



Office of the Public  
Defender of Rights

# Work-life balance

International Conference Proceedings



HUMAN RESOURCES AND  
EMPLOYMENT OPERATIONAL  
PROGRAMME

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Defender of Rights**

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# Work-life balance

Editors: Petr Polák, Jana Kvasnicová, Iva Tichá



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## Foreword

In the second half of 2013, we were inspired by the news that the European Commission might designate the following year the “European Year for Reconciling of Work and Family Life”. Our team at the Office of the Public Defender of Rights did not hesitate and decided to dedicate the year 2014 to educational activities and raising awareness of issues connected with work-life balance and discrimination on grounds of gender. There were several reasons behind that decision. We had been receiving complaints from working parents concerning their inability to secure part-time or flexible working arrangements. Women returning from parental leave were facing inappropriate comments from their employers related to their parenthood and even explicit invitations to terminate their employment. On a national level, the problem of unavailability of pre-school facilities was reaching its peak, aggravated by the obvious inability of the country’s legislators to pass the bill on alternate forms of care for pre-school children.

The Office of the Public Defender of Rights represented an exception to this general lack of interest in dealing with this issue. In relation to its own employees, it declared its willingness to accept part-time working arrangements in compliance with the Labour Code, it introduced balancing measures in the form of “mobile office” and it began communicating with employees on maternal or parental leave with a view to informing them, from time to time, of the developments in the Office, support their professional growth during their absence from work (including language training) and thus ensure a smooth return to their job. The Day Care project (implemented in co-operation with the Ministry of Labour and Social Affairs) has borne fruit. Our colleagues began returning to work before fully utilising the “magical” 3-year limit of parental leave. As part of making the Office better at serving the public, a play area was opened at the reception desk for our clients’ children.

The greater was our disappointment when we learned that the “European Year for Reconciling of Work and Family Life” had not gained traction and the European Commission, focusing on the upcoming elections to the European Parliament, had chosen a different route, i.e. prolonging the European Year of Citizens.

We were not discouraged and we submitted a proposal for several educational activities concerning the issue of gender equality for the benefit of public administration, the non-governmental sector, attorneys and private companies to Anna Šabatová, who assumed the office of the Public Defender of Rights (the national equality body) in early 2014. The format of these activities included round tables, workshops and conferences. Interestingly, similar activities (accentuating in particular the balancing measures on the labour market) were

taking place in several other European countries in 2014. This suggested a need resonating across Europe to discuss the topic more and to look for optimal solutions for all employees and employers, regardless of their domicile.

Therefore, you are now reading a publication containing the papers adapted from the participants' contributions at the international conference "Work-Life Balance", which represented the culmination of the Defender's awareness-raising and educational activities concerning this Europe-wide issue. The conference took place from 23 to 24 October 2014 at the Office of the Public Defender of Rights as part of the project Together towards Good Governance (CZ.1.04/5.1.00/81.00007). The project beneficiary and the implementing body is the Office of the Public Defender of Rights. This book includes a collection of contributions presented by Czech and international experts. It also contains papers which were not presented at the conference due to time constraints.

We tried hard to make sure that the order of the contributions reflects the unique atmosphere of an international conference where the problems of Europe-wide interest were discussed first (e.g. the contributions of Maurizio Mosca, Agnes Uhreczky, Ilaria Volpe and Jean-Marie Jungblut) before moving on to purely national issues (e.g. the panel discussion hosted by Jana Kvasnicová). Valuable experience with work-life balance from other European countries could not have been left out (contributions of Tiago Pereira, Sabine Wagner, Anna Mazurczak, Lórant Csink and Andrea Mesárošová). We did not forget to include the specific and original Czech-Swedish insight of Steven Saxonberg and the views of European institutions (Dana Kovaříková) and science and research bodies (contributions by Marek Řezanka and Lenka Formánková). In the second part of the book, you can read about the particular problems discussed at the four workshops, which took place during the second day of the conference. To facilitate the creation of this book, the hosts provided us with detailed summaries of the discussions, which include a number of points that will serve as an inspiration for further activities of the Czech Public Defender of Rights in the area of gender equality.

Work-life balance is an issue that may be approached from many different angles. We of course approach it from the point of view of equal treatment and non-discrimination, which was further developed during the conference by the aspects mentioned below.

It is undeniable that work-life balance is not an issue solely concerning young couples with children, but all persons with obligations to provide care for a dependent person. The conference thus included the topic of care for the elderly, which served as a link with the February conference focused on the protection of rights of the elderly in institutions, which needs to be further increased (not only in the Czech Republic), especially with respect to its implications for the areas of employment, labour law and (sustainable) economy.

We also realised that each country must find its own strategy to approach the issue of work-life balance, since the examples of good practice are not necessarily applicable throughout the whole of Europe. With respect to the promotion of gender mainstreaming, we must pay attention to the issue of what kind of images the campaigns convey to the public. It is not desirable to limit mainstreaming to one kind of family and thus form the stereotype that balancing measures only work for “some people”. The success of balancing measures is directly affected by the existing social norms of gender role distribution in households. One of the greatest challenges in this area may thus be to change the stereotypical view of men as “breadwinners”. Another significant challenge lies in the implementation of balancing measures outside the “white-collar” sector, in other words, to implement some of the procedures also at ordinary workplaces such as factories or supermarkets. Insofar as flexibility at the workplace is concerned, it turns out that no flexible working arrangement can function without complete trust between the employee and the employer, regardless of how good the legislative framework is.

We believe that the conference and the resulting publication of collected documents is not the end of the Defender’s activities in this area, but only the beginning.

We wish you pleasant reading!

Petr Polák, Jana Kvasnicová and Iva Tichá

# EIGE's work on Good Practices in the area of reconciliation of work, family and private life

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## **Keywords**

EIGE, reconciliation of work, family and private life, the concept of positive flexibility, awareness-raising, benchmarking, self-regulation

## **Abstract**

Equality between women and men is a fundamental value of the European Union and a condition for economic growth, competitiveness and sustainable development. Achieving equal economic independence, equal pay for equal work and equality in decision-making are three of the five priorities of the European Strategy for Equality between Women and Men (2010-2015)<sup>1</sup>.

Fostering reconciliation of work, private and family life is central to all of these goals – just as it is for achieving the objectives of the Europe 2020 strategy for smart, sustainable and inclusive growth<sup>2</sup>. The European Institute for Gender Equality (EIGE) has implemented a study to collect and assess good practices in the area of reconciliation of work, family and private life in EU Member States. Reconciliation cuts across a number of policy areas. Both EU and national legislation on gender equality and non-discrimination, including rights to equal pay, equal treatment, parental leave and non-discrimination of part-time workers, along with working time legislation, all intersect with reconciliation policies.

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1 European Commission. *Strategy for equality between women and men 2010-2015*. 2010.

2 European Commission. *A European Strategy for smart, sustainable and inclusive growth*. 2010.



## 1. Introduction

The principle of gender equality must be understood as countering the disadvantages faced by women with regard to access to and participation in the labour market and the disadvantages faced by men with regard to participating in family life. In particular with regard to the latter, men have to be involved and targeted in order to make the social changes needed to achieve gender equality. More specifically, interventions promoting reconciliation cover:

- Legislation, policies, strategies and action plans on **care services**. This addresses both childcare services (as defined under the Barcelona targets as accessible, affordable and of good quality) as well as care services for disabled or older family members.
- Legislation, policies and strategies on **parental leave**, including those that promote men's involvement in parental leave schemes. Some countries also have leave schemes that provide entitlements to carer's leave, for example, for care of older or disabled family members. This also covers other financial allowances or compensation for working parents, e.g. for childcare or leave etc.
- Legislation, policies, strategies and action plans on **flexible working arrangements** that enable parents to balance work, family and private life. These may include policy guidelines, collective agreements and/or legal rights for parents to negotiate flexible working time schedules e.g. shorter working hours or days, flexible start and finishing times, tele-working, term-time working, or other innovative solutions.

## 2. The concept of positive flexibility

This term that originally expressed a positive concept has been twisted towards a different meaning.

To be flexible means to be available to accept all working conditions, all organisational features, all needs, driven by the absolute priority of being at work – and then accept any condition – or the absolute priority of providing care – and then organise personal and professional life on the basis of the care needs.

Analysis of good practices and of the wide range of effective examples on reconciliation in the EU mapped within the study has highlighted some relevant features that shift back the concept of flexibility to a positive perception.

The approach is based on the fact that needs are at the centre of the design and implementation of any policy or practice aiming to reconcile the divergent

needs of different stakeholders (people/employees, employers, public institutions).

The analysis of needs leads to the definition of “flexible” approaches that focus on how to achieve the best mix between the requirements of time of the individual/household and the requirements of skills/results of the business.

The public, whether it is the State, Region or the local administration, plays a key role, as it has the power and duty to develop the regulatory framework and the assignment of resources.

The insertion of “need” analysis into this policy cycle directly supports the effectiveness of the policies and the positive impact on people, business and community’s life.

The concept of profit as well is reshaped within the positive flexibility approach.

From the perspective that “MORE” is the aim – more income, more money, more profit for the business – there is a trend towards a perspective of “BETTER” – better working conditions, better professional performance, better impact of policies and practices on people’s lives.

Constructive interaction among all the actors in the process leads to an improvement in the whole policy cycle of reconciliation measures. It supports the sustainability and the coherence of political planning as a result of a broad and shared contribution from all the stakeholders. The results of the policy review, developed within the EIGE study, emphasise the critical nature of the adoption of this approach.

### **Positive flexibility is a strategy for equality and growth**

EIGE’s research has shown some trends that clearly highlight how gender inequalities still represent an obstacle for full empowerment and emancipation of women.

#### **Jobs**

In order to manage care needs, with public services reduced and relevant resources diminished, women accept precarious jobs, poor jobs and often drift away from employment.

#### **Part time**

Women tend to be more and more frequently employed in part-time positions (32% compared to 9% of men).

The reason behind accepting part-time employment amongst women lies mainly in the need to provide care and reconciliation needs, while the reason

for part-time employment of men is mostly that they are not able to find a full-time job.

The social and economic crisis has undoubtedly had a negative impact on women, with specific concerns about the quality of jobs, income and the pay/pension gap and increase in the inactivity rate.

For companies, this has often meant loss of talents and experience and then reduction of potential in terms of competitiveness. As the dramatic financial and economic situation within companies has too often ignored the issue of addressing resources towards reconciliation agreements, the reasons why men take rate of leave for care issues are not questioned at all and the only achievement that has been noticed is that quotas for men/fathers have been introduced.

### **3. EIGE's Good Practices**

The collection and identification of good practices on reconciliation of work, private and family life has been focused on three specific areas, awareness-raising, benchmarking and self-regulation. The study has developed a qualitative framework of criteria for the assessment of approaches that have proven to be effective solutions to overcome specific gender inequalities.

## **4. Criteria for identification and assessment of good practices on reconciliation**

### **4.1 General criteria**

The general criteria are applicable to all the examples and are particularly important, as they apply to the final assessment process for the selection of practices and initiatives that are included in the final assessment process for the 12 examples of good practice. The following criteria have been adopted by EIGE to assess tools, methods or practices with potential to positively affect gender equality:

- It has been working well (the practice is completed, or at least shows substantial achievement provided by the practice itself). This demonstrates that there is a good and solid design and methodology, it has been implemented efficiently and shows some positive outcomes.
- The practice/initiative is transferable and can be replicated elsewhere. This is good for learning how to think and act appropriately. The issue(s) and actions

carried out under the measure are relevant and applicable to other countries or to different regions or sectors within the same country.

- It is good for learning how to think and act appropriately. This shows that the example has significant potential to be a learning tool that can be used to build capacity amongst stakeholders.
- It is embedded within a wider gender mainstreaming strategy. This demonstrates the commitment to embed the practice into a wider gender mainstreaming strategy and is part of a structured approach rather than a one-off isolated initiative.
- It demonstrates effective achievement in terms of advancement of gender equality and/or reduction of gender inequalities. This highlights the importance of the practice being grounded in the broad objective of achieving gender equality and addressing some of the structural factors that lead to gender inequalities.

#### **4.2 Common criteria**

These criteria represent the key elements of the next level to assess the content, design, implementation and outcomes of the practices. They provide more detailed criteria and allow for more in-depth assessment of the practices on the reconciliation of work, family and private life to be made. These cover assessment practices, as well as methods and linkages to gender equality outcomes. These criteria are therefore common to all the three themes covered by this study (self-regulation, awareness-raising, benchmarking).

- Substantive information on the practice is available and there is evidence of its success. Evidence for this should be provided by context analysis, research and data analysis setting out the problem to be addressed and the monitoring and evaluation of the practice/initiative; evidence of leadership is also shown.
- Innovative elements in the design or in the implementation of the measure are present. There is evidence that the practice is innovative and new, and is testing new thinking and approaches to address the identified problem, that it is grounded in substantive planning that establishes clear goals, actions and indicators for monitoring and evaluation.
- The practice/initiative is grounded in a well thought-out communications strategy. This shows evidence of efforts to disseminate information and results about the initiative/practice.
- The objectives and purpose of the practice/measure are clear and these objectives are linked to gender equality/gender mainstreaming. There is evidence that the initiative on reconciliation of work, private and family life is deeply connected to gender equality and gender mainstreaming objectives, targets and outcomes.

- The practice/measure is well designed, based on a clear and coherent methodology, with specific and clear actions for implementation. Clear evidence is shown of a coherent and strategic approach to planning, methodological design and project management.
- There is evidence of positive effects on work-life balance and gender equality. Evidence is provided of monitoring and evaluation of outcomes in relation to reconciliation of work, private and family life and that this had a direct impact on gender equality.
- All the relevant stakeholders were involved in the planning, implementation, monitoring and evaluation of the practice. Where relevant this should include employers, employees, trade unions, NGOs (such as women's organisations and family organisations) and government departments/agencies.
- The practice/measure promotes (directly or indirectly) men's involvement and participation in reconciliation of work, family and private life. There is evidence that a focus has been placed on involvement and participation of men and that gender equality outcomes are documented.
- As an additional beneficial criterion: The practice/measure can be implemented in an economic crisis/austerity setting where financial means are scarce. The initiative takes account of the impact of the economic crisis on gender equality and demonstrates gender-sensitive and cost-effective responses.

## **4.2 Specific qualitative criteria for the identification of good practices**

A. Specific criteria: Gender sensitive self-regulation in public and private organisations

- A1. The initiative is set in the context of a broader goal to promote gender equality and in the case of companies the "business case" for equality. Equality is integral to the initiative and there is evidence that it is integrated into corporate/business strategies and/or diversity programmes.
- A2. The initiative/measure was developed on the basis of prior assessment, research or analysis (employee survey, gender analysis/gender impact assessment, existing studies that have identified specific challenges or problems etc.). A clear evidence base and gender analysis are implemented, setting out the problem/challenge to be tackled at the workplace, company or other level (also drawing on national/international evidence).
- A3. The elaboration of the measure was carried out in consultation with employees / relevant stakeholders, for example through an employee survey or employee discussion groups. Effective systems for employee/stakeholder consultation and participation are put in place.

- A4. There are binding provisions for the parties/organisation(s) participating in the measure/agreement.
- A5. There is a permanent structure (body/committee) in place that ensures and monitors implementation, including reporting on the outcomes of the initiative.
- A6. Sufficient technical and human resources are allocated/available to support the implementation and are effectively deployed.
- A7. The managing authority/company management is committed to actively implement the measure and has developed coherent objectives and actions for implementation. Senior level commitment and leadership are given for setting objectives and implementing the initiative.
- A8. There is some evidence that the target groups / employees (significant number of employees) benefit from the introduction of the measure. If this has not been possible because it was too early to capture the evidence, there are some clear indicators of what the anticipated benefits will be.
- A9. There is evidence of continuity and sustainability. Measures are put in place to ensure that the self-regulation initiative has a plan and resources for continuity and sustainability.

B. Specific criteria: Awareness-raising initiatives aiming at promoting the development of work life balance practices

- B1. The initiative/campaign is well focused, has clear goals and is well planned.
- B2. The campaign has clear messages that grasp the attention of multiple audiences; the initiative/campaign clearly conveys key messages to multiple audiences.
- B3. The campaign/initiative is built on a good understanding of the prevailing culture and views and of gender equality principles.
- B4. The awareness-raising campaign/initiative has a clearly defined target group/audience.
- B5. The campaign/initiative employs a range of effective approaches and techniques to ensure that the messages are received and understood by a diverse audience.
- B6. The implementation and communication strategy is tailored to the main objectives. The awareness-raising campaign/initiative has a clear communication strategy and meets the objectives that have been set out.
- B7. The campaign/initiative uses a combination of tools and methods that support and reinforce each other (educational, training, social media, information, etc.). There is coordinated and complementary use of different communications tools and methods.
- B8. The scope and design of the initiative/campaign ensures the desired ideas and messages to be moved forward.

- B9. The campaign/initiative helps overcome traditional stereotypes on gender roles, and has a clearly defined objective to change gender relations and promote gender equality.
- B10. There is evidence that the campaign/initiative is positively influencing the attitudes, behaviours and beliefs of the target groups. Although it may be difficult to capture the impact of information campaigns on attitudes and behaviour, a solid attempt has been made to measure and evaluate the impact of the awareness-raising campaign/initiative on attitudes and beliefs.

### C. Specific criteria: Benchmarking

- C1. The benchmarking exercise is grounded in gender equality principles. The goal is to promote and implement gender equality through benchmarking.
- C2. A clear plan and timetable have been set for the benchmarking exercise.
- C3. The partners for carrying out the benchmarking exercise are well identified and involved. All the relevant stakeholders are involved and participate in the process, including the relevant accreditation bodies, employee representatives, NGOs, equality bodies, etc.
- C4. Qualified independent experts and evaluators are involved. Recognised independent experts with knowledge and understanding of gender equality carry out the benchmarking.
- C5. The tools for data collection are well-developed and introduced. A systematic approach is taken to collection of evidence to support the benchmarking exercise.
- C6. A self-assessment report/document is prepared by participating organisation(s).
- C7. An action plan for improvement was prepared (for instance, a “work-life balance plan” as part of a wider gender equality action plan, etc.) and there is evidence of implementation. The outcomes of the benchmarking exercise lead to an improvement plan and relevant implementation of areas for development.
- C8. There is clear evidence that the lessons learned from the benchmarking exercise were taken on board and facilitated improvements in policy and practice on reconciliation.
- C9. The organisation and the involved key partners and stakeholders are committed to the process and to gender equality.
- C10. The good practices identified via benchmarking are well-advertised and popularised based on a clear communications strategy. Good practice outcomes are communicated effectively and clearly to a variety of audiences and stakeholders.

## 5. Some conclusion from EIGE's work and research

### 5.1 Main challenges and gaps

- To advance the availability, affordability and quality of child care and other care services/facilities.
- To design policies and strategies to challenge traditional gender stereotypes.
- To involve more and better men in care and other unpaid work, with scope for improving EU regulations governing paternity leave and in extending the rights of fathers.
- To ensure that the economic crisis does not compromise the progress made in women's participation in the labour market, the trend towards the dual-earner model and men's involvement in family/care responsibilities.
- To increase awareness and implementation of reconciliation measures at the national and EU policy levels.
- To ensure that flexible working arrangement generate positive outcomes in terms of reconciliation and gender equality.
- To improve and increase the involvement of all the relevant stakeholders in the implementation of reconciliation policies.
- To support the dissemination of good practices on reconciliation across different national contexts.

### 5.2 Key features to move forward

- Recognize and value the role of social partners and multiple stakeholders.
- Promote public and private networking.
- Involve and target SMEs in reconciliation projects.
- Improve the availability of public resources and build self-financing wherever possible.
- Invest in well-targeted awareness-raising initiatives.
- Improve and adopt monitoring and evaluation tools and strategies.
- Carry out research and studies and collect sex-disaggregated data, as baseline information for policies.
- Learn to change working culture on the basis of good experience and transferring practices.
- Invest in training, counselling and coaching to strengthen the potential for change in traditional assumptions, attitudes and behaviours.
- Address men in all reconciliation projects and initiatives, as part of a strategic orientation towards gender equality.



## 5.3 The 13 EIGE's good practices

### Awareness-raising

- AT „Four Walls, Four Hands“ campaign
- DE Managing Reconciliation of Work and Family
- DK A Hug from Daddy
- MT Sharing Work-Life Responsibilities „NISTA“
- PL Occupation Dad – I Like it!

### Benchmarking

- EE The Most Family and Employee Friendly Company Competition
- IT Family Audit Certification
- MT EQUALITY MARK
- UK Think Act Report

### Self-regulation

- AT Paternal leave company workshops
- DE Project MORE
- DK 24h Service childcare
- SI Halcom d.d.- “Family-Friendly Certificate“ holder

For all presentations and additional information on the study, please contact Maurizio Mosca at [maurizio.mosca@eige.europa.eu](mailto:maurizio.mosca@eige.europa.eu)

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European Commission. *Strategy for equality between women and men 2010-2015*. 2010. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0491:FIN:en:PDF>

# Reconciling work and care for employees in Europe: Instruments of support across EU member countries

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## Keywords

work-life balance, employees, working caregivers, reconciliation policies

## Abstract

The issue of combining work and care for a dependent and disabled person is a relatively recent addition to the policy agenda on the reconciliation of work and family life. Indeed, only since the beginning of this millennium has research begun to address the issue in Europe. So far, the reconciliation of work and family life or the so-called work-life balance conflict has been focused essentially on parents caring for very young children. Most policies that were developed in recent years focused on parental leave, breastfeeding entitlements and the right to alter working conditions (part-time), for example. However, now the 15-64 working age population in the EU has begun to decrease, while the population aged 65 years or more is projected to increase from 87 million in 2010 to 152 million in 2060<sup>1</sup>.

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Consequently, one of the impacts of demographic change will be that the number of persons in need of care will almost triple over that same period<sup>2</sup>. The issue of providing care for an elderly relative is becoming more and more important on policy-making agendas. To this must be added the pressure that rapid growth in demand for long-term care and the expectations of the “baby boomers” generation are exerting on ensuring good care quality. The reconciliation issue will become even more acute as participation in the labour market by women is increasing in many countries and public policies aimed at

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1 European Commission. *The 2012 Ageing Report. Economic and budgetary projections for the 27 Member States (2010-2060)*. 2012.

2 Council of the European Union. *Adequate social protection for long-term care needs in an ageing society*. 2014.

increasing the number of people working longer before they retire have been introduced across Europe.

For all these reasons, an increased need to reconcile work and care must be met with more support for working carers and flexible working arrangements, especially for older workers, in order to keep them in employment longer. Too many older workers and particularly women tend to leave the labour market permanently when confronted with a care situation at home. National policy makers should react to this by providing more and better policy instruments in support of workers with care obligations. At the corporate and workplace level, employers will need to consider innovative measures to accommodate and retain staff and to maintain their productivity over time. Such measures to reconcile work with informal care include temporary withdrawal from work in order to concentrate on providing care, downshifting (hours reduction) and support to combine full-time work and provision of care.

The report from the European Foundation for the Improvement of Working and Living Conditions to be published at the beginning of 2015 and summarized here deals with the reconciliation of work and care but not long-term care in general. On long-term care, readers are referred to recent publications by the EU Commission<sup>3</sup>, the Council of Europe<sup>4</sup> and the OECD<sup>5</sup>. It is, however, obvious that both – long-term care policies and reconciliation policies – are complementary and that existing care infrastructures or the lack of them will influence the way workers can reconcile the two obligations in their everyday lives.

By default, families will organize care themselves, often by choosing or delegating care to those members(s) with the least opportunity costs – often creating (uncovered) costs for this person and society in the future. In countries where long-term care infrastructure and services are well developed (e.g. the Nordic countries, the Netherlands and Luxembourg) there is less pressure to support workers with care needs than in countries that rely essentially on female family members to reconcile work and care and do not provide much formal support<sup>6</sup>. It is thus evident that, if the state takes on

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3 European Commission. *Long-term care in the European Union*. Comas-Herrera, A., Wittenberg, R. *European Study of Long-Term Care Expenditure*. 2008.

4 Council of the European Union, . *Adequate social protection for long-term care needs in an ageing society*. 2014.

5 OECD. *Help Wanted? Providing and paying for long-term care*. Paris. OECD. *A good life in Old Age? Monitoring and Improving Quality in Long-term Care*. Paris. 2011.

6 The INTERLINKS report “Long-Term Care in Europe” based on an EU-funded project shows that, in Northern European countries, the state is responsible for financing LTC. In contrast, in Southern and Eastern European countries, families are considered responsible. A further publication, “Help Wanted” from the OECD, notes that the Nordic countries and the Benelux countries spend more tax money on long-term care than the OECD average, but Portugal, Hungary, Slovakia, Poland and Spain allocate significantly less (Council of the European Union – SPC, 2014).

some or most of the responsibility for long-term care, reconciliation issues are not as pressing.

The EUROFAMCARE<sup>7</sup> project comparing six European Member states in 2005 revealed that employment participation is more likely to be affected by care obligations in the UK, Germany and Greece, but less so in Italy. The conservative regime in Germany combined with the male breadwinner / female carer model implies considerable work restrictions, especially for women. The situation is different in Mediterranean countries, because care for older people is culturally and institutionally managed by the family, usually women, as public responsibility is low and employment rates are also low. In Greece, limited public responsibility and low employment rates contribute to frequent complete withdrawal of caregivers from the labour market, again especially women. In the Italian case, the financial support which is relatively generous is used by many families to hire unregistered migrant workers, so that care needs do not necessarily lead to a massive work restrictions. In Poland, large solidarity patterns and an overall low employment rate contribute to low levels of work restrictions in the context of a shortage of public and formal services. One option that is highly popular in Poland is that people become self-employed to more flexibly manage work and care. The Swedish model of generous welfare services and benefits (designed as support for older persons) shows that high employment can coexist with a sustained and high informal level of care. In the UK, care relies mainly on private services and the state leaves the brunt of the care burden on families, and thus caregivers cannot completely leave work and have to find a way to reconcile work and care as best they can<sup>8</sup>.

Most of the policies to support working caregivers consist in entitlements enshrined in the labour legislation of the EU Member States, sometimes altered or specified by sectoral agreements or simply corporate policies. These support instruments that support working carers in their work-life balance effort can be grouped into several categories: they are either working time arrangements – from flexible working time, part-time to emergency leave(s) and short-term leave or sabbaticals, which can also consist in policies that provide income replacement when workers have to take time off to care for a relative, or they are protection mechanisms, providing security of employment or guarantees that the person will be able to come back to the same job after a spell of care provision.

One way of assessing the usefulness of different types of policy measures is to ask workers about their preferences when it comes to reconciliation

7 EUROFAMCARE. *Services for supporting family carers of older dependent people in Europe. Characteristics, coverage and usage.* 2006.

8 Principi et. al. Worklife restrictions experienced by midlife family care-givers of older people: Evidence from six European Countries, in: *Ageing & Society*, vol. 34, 2014, p. 221.

measures. Information has been obtained through numerous studies that have been carried out in the past<sup>9</sup>. The measures to support reconciliation efforts that are mentioned most often by carers include<sup>10</sup>:

- flexible working hours and ability to react promptly to emergency situations;
- the option of reducing hours of work per week for a limited time;
- the option of giving up responsibilities at work and managing duties for the duration of care;
- the right to take leave spontaneously.

Figure 1 displays a possible hierarchy of reconciliation measures inspired on the one hand by what carers themselves wish to see as support instruments and, on the other hand, what can be observed across the countries in Europe. At the bottom levels, we find working-time flexibility and part-time work, followed by employment protection during care spells. Employment protection plays a key role for working carers as the existence of any legal entitlement makes sense only if working carers are protected from dismissal for personal or economic reasons. This also jeopardizes existing reconciliation measures as workers will not easily claim their rights if they have to fear dismissal. A higher echelon of the pyramid consists in further emergency leaves or force majeure leave. Although the latter is part of the EU directive on parental leave<sup>11</sup> it has so far been adopted in only 13 out of the 28 Member States. Unpaid short-term and long-term leave and further, paid short- and long-term leave figure still higher on the hierarchy of entitlements.

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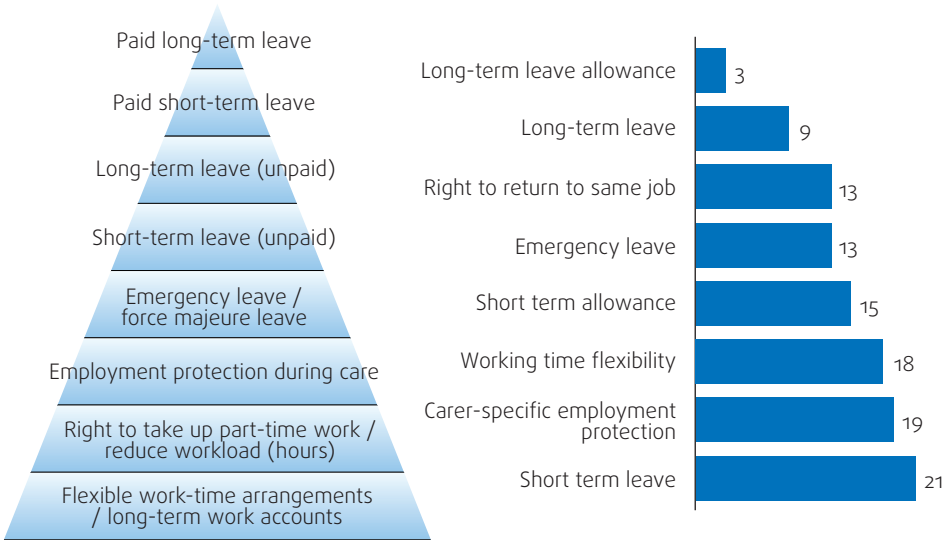
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10 see for example: Kümmerling, A., Bäcker, G. *Carers@Work. Zwischen Beruf und Pflege: Betriebliche Maßnahmen zur Verbesserung der Vereinbarkeit von Erwerbstätigkeit und Pflegeverpflichtung*. 2010.

11 see COUNCIL DIRECTIVE 2010/18/EU, Clause 7: Time off work on the grounds for force majeure which states that "Member States and/or social partners shall take the necessary measures to entitle workers to time off from work, in accordance with national legislation, collective agreements and/or practice, on grounds of force majeure for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable". It should be mentioned that this clause does not explicitly apply only to the parents of children.

Fig. 1 – Reconciliation instruments: theory and practice

**Level of need and sophistication****Prevalence among EU28**

It can be argued that paid long-term leave is not the type of policy really needed, because it comes very close to putting a hold to an employment relationship and does not represent a reconciliation instrument. The more so as, in countries which offer this possibility for long-term leaves, health insurance pays a means-tested benefit to the person taken care of (e.g. *indennità di accompagnamento* in Italy or the *Pflegeversicherung* in Germany) or relatives who provide full-time care are employed by the local authorities (mostly in the Nordic countries). Long-term care leave typically ranges from a few months up to two years or more.

Measures that actually support carers continued employment are in general preferable for everybody: the individual as there will be no break in the work history which could have adverse effects on career development; employers as they will not have to find intermittent solutions to replace valuable workers or to end the employment relationship and find someone new; the government as it avoids the loss of pension entitlements for working carers, making future income support for carers less probable and, last but not least, most people in need of care prefer to have their own relatives helping them.

A very central problem related to care is that workers who have to interrupt their working life almost always have to endure consequences for their later working life. This means that, if care support is faltering and the reconciliation is difficult, most carers have to give up their job for the duration of care, which

could mean years of interruption. Return to the labour market is usually difficult if not impossible and working lives are cut short with very negative consequences for the individual, e.g. poverty, dependence on welfare, low or no pension entitlements, personal health issues and also the expense of support mechanisms needed as a consequence. The European Union has introduced a life-cycle approach with the 2003 Employment Guidelines<sup>12</sup>, in order to promote labour market participation and extension of people's careers through a strategy of 'active ageing'. Consideration No. 15 of the introduction reads: 'An adequate labour supply is needed in order to meet the demographic challenge, support economic growth, promote full employment and support the sustainability of social protection systems. (...) this requires developing comprehensive national strategies based on a life-cycle approach. Policies should exploit the employment potential of all categories of persons'<sup>13</sup>. Measures to support working carers are central to such considerations because the low cost of some of the reconciliation measures (part-time, flexible working time, short-term leaves, force majeure leave, employment protection for carers) can yield a very high social return on investment as they prevent people from dropping out of the labour force too early or having career repercussions significantly reducing their lifetime earnings and pension entitlements.

The best way to accommodate for this situation is to negotiate flexible work organization with the carer's employer. For example, flexible working time arrangements have to be agreed between the worker and his/her employer on an individual basis. If there is no legal entitlement for staff to work part-time or to take time off for emergencies or longer absence for care reasons, some sort of agreement needs to be reached. Minimum protection of workers with care duties is then needed so that the position of an employee in relation to his employer is strengthened and employers cannot simply make the worker with care duties redundant to avoid changing work organization. In a way, all three alternatives – formal long-term care infrastructure, specific policies for the reconciliation of work and care or simply legal employment protection of workers with care duties – are functional equivalents that support those people who need care either by formal professional services or by their relatives. They are however not mutually exclusive features of long-term care policy, but can be and actually should be used as mutually supportive measures. It is not a case of either/or, but a case for the right mix of policies that best support the provision of care for frail elderly people in need of care support.

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12 Council of the European Union. COUNCIL DECISION of 22 July 2003 on guidelines for the employment policies of the Member States (2003/578/EC), in: *Official Journal of the European Union*, L 197/13.

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# The state as a norm-builder? The interplay between family policies and cultural values in Sweden

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## **Keywords**

Sweden, family policy, parental leave, childcare, caring decisions

## **Abstract**

This study analyses the way parents in Sweden make their caring decisions. It points out that the state has created the norm that parents should share equally. It enforces this through non-economic moral incentives, such as the fact that both parents have an equal amount of leave days and even though only two months of thirteen are non-transferrable. If parents decide not to share their leave time equally, then the parent using less than half of the leave time must sign a paper giving his or her leave time to the other partner. Thus, even fathers who only use their quota period are aware that they are not behaving as they “should”, so they find ways to defend their specific situation rather than criticize the notion of gender equality.

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In the 1970s, Sweden began introducing policies aimed at promoting gender equality through the involvement of fathers as carers. Public policies such as insurance-based parental leave, “daddy quotas” and publicly funded childcare services have been developed to increase gender equality. Despite the economic incentives that these policies provide for fathers to take parental leave, fathers do not even come close to sharing household and child-caring tasks equally with mothers, although the percentage of leave time taken by men has indeed increased in the past decade. Both successes and failures have led

to debates about which factors facilitate and which hinder increased gender equality. Scholars have tended to focus on the role of the economic incentives that welfare states provide for women to work and for men to share in parental leave and, when cultural values are mentioned, it is mainly as a hindrance to achieving the goals of achieving gender equality.

This article incorporates cultural values more clearly in analysing how family policies and cultural values interact in the decisions parents make about who should care for their children.

## 1. Methodology

We conducted 40 semi-structured interviews with mothers and fathers in Stockholm. We chose the capital, because it is the place where we can expect to be most likely to find families in which fathers take rather long leave times, as larger cities tend to be more open and tolerant and less conservative. This strategy gives us greater variety in our results.

At the time of the interviews in 2011/12, the children were in their first year of school, making them six or seven years old. This enabled the parents to reflect upon the entire period in which they had to make decisions as to who should take care of their pre-school children. The study is then more retrospective than many previous studies, since it covers a longer period of time. The focus of this article is on the decisions that parents made during their first two to three years before sending their children to day care.

We recruited an equal number of parents from schools in predominantly middle-class and predominantly working-class neighbourhoods, which gave us a sample of parents with diverse socioeconomic, educational and ethnic backgrounds. In addition, we made sure to interview an equal number of men and women. We only interviewed one parent in each family. The questions asked are designed to help us in understanding what they consider when they decide who and how their child should be cared for before starting school.

## 2. How should parental leave be shared?

Virtually all the interviewed parents accepted the *general* idea of gender equality, when they discussed measures such as fathers sharing in the leave time or children attending day care. However, they usually reasoned in terms of what is best for the child rather than in terms of gender equality. A typical statement came from a father who claimed: "it is clearly good for the child and everyone else if [the parental leave time] is shared as equally as possible". In

contrast to the conservative criticisms that are common in other countries that gender equality comes at the expense of the child, our respondents basically found gender equality and the child's best interests to be mutually reinforcing.

Despite the great amount of variation that we found among parents, we can still basically divide them into three groups:

- "opting-out", where the father opted out of using his quota before the child started day care (instead they either did not go on leave at all or spread the quota period out over a long period);
- the "man-doing-his-duty", where the father only used the quota time (but did so before the child began attending day care);
- "breastfeeding-plus-sharing", where the father took more than the quota period, but waited until the mother first stayed at home for at least 9 months to breastfeed the child.

In all cases, though, the parents thought it was important for the mother to be at home for the first 9-12 months to breastfeed before the father began sharing the leave time. Thus, in all cases in which the father stayed at home longer than the quota period, the child also stayed home longer than the benefit period, so that the parents stretched the period by, for example, taking less than 100% of the leave per month.

### 3. The strong ideal about breast-feeding

Even though almost all parents supported a dual earner/carer model, many still displayed biological views about the differences between women and men. The most obvious aspect is that in both countries it has become the norm now for mothers to breast-feed for 9-12 months<sup>1</sup>. Thus, most parents reason that the mother should stay at home with the child for this period.

This view toward the role of biology is not surprising as the norms of breast-feeding are already well known; however, some parents went further and stressed that women's and men's roles should be different due to biological differences. While stating that parents should ideally share the leave, they think that the bonds with the baby come more naturally for women. In some cases, they reason that fathers have to be taught their responsibilities because they do not have the "natural" bond that comes from being pregnant and then breastfeeding. One mother, a teacher, summed up this viewpoint: The mother "carries the baby and breastfeeds the child, so she establishes a natural contact with the baby". Still, she supports the ideal of gender equality and thinks that

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<sup>1</sup> Ellingsæter, A. L. Feminist policies and feminist conflicts: daddy's care or mother's milk?, in *Gender inequalities in the 21st Century*. 2010.

fathers should share in the leave time, although in contrast to mothers, fathers must “learn” how to care.

Thus, those emphasizