justice of the European Union, the employment relationship between the worker and his employer is therefore maintained during the period of leave and, as a result, the beneficiary of such leave, remains, during that period, a worker for the purposes of Union law. When defining the status of employment contract or employment relationship during the period of the leaves covered by this Directive, including as regards entitlements to social security, the Member States should therefore ensure that the employment relationship is maintained.
- (21) In order to encourage working parents and carers to remain in the work force, those workers should be able to adapt their working schedules to their personal needs and preferences. Working parents and carers should therefore be able

to request flexible working arrangements, meaning the possibility for workers to adjust their working patterns, including through the use of remote working arrangements, flexible working schedules, or a reduction in working hours, for caring purposes. In order to address the needs of workers and employers, it should be possible for Member States to limit the duration of flexible working arrangements, including a reduction in working hours. While working part-time has been shown to be useful in allowing some women to remain in the labour market after having children, long periods of reduced working hours may lead to lower social security contributions translating into reduced or non-existing pension entitlements. The ultimate decision as to whether or not to accept a worker's request for flexible working arrangements should lie with the employer. Specific circumstances underlying the need for flexible working arrangements can change. Workers should therefore not only have the right to return to their original working patterns at the end of a given agreed period, but should also be able to request to do so at any time where a change in the underlying circumstances so requires.

- (22) Leave arrangements are intended to support working parents and carers during a specific period of time, and are aimed at maintaining and promoting their continued attachment to the labour market. It is therefore appropriate to make express provision for the protection of the employment rights of workers taking leave covered by this Directive and in particular their right to return to the same or an equivalent post, and not to suffer any detriment in their terms and conditions as a result of their absence. Workers should retain their entitlement to relevant rights already acquired, or in the process of being acquired, until the end of such leave.
- (23) Workers exercising their rights to leave or to request flexible working arrangements should be protected against discrimination or any less favourable treatment on that ground.
- (24) Workers exercising their rights to take leave or to request flexible working arrangements provided for in this Directive should enjoy protection from dismissal and any preparations for a possible dismissal on the grounds that they applied for, or have taken such leave or have exercised the right to request such flexible working arrangements. Where workers consider that they have been dismissed on those grounds, they should be able to ask the employer to provide duly substantiated grounds for the dismissal.
- (25) The burden of proof that there has been no dismissal on the grounds that workers have applied for, or have taken, leave referred to in Article 4, 5 or 6 or have exercised the right to request flexible working arrangements referred to in Article 9 should fall on the employer when workers establish, before a court or other competent authority, facts from which it may be presumed that they have been dismissed on such grounds.
- (26) Member States should provide for effective, proportionate and dissuasive penalties in the event of breaches of national provisions adopted pursuant to this Directive or the relevant provisions already in force concerning the rights which are within the scope of this Directive. The effective implementation of

the principle of equal treatment requires adequate judicial protection of workers against adverse treatment or adverse consequences resulting from a complaint or proceeding relating to the rights under this Directive. Victims may be deterred from exercising their rights on account of the risk of retaliation and therefore should be protected from any adverse treatment where they exercise their rights provided for by this Directive. Such protection is particularly relevant as regards workers' representatives in the exercise of their function.

- (27) With a view to further improving the level of protection of rights provided for in this Directive, national equality bodies should also be competent in the areas covered in this Directive.
- (28) This Directive lays down minimum requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing Union legislation in this field nor can it constitute valid grounds for reducing the general level of protection afforded to workers in the field covered by this Directive.
- (29) In particular, nothing in this Directive should be interpreted as diminishing previously existing rights under Directive 2010/18/EU and Directive 2006/54/EC, including its Article 19. All references to the repealed Directive 2010/18/EU should be construed as references to this Directive.
- (30) This Directive should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings. Member States are therefore invited to assess the impact of their transposition act on SMEs in order to make sure that SMEs are not disproportionately affected, with specific attention for micro-enterprises and for administrative burden.
- (31) The Member States may entrust social partners with the implementation of this Directive, where social partners jointly request to do so and as long as the Member States take all the necessary steps to ensure that they can at all times guarantee the results sought under this Directive.
- (32) Since the objectives of this Directive, namely to ensure the implementation of the principle of equality between men and women with regard to labour market opportunities and treatment at work across the Union, cannot be sufficiently achieved by the Member States, but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

HAVE ADOPTED THIS DIRECTIVE:

Article 1
Subject matter

This Directive lays down minimum requirements designed to achieve equality between men and women with regard to labour market opportunities and treatment at work through facilitating the reconciliation of work and family life for working parents and carers.

To that end, it provides for individual rights related to:

- (a) paternity leave, parental leave and carers' leave;
- (b) flexible working arrangements for working parents and carers.

Article 2
Scope

This Directive applies to all workers, men and women, who have an employment contract or employment relationship.

Article 3
Definitions

For the purposes of this Directive, the following definitions shall apply:

- (a) «paternity leave» means leave from work for fathers to be taken on the occasion of the birth of a child;
- (b) «parental leave» means leave from work on the grounds of the birth or adoption of a child to take care of that child;
- (c) «carer» means a worker providing personal care or support in case of a serious illness or dependency of a relative;
- (d) «relative» means a worker's son, daughter, mother, father, spouse or partner in civil partnership, where such partnerships are envisaged by national law;
- (e) «dependency» means a situation in which a person is, temporarily or permanently, in need of care due to disability or a serious medical condition other than serious illness;
- (f) «flexible working arrangements» means the possibility for workers to adjust their working patterns, including through the use of remote working arrangements, flexible working schedules, or a reduction in working hours.

Article 4
Paternity leave

1. Member States shall take the necessary measures to ensure that fathers have the right to take paternity leave of at least ten working days on the occasion of the birth of a child.

2. The right to paternity leave referred to in paragraph 1 shall be granted irrespective of marital or family status as defined in national law.

Article 5 **Parental leave**

1. Member States shall take the necessary measures to ensure that workers have an individual right to parental leave of at least four months to be taken before the child reaches a given age which shall be at least twelve.

2. Where Member States allow one parent to transfer their parental leave entitlement to the other parent, they shall ensure that at least four months of parental leave cannot be transferred.

3. Member States shall establish the period of notice to be given by workers to employers when exercising the right to parental leave. In doing so, Member States shall take into account the needs of both employers and workers. Member States shall ensure that the worker's request specifies the intended beginning and end of the period of leave.

4. Member States may make the right to parental leave subject to a period of work qualification or a length of service qualification which shall not exceed one year. In the case of successive fixed-term contracts, within the meaning of Council Directive 1999/70/EC²¹, with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.

5. Member States may define the circumstances in which an employer, following consultation in accordance with national law, collective agreements and/or practice, may be allowed to postpone the granting of parental leave by a reasonable period of time on the grounds that it would seriously disrupt the good functioning of the establishment. Employers shall justify any postponement of parental leave in writing.

6. Member States shall take the necessary measures to ensure that workers have the right to request parental leave also on a part-time basis, in blocks separated by periods of work or in other flexible forms. Employers shall consider and respond to such requests, taking into account the needs of both employers and workers. Employers shall justify any refusal of such a request in writing.

7. Member States shall assess the need for the conditions of access and detailed arrangements for the application of parental leave to be adapted to the needs of adoptive parents, parents having a disability and parents with children with a disability or long-term illness.

²¹ Council Directive of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ L 175, 10.7.1999, p.43).

Article 6
Carers' leave

Member States shall take the necessary measures to ensure that workers have the right to carers' leave of at least five working days per year, per worker. Such right may be subject to appropriate substantiation of the medical condition of the worker's relative.

Article 7
Time off from work on grounds of force majeure

Member States shall take the necessary measures to ensure that workers have the right to time off from work on grounds of force majeure for urgent family reasons in cases of illness or accident making the immediate presence of the worker indispensable. Member States may limit the right to time off from work on grounds of force majeure to a certain amount of time per year or per case, or both.

Article 8
Adequate income

In accordance with national circumstances, such as national law, collective agreements and/or practice, and taking into account the powers delegated to social partners, Member States shall ensure that workers exercising the rights to leave referred to in Article 4, 5 or 6 will receive a payment or an adequate allowance at least equivalent to what the worker concerned would receive in case of sick leave.

Article 9
Flexible working arrangements

1. Member States shall take the necessary measures to ensure that workers with children up to a given age, which shall be at least twelve, and carers, have the right to request flexible working arrangements for caring purposes. The duration of such flexible working arrangements may be subject to a reasonable limitation.

2. Employers shall consider and respond to requests for flexible working arrangements referred to in paragraph 1, taking into account the needs of both employers and workers. Employers shall justify any refusal of such a request.

3. When flexible working arrangements referred to in paragraph 1 are limited in duration, the worker shall have the right to return to the original working pattern at the end of the agreed period. The worker shall also have the right to request to return to the original working pattern whenever a change of circumstances so justifies. Employers shall be obliged to consider and respond to such requests, taking into account the needs of both employers and workers.

Article 10
Employment rights

1. Rights acquired or in the process of being acquired by workers on the date on which leave referred to in Article 4, 5 or 6 starts shall be maintained until the end of such leave. At the end of

such leave, those rights, including any changes arising from national law, collective agreements or practice, shall apply.

2. Member States shall ensure that, at the end of leave referred to in Article 4, 5 or 6, workers are entitled to return to their jobs or to equivalent posts on terms and conditions which are no less favourable to them, and to benefit from any improvement in working conditions to which they would have been entitled during their absence.

3. Member States shall define the status of the employment contract or employment relationship for the period of leave referred to in Article 4, 5 or 6, including as regards entitlements to social security, while ensuring that the employment relationship is maintained during that period.

Article 11

Non-discrimination

Member States shall take the necessary measures to prohibit less favourable treatment of workers on the ground that they have applied for, or have taken, leave referred to in Article 4, 5 or 6, or on the ground that they have exercised their right to flexible working arrangements referred to in Article 9.

Article 12

Protection from dismissal and burden of proof

1. Member States shall take the necessary measures to prohibit the dismissal and all preparations for dismissal of workers, on the grounds that they have applied for, or have taken, leave referred to in Article 4, 5 or 6, or have exercised the right to request flexible working arrangements referred to in Article 9.

2. Workers who consider that they have been dismissed on the grounds that they have applied for, or have taken, leave referred to in Article 4, 5 or 6 or of exercising the right to request flexible working arrangements referred to in Article 9 may request the employer to provide duly substantiated grounds for the dismissal. The employer shall provide those grounds in writing.

3. Member States shall take the necessary measures to ensure that, when workers referred to in paragraph 2 establish, before a court or other competent authority, facts from which it may be presumed that there have been such dismissal, it shall be for the respondent to prove that the dismissal was based on grounds other than those referred to in paragraph 1.

4. Paragraph 3 shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.

5. Member States need not apply paragraph 3 to proceedings in which it is for the court or competent body to investigate the facts of the case.

6. Paragraph 3 shall not apply to criminal procedures, unless otherwise provided by the Member States.

Article 13

Penalties

Member States shall lay down rules on penalties applicable to breaches of national provisions adopted pursuant to this Directive or the relevant provisions already in force concerning the

rights which are within the scope of this Directive. Member States shall take all measures necessary to ensure that those penalties are applied. Penalties shall be effective, proportionate and dissuasive. They may take the form of a fine. They may also comprise payment of compensation.

Article 14

Protection against adverse treatment or consequences

Member States shall introduce measures necessary to protect workers, including workers who are employees' representatives, from any adverse treatment by the employer or adverse consequences resulting from a complaint lodged within the undertaking or any legal proceedings initiated with the aim of enforcing compliance with the rights provided for in this Directive.

Article 15

Equality bodies

Member States shall ensure that the body or bodies designated, pursuant to Article 20 of Directive 2006/54/EC, for the promotion, analysis, monitoring and support of equal treatment of parents and carers without discrimination on grounds of sex are also competent for issues falling within the scope of this Directive.

Article 16

Level of protection

Member States may introduce or maintain provisions that are more favourable to workers than those laid down in this Directive. They shall however ensure that at least four months of parental leave remain non-transferable in accordance with Article 5(2).

Article 17

Dissemination of information

Member States shall ensure that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force relating to the subject matter as set out in Article 1 of this Directive, are brought by all appropriate means to the attention of the persons concerned throughout their territory.

Article 18

Reporting and review

1. At the latest, by five years after the entry into force of this Directive, Member States shall communicate to the Commission all relevant information concerning the application of this Directive necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

2. On the basis of the information provided by Member States pursuant to paragraph 1, the Commission shall submit to the European Parliament and the Council a report in which it reviews the application of this Directive, accompanied, if appropriate, by a legislative proposal.

Article 19
Repeal

Directive 2010/18/EU is repealed with effect from two years following the date of entry into force of this Directive. References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in the Annex.

Article 20
Transposition

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive, at the latest two years after the entry into force. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

3. Member States may entrust social partners with the implementation of this Directive, where social partners jointly request to do so and as long as the Member States take all the necessary steps to ensure that they can at all times guarantee the results sought under this Directive.

Article 21
Entry into force

The Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 22
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX
Correlation table

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 (OJ L 68 of 18.03.2010, p. 13)	This Directive
Clause 1(1)	Article 1
Clause 1(2)	Article 2
Clause 1(3)	Article 2
Clause 2(1)	Article 5(1) and (2)
Clause 2(2)	Article 5(1) and (2)
Clause 3(1)(a)	Article 5(5)
Clause 3(1)(b)	Article 5(4)
Clause 3(1)(c)	Article 5(6)
Clause 3(1)(d)	---
Clause 3(2)	Article 5(3)
Clause 3(3)	Article 5(7)
Clause 4(1)	Article 5(7)
Clause 5(1)	Article 10(2)
Clause 5(2)	Article 10(1)
Clause 5(3)	Article 10(3)
Clause 5(4)	Article 11
Clause 5(5) first subparagraph	Article 10(3)
Clause 5(5) second subparagraph	Article 8(3)
Clause 6(1)	Article 9
Clause 6(2)	---
Clause 7(1)	Article 7
Clause 7(2)	Article 7
Clause 8(1)	Article 16
Clause 8(2)	---
Clause 8(3)	---
Clause 8(4)	---
Clause 8(5)	---
Clause 8(6)	---
Clause 8(7)	---

Monitoring the implementation of the European Pillar of Social Rights*

Supervisión de la aplicación del pilar europeo de derechos sociales

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

1. INTRODUCTION

In his **State of the Union Address** on 9 September 2015, President Juncker proposed the establishment of a European Pillar of Social Rights¹, which would take account of the changing realities of Europe's societies and developments in the world of work.

Following a broad public consultation in 2016, which involved citizens, social partners, civil society, Member States and EU Institutions², the European Pillar of Social Rights was jointly proclaimed by the European Parliament, the Council and the Commission on

17 November 2017 at the **Gothenburg Social Summit** for Fair Jobs and Growth³.

The European Pillar of Social Rights is designed as **a compass for a renewed process of upward convergence** towards better working and living conditions in the European Union. It sets out twenty essential principles and rights in the areas of equal opportunities and access to the labour market; fair working conditions; and social protection and inclusion.

The European Council of 14 December 2017 endorsed the conclusions of the Social Summit and underlined that **the European Pillar of Social Rights should be implemented at both Union and Member State level**, with due regard to their respective competences. It also invited the Commission to propose appropriate monitoring⁴. This Com-

* Bruselas, 13.3.2018, COM (2018) 130 final.

¹ https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en

² On 8 March 2016, the Commission presented a first outline of the European Pillar of Social Rights and launched a public consultation. The Commission received more than 16,500 online replies and nearly 200 position papers. The consultation culminated in a concluding Conference «Going Forward Together» on 23 January 2017. As part of the consultation, the European Parliament adopted a Resolution on the Pillar on 19 January 2017 (2016/2095(INI)). The European Economic and Social Committee adopted an opinion on 25 January 2017 (SOC/542-01902-00-01-ac). The Committee of the Regions adopted an Opinion on 11 October 2016 (CDR 2868/2016).

³ <http://www.socialsummit17.se/>

⁴ The European Council of 14 December 2017 underlined the following: «*The Social Summit in Gothenburg recalled the need to put people first, to further develop the social dimension of the Union based on a shared commitment and established competences, and to promote convergence through efforts at all levels, including by social partners. As a first step the following should be taken forward: implementing the European Pillar of Social Rights at Union and Member State level, with due regard to their respective competences; the Commission is invited to propose appropriate monitoring (...).*»

munication responds to that request and outlines a way forward.

2. TAKING FORWARD THE EUROPEAN PILLAR OF SOCIAL RIGHTS

The establishment of the European Pillar of Social Rights is part of the broader debate about the **future of Europe**, which was launched by the Commission's White Paper of 1 March 2017⁵. The question of how to strengthen and modernise the European social model in the face of fundamental changes –such as new technologies, globalisation and demographic ageing– is one of the key questions put forward by the White Paper, as well as in the Commission's Reflection Papers on the social dimension of Europe⁶ and on harnessing globalisation⁷.

At their **Summit in Rome** to mark the 60th anniversary of the EU, Leaders reiterated their commitment to a social Europe⁸. In this broader debate, the European Pillar of Social Rights is both **a milestone** in building and consolidating social Europe, and a reference point **on the road to Sibiu**, where EU Leaders will meet in May 2019 to draw conclusions on the EU's future, ahead of the next European Parliament elections.

⁵ COM(2017) 2025.

⁶ COM(2017) 206.

⁷ COM(2017)240.

⁸ In the Rome Declaration, on 25 March 2017, EU Leaders declared: «*In these times of change, and aware of the concerns of our citizens, we commit to the Rome Agenda, and pledge to work towards: ... A social Europe: a Union which, based on sustainable growth, promotes economic and social progress as well as cohesion and convergence, while upholding the integrity of the internal market; a Union taking into account the diversity of national systems and the key role of social partners; a Union which promotes equality between women and men as well as rights and equal opportunities for all; a Union which fights unemployment, discrimination, social exclusion and poverty; a Union where young people receive the best education and training and can study and find jobs across the continent; a Union which preserves our cultural heritage and promotes cultural diversity.*»

Delivering on the European Pillar of Social Rights has always been conceived as a **shared political commitment and responsibility**. EU Institutions, Member States, public authorities, social partners and civil society organisations at all levels have a crucial role to play, in line with their competences.

At EU level, the Commission is fully committed to **mainstreaming the priorities of the European Pillar of Social Rights in all EU policies**. It has already started to make use of existing tools and processes to that effect, and it has also presented several dedicated initiatives within the framework of EU competences, some of which remain to be adopted by the EU co-legislators.

The Commission is also committed to **supporting Member States, social partners and civil society organisations in the implementation of the European Pillar of Social Rights** at national, regional and local level. A staff working document published alongside this Communication recalls the legal framework, the respective roles of the national and EU levels, as well as the action already taken on each of the principles of the European Pillar of Social Rights⁹.

Monitoring the implementation of the European Pillar of Social Rights is essential for ensuring tangible progress on the ground. With this Communication, the Commission proposes, as a complement to initiatives already taken and still to come at EU level, to **strengthen the monitoring of implementation of the European Pillar of Social Rights in the European Semester of policy coordination**. This can be done:

- by reflecting the priorities of the European Pillar of Social Rights in the analysis of measures taken and progress made at national level;
- by providing technical assistance, supporting benchmarking and promoting

⁹ SWD (2018) 67..

the exchange of good practices among Member States and stakeholders;

- and by screening employment and social performances on the basis of the new Social Scoreboard, thus supporting the broader process of upward convergence.

3. IMPLEMENTING THE PILLAR AT EU LEVEL

Social priorities have been at the core of this Commission's agenda since it took office in 2014. The content and ambition of the European Pillar of Social Rights build on a large number of initiatives in the employment and social field that have been rolled out by this Commission in recent years, notably¹⁰:

- the promotion of a **New Start for Social Dialogue**, which reflects the Commission's commitment to work closely with social partners at all levels;
- the proposal for a **European Accessibility Act**, which aims to improve the functioning of the internal market for accessible products and services by removing barriers created by divergent legislation and thus facilitate the work of companies and bring benefits for disabled and older people in the EU;
- a proposal for a Directive to improve **transparency and predictability of working conditions**, which improves the information of workers about their rights and, at the same time, establishes new minimum requirements to improve working conditions;

- the revision of the **Posting of Workers Directive**, which anchors the principle of «equal pay for equal work at the same place», thus establishing a level playing field and preventing unfair competition within the internal market;
- new proposed legislation to modernise the **coordination of social security systems**, which, in particular, helps ensure that workers who make use of their right to free movement do not lose their social security rights;
- a proposal for a Directive on **Work-Life Balance for Parents and Carers** to modernise the existing legal framework by introducing paternity and carers' leave, strengthening parental leave and extending the right to request flexible working arrangements;
- the Action Plan to tackle the **gender pay gap 2017-2019** which includes a set of activities to address its root causes; the review of the various pieces of legislation in the field of **occupational safety and health**, which updates and complements the provisions that protect workers against work-related health risks, including exposure to carcinogens;
- various actions to ensure timely access to affordable, preventive and curative **health care** of good quality including the European Reference Networks which, since last November, provide people with rare diseases with access to diagnosis and treatment across the EU.
- the strengthening and roll-out of the **Youth Guarantee** to help young people to get quickly into employment, education or training;
- the launch of a broad set of initiatives under the **New Skills Agenda**, which seeks to equip more people with better skills;

¹⁰ https://ec.europa.eu/commission/sites/betapolitical/files/social_dimension_of_europe_overview_of_initiatives_en.pdf

- various initiatives to promote access to high-quality and inclusive education, training and lifelong learning, as part of the move towards a **European Education Area**;
- In the field of **education and training**, the Commission aims at more ambitious targets for the share of low achievers and early-school leavers, and is considering new ones as regards digital competences and entrepreneurship¹¹.

Among the 22 legal acts proposed since November 2014 in the employment and social field, 10 have been adopted and 12 remain to be agreed by the Council and/or the European Parliament. As reflected in the Joint Declaration between the European Parliament, the Council and the Commission, the priority for the coming months will be to **conclude on pending legislative files and to focus on delivery and implementation** of the new initiatives on the ground.

In addition, the Commission has mainstreamed social priorities across the board, fully acknowledging the social dimension of everything it does. This includes:

- the **European Semester** of policy coordination, where the Commission has put greater focus on social priorities and put them on a par with economic objectives at the core of the annual cycle of economic governance, with this year's cycle also reflecting for the first time the priorities of the European Pillar of Social Rights¹²;
- under **Cohesion Policy**, social priorities are widely supported by the Eu-

ropean Structural and Investments Funds in areas such as access to the labour market, social inclusion and education. Other **funding programmes and instruments** like the European Globalisation Adjustment Fund and the Fund for European Aid to the Most Deprived support people affected by the restructuring of companies or at risk of severe material deprivation;

- the **Investment Plan for Europe** («Juncker Plan»): social infrastructure and equipment as well as strategic investments in social enterprises can be financially supported by the European Fund for Strategic Investments¹³;
- under **the Energy Union**, the package proposed by the Commission on «Clean energy for all Europeans» puts a major focus on the consumer and steps up efforts to ensure that the clean energy transition is socially fair and no one is left behind. In addition, the package sets out a new approach to protecting vulnerable consumers, which also includes helping Member States reduce the costs of energy for consumers by supporting energy efficiency investments. This has also led to the creation of a European Energy Poverty Observatory;
- under the **Digital Single Market**, the Commission set out connectivity objectives for 2025 to help make high

¹¹ COM (2017) 673 final.

¹² Cf. 2018 Annual Growth Survey (COM(2017) 690 final) and the Communication on the assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews (COM(2018) 120).

¹³ The EFSI already supported such projects for an expected total investment value of over EUR 10.5 billion. In the EFSI infrastructure and innovation window, 18 social infrastructure projects have already been approved and are expected to mobilise a total of over EUR 6 billion in investments. These include the construction, expansion or refurbishment of schools and universities, clinics and hospitals, and affordable social housing in the community. In the EFSI small and medium-sized enterprises window, the total expected investment mobilised in the social sector amounts to EUR 4.5 billion. Recently, the EFSI doubled the firepower of the European Programme for Employment and Social Innovation for microfinance and social entrepreneurship.

capacity broadband available to society as a whole, paying particular attention to areas lagging behind such as rural and remote areas, with a strong focus in parallel on developing digital skills. It also seeks to promote free Wi-Fi connection for citizens and visitors in public spaces through its WiFi4EU initiative. In addition, the proposed European Electronic Communications Code contains provisions to ensure the affordability of electronic communications (including broadband) as part of a universal service;

- in the field of **transport policy**, the mobility package «Europe on the Move» is a wide-ranging set of initiatives that will *inter alia* ensure proper working conditions. Moreover, the EU is currently revising passenger rights legislations to ensure that persons with reduced mobility have the same access to transport services as all other passengers;
- the Commission proposed a revision of the Directive on the **quality of drinking water**, which will improve access for all people, especially for vulnerable and marginalised groups;
- under the **taxation agenda**, the Commission has put forward a number of initiatives aimed at restoring the fairness of the EU tax system by ensuring that all companies pay their fair share of taxes where profits are generated¹⁴;
- via its **trade policy**, the EU promotes core fundamental labour standards agreed at international level: freedom

of association, the right to collective bargaining, non-discrimination, the fight against child labour and forced labour, labour inspection, health and safety and work and decent work conditions. Social issues are also key aspects of the sustainability impact assessments carried out for all trade agreements along with economic, human rights and environmental impacts;

- the new **European Solidarity Corps** is enabling young people, with a particular focus on less privileged young persons, to take part in solidarity activities and help address societal needs across Europe, which also allows them to develop their own competences and skills;
- in the event of Stability Support Programmes, the practice has been established since the case of Greece in 2015 to make sure that these are accompanied by a **social impact assessment**.

Moreover, convergence towards better socio-economic outcomes, social resilience and fairness, as promoted by the European Pillar of Social Rights, is an essential part of the efforts to strengthen and complete the **Economic and Monetary Union**, as recalled in the Five Presidents Report of June 2015¹⁵ and subsequent Commission proposals¹⁶.

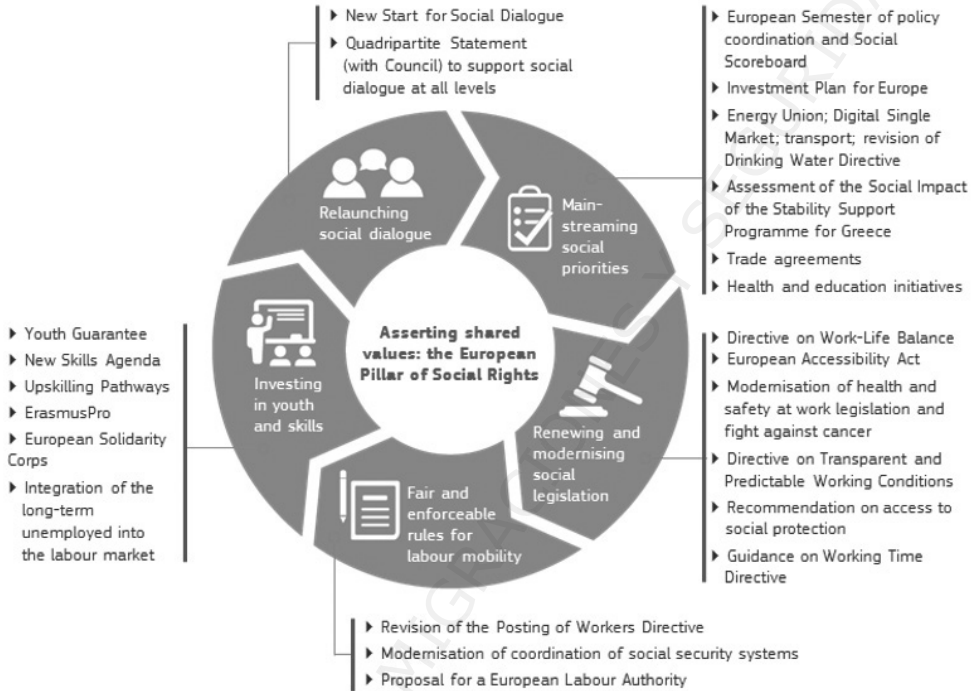
¹⁴ Examples are the Anti-Tax Avoidance Directive, the Directive on the automatic exchange of information on tax rulings and advance pricing arrangements, the Directive on country-by-country reporting concerning multinationals and the proposal to re-launch the Common Consolidated Corporate Tax Base.

¹⁵ https://ec.europa.eu/commission/publications/five-presidents-report-completing-europes-economic-and-monetary-union_en

¹⁶ On 6 December 2017 the Commission presented a Communication on «Further Steps Towards Completing Europe's Economic and Monetary Union: A Roadmap» (COM(2017)821).

Graph 1 below gives an overview of the various ways in which the Commission has been **mainstreaming social priorities across the board**:

GRAPH 1. KEY INITIATIVES UNDER THIS COMMISSION IN THE EMPLOYMENT AND SOCIAL FIELD



In this context, the establishment of the Pillar has been a **key driver to update and complement EU legislation, wherever necessary**. In addition to what has been done

so far, the Commission is presenting another set of initiatives alongside today's Communication, as summarised in box 1.

BOX 1. THE NEW «SOCIAL FAIRNESS PACKAGE» PRESENTED ON 13 MARCH 2018

The present Communication is accompanied by a new **Social Fairness Package**, adopted by the Commission on 13 March 2018.

First, the Commission is proposing to establish a **European Labour Authority**, complementing previous initiatives to improve the rules for the posting of workers and the co-ordination of social security systems. Free movement is one of the most cherished freedoms of the internal market, benefitting individuals, economies and societies as a whole. Today, an extensive body of EU legislation is in place to ensure fair mobility but what matters is that these rules are effectively applied on the ground. In this context, the role and added value of the Authority will be to:

- (a) facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services;
- (b) support cooperation between Member States in the cross-border enforcement of relevant Union law, including facilitating joint inspections;
- (c) mediate and facilitate a solution in cases of cross-border disputes between national authorities or labour market disruptions.

To assist with the preparation and establishment of the Authority, the Commission is also setting up an advisory group, bringing together key stakeholders.

Second, the Commission is proposing a **Council Recommendation on access to social protection for workers and self-employed**, which builds on a consultation of EU Social Partners and aims to encourage Member States to ensure that everyone who works can contribute and have adequate access to social protection, such as unemployment or sickness benefits. Today, about 60% of people work on full-time, permanent contracts. However, an increasing share of people work on other types of contracts, including part-time or temporary contracts, or are self-employed. This trend may give rise to inequalities and social risks if these workers do not have sufficient access to social protection. The Commission examined the option of proposing a Directive to address this issue but, given the diversity of situations and limitations of the legal framework to take action at EU level, it considers that a Council Recommendation is the appropriate way forward to steer progress at national level, ensure a level-playing field, and support upward convergence.

Finally, the Commission is working on developing a **European Social Security Number**, which is meant as a digital identifier to make existing systems interoperable. Millions of tourists and persons who travel, live and work in another EU country could prove easily that they are covered at home, and get quicker and easier access to the benefits to which they are entitled, knowing that their personal data will be fully protected. This would facilitate the portability of rights across borders, allow for real-time identification and verification of coverage, and also reduce risks of errors and fraud resulting from the use of paper documents. It would simplify the work of administrations at all levels. This initiative is part of the 2018 Commission Work Programme: in line with Better Regulation principles, the Commission is engaging with Member States and stakeholders and will come forward with an initiative later this year.

For the further implementation of the Pillar at EU level, the Commission will continue to make full use of all existing tools at its disposal. The use of these tools will vary, depending on the policy area and the principles of the Pillar and reflecting the nature and extent of competences at EU level. They include updating and complementing existing legislation, as set out above, improving the enforcement of EU law in the Member States, and supporting social dialogue across the EU, in addition to monitoring progress under the European Semester.

This also applies to **relevant financial support through EU funds**, notably the European Structural and Investment Funds, Erasmus+ and other relevant programmes. In its recent Communication on «A new, modern Multiannual Financial Framework for a European Union that delivers efficiently on its priorities post-2020»¹⁷, the Commission calls for the EU budget to deliver on the promises made by Leaders at the Gothenburg Social Summit and further develop the social dimension of the Union, including through the full implementation of the European Pillar of Social Rights¹⁸. The Commission underlined that adequate resources will be required to improve employment opportunities and address skills challenges, including those linked to digitisation. Detailed proposals for the post-2020 EU Multiannual Financial Framework will follow in spring 2018.

¹⁷ COM(2018) 98 final.

¹⁸ The Commission stressed in the Communication: «The next Multiannual Financial Framework should better align available financing with our political priorities. It should build on what works well today while also anticipating the challenges of tomorrow. In line with the Rome Declaration, the budget should enable a Europe that is safe and secure. A Europe that is prosperous and sustainable. A Europe that is social. And a Europe that is stronger on the global scene.» The Commission also underlined: «The EU budget will need to deliver on the promises made by Leaders at the Gothenburg Social Summit. This means further developing the social dimension of the Union, including through the full implementation of the European Pillar of Social Rights, and supporting young people and the mobility of European citizens».

4. IMPLEMENTING THE PILLAR AT NATIONAL LEVEL

Most of the competences and tools required to deliver on the European Pillar of Social Rights are in the hands of local, regional and national authorities, social partners as well as civil society. While the EU has an important role to play in supporting Member States, the responsibility for implementing the Pillar lies –to a very large extent– with the Member States, at various levels of government and administration. Moreover, social partners at all levels have a crucial role to play in implementing the Pillar in accordance with their autonomy in negotiating and concluding agreements¹⁹. Respect for the diversity of national industrial relations systems as well as the autonomy of social partners is explicitly recognised by the TFEU. Over the years the Commission has invited Member States to give social partners a greater role in the employment and social field, as their involvement is instrumental for the ownership of reforms. Non-governmental organisations, notably when they provide social services, are also of critical importance to mobilise and deliver on the Pillar.

By expressing essential principles and rights, the European Pillar of Social Rights serves as a guide towards efficient outcomes in the employment and social field. There are no one-size-fit-all solutions and the Pillar captures the diversity of national situations. Although Member States often face common challenges and share similar problems, the solutions they need to de-

¹⁹ A recent example for social partner action is the Autonomous Framework Agreement they agreed on 8 March 2017 on Active Ageing and the Inter-generational Approach. An example for a Social Partners Agreement, which has been implemented in EU law is the Council Directive (EU) 2018/131 of 23 January 2018 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) to amend Directive 2009/13/EC in accordance with the amendments of 2014 to the Maritime Labour Convention, 2006, as approved by the International Labour Conference on 11 June 2014.

velop are bound to vary. This is due to the diversity of their national systems, traditions, different starting points and their specific socio-economic situations.

The current economic context provides a window of opportunity to promote inclusive growth, to modernise the EU social market economy and to invest in people, in line with the European Pillar of Social Rights. The EU's economy is continuing its expansion at a robust pace²⁰. More than 9 million additional jobs have been created since the start of the autumn of 2014, when this Commission started its mandate²¹. The unemployment rate is steadily decreasing and at its lowest level since 2008. The number of people employed has reached 236.3 million in the EU, the highest level ever recorded. However, there are still 18 million people unemployed in the EU, household income is still below the 2008 level in a number of Member States and many social challenges remain, particularly when considering the pace and scope of ongoing developments – from digitisation to ageing. There are also still large disparities in situations among and within Member States.

Priorities will necessarily vary and the European Semester is an opportunity for Member States to make progress with and report on the delivery of the Pillar. The Country Reports published recently in the context of the 2018 European Semester cycle²² outline the nature and ex-

tent of challenges at national level to work towards better working and living conditions, fairer and better-functioning labour markets, improved education and training systems to equip people with appropriate and relevant skills, and social welfare systems that are both sustainable and adequate. The National Reform Programmes, expected from Member States in April, will set out renewed priorities and further concrete actions at national level. These programmes will be the basis for Country-Specific Recommendations that the Commission will propose later in spring 2018. In parallel, the Commission will continue to work with Member States to ensure that available EU funding is well used in support of structural reforms or to invest in people, in line with the priorities identified in the Country Reports and Country-Specific Recommendations.

5. MONITORING THE IMPLEMENTATION OF THE PILLAR

The European Semester of policy coordination provides an appropriate tool for monitoring progress in key areas covered by the European Pillar of Social Rights. The European Semester is based on in-depth analysis, specific to the situation of each country: it acknowledges the diversity of challenges and the need to prioritise in the light of different starting points and available means across countries. The European Semester is also the way to structure collective efforts over time: it builds on in-depth dialogue and reporting throughout the year, which is transparent and open to all actors, and it is used in particular to structure peer reviews and benchmarking among Member States. Building on the progress achieved in recent years to strengthen the social dimension of the European Semester, the Commission has started to fine-tune existing tools and working methods to reflect the European Pillar of Social Rights since it was proclaimed. This does not require fundamental changes or the crea-

²⁰ See the Winter 2018 Economic Forecast of the European Commission:

https://ec.europa.eu/info/business-economy-euro/economic-performance-and-forecasts/economic-forecasts/winter-2018-economic-forecast_en and the Quarterly Report on Economic and Social Developments: <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8063>.

²¹ The majority of these newly created jobs can be considered as of «good quality»: 78% of the newly created jobs since 2014 Q3 are permanent and 88% of them are full-time.

²² Communication on the assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews (COM(2018) 120)).

tion of new instruments, or additional administrative burden on the side of Member States.

A more thematic follow-up will also be required to cover the depth of the various principles of the Pillar and to review effective follow-up and take-up on the ground. Regular EU publications – such as the annual Joint Employment Report and the Report on Employment and Social Developments– will be used to study specific issues in-depth. EU agencies active in the field²³ will also be tasked with developing in-depth reporting for the principles falling more squarely within their responsibilities. In turn, EU-level social partners and civil society organisations may decide to focus more deeply on certain principles of particular interest to them.

As part of the European Semester, three new elements will be added to help monitor the implementation of the European Pillar of Social Rights:

- **Mainstreaming the priorities of the Pillar in the European Semester while selecting themes for detailed reporting on an annual basis:** the principles and rights enshrined in the Pillar will be taken into account throughout the European Semester in monitoring, comparing and assessing the progress made. At the same time, some specific themes pertaining to the Pillar will be highlighted for a detailed assessment every year. This applies notably to the Annual Growth Survey (issued in November), which sets out economic and social priorities at EU level, and the Country Reports (issued in February/March), which form the basis for further country-specific guidance. The choice of themes will be made in

²³ The European Centre for the Development of Vocational Training (Cedefop); the European Foundation for the improvement of living and working conditions (Eurofound); the European Agency for Safety and Health at Work (EU-OSHA); the European Training Foundation (ETF).

consultation with all actors, and notably the relevant committees representing the Member States.

- **Providing technical assistance, promoting benchmarking and exchanging good practices:** the European Semester offers a forum for dialogue with stakeholders, exchanging experience and strengthening mutual learning among Member States, with a view to supporting upward convergence towards the best performers. The bodies that deal with employment and social policy issues under the European Semester, such as the Employment Committee and the Social Protection Committee, have already started work on the benchmarking of policy convergence. In addition, in its Communication on «Further steps towards completing Europe's Economic and Monetary Union: a Roadmap»²⁴, the Commission suggested that ongoing work in the Council and in the Eurogroup on the benchmarking of policies should be reinforced. Moreover, in addition to the financial support provided through the European Structural and Investment Funds, the Commission's Structural Reform Support Service has stepped up its offer of tailor-made support for institutional, administrative and policy reforms²⁵.
- **Assessing and monitoring performances with the help of the new Social Scoreboard:** together with its proposal for the Pillar, the Commission

²⁴ COM(2017) 821 final.

²⁵ Since 2015, the SRSS has been implementing close to 500 projects of technical support. Examples of such projects in the social field include: (i) supporting the implementation of a guaranteed minimum income; (ii) supporting the design and implementing of integration policies for migrants and refugees; (iii) improving disability assessment systems and the services for people with disabilities; (iv) improving the design and implementation of active labour market policies; (v) supportive the reform of special education.

presented a new Social Scoreboard. Its role is to help screen the performances of Member States in the employment and social field along the various dimensions of the Pillar. It was used, for the first time, to help inform and deepen the analysis in the 2018 Joint Employment Report and the indicators were used to back up the analysis of

the 2018 Country Reports. While they do not exhaust the discussion on the monitoring on the Pillar, they shed useful light on the situation on the ground, allowing for comparisons over time and across countries. The Scoreboard and its statistical underpinnings will be further developed with the support of Member States.

BOX 2. THE NEW EU SOCIAL SCOREBOARD²⁶



serves as a reference framework to **monitor progress** towards the goal of a «social triple A»



allows the **benchmarking** of successful outcomes with a view to improving overall **performance** and **convergence**



offers, for some areas, the possibility to **compare** EU performance with that of other **international actors**



plays a key role to inform the work under the European Semester by providing **data and quantitative information**



has been discussed in the **Committees**, which play a crucial role in the European Semester, and has been used for the first time in the 2018 **Joint Employment Report**. It will be further developed in view of the 2019 Joint Employment Report.

The Social Scoreboard includes 35 social, educational and employment indicators (including breakdowns by age, gender and education) grouped into 3 dimensions and 12 areas.



Equal opportunities and access to the labour market

- ▶ Education, skills and lifelong learning
- ▶ Gender equality in the labour market
- ▶ Income inequality
- ▶ At-risk-of-poverty or social exclusion rate
- ▶ Youth



Dynamic labour markets and fair working conditions

- ▶ Labour force structure (employment and unemployment rate)
- ▶ Labour market policies
- ▶ Income and salaries



Public support, social protection and inclusion

- ▶ Impact of public policies on reducing poverty
- ▶ Early childhood education and care
- ▶ Healthcare
- ▶ Digital access and skills

6. CONCLUSIONS

For decades, the European Union has helped deliver increasing prosperity and social fairness. Today, Europe is one of the most

attractive places to live in the world. However, the economic and social crisis of the last decade has had a far-reaching impact on our social fabric, which questioned the essence of our social market economy.

²⁶ For more information on the Social Scoreboard, see: <https://composite-indicators.jrc.ec.europa.eu/social-scoreboard/#>

As Europe has turned the page of the crisis, it is time to look to the future, to match the speed of changing realities and to tackle the broader socio-economic challenges confronting Europe, so as to renew and sustain our economic and social models.

By making clear what Europe stands for, the European Pillar of Social Rights expresses principles and rights that are essential for social progress for the benefit of citizens and societies alike, and which provides a compass for further action.

The commitments taken by EU Leaders at the Gothenburg Social Summit are part of a broader agenda to build the future of the European Union at 27. Delivering on the European Pillar of Social Rights and making it a reality for all Europeans is a shared responsibility. Governments, social partners and non-governmental organisations, local, regional and European Institutions are ready and committed to contribute to this endeavour.

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On «Work and family»

Sobre «Trabajo y familia»*

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SUMARIO

EDITORIAL: *Gerardo Meil Landwerlin* • I. STUDIES: Spanish fathers benefiting from maternity leave: Experience and policy demands. *Gerardo Meil Landwerlin* • Reforms in Parental Leave Policies in France: Tensions between Budgetary Restrictions and the Promotion of Gender Equality. *Jeanne Fagnani and Antoine Math* • Leave policies in Italy: towards a new scenario?. *Sara Mazzucchelli* • Economic crisis and austerity, work-life balance policy for working parents and parental behaviour in Greece. *Evi Hatzivarnava Kazarassi and Maria Karamessini* • Ambivalent character of leave policies development in Croatia: between pronatalist and gender equality agenda. *Ivana Dobrotić* • Maternity/paternity and paid employment: progress in and obstacles to the exercise of the right to care in Uruguay. *Karina Batthyány and Valentina Perrotta* • Time to care. Analysis of maternity, paternity and parental leaves in Latin America and the Caribbean. *Carina Lupica* • II. DOCUMENTS: An initiative to support work-life balance for working parents and carers • Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU • Monitoring the implementation of the European Pillar of Social Rights • III. REFERENCES: On «Parental leave» • On «Work and family»

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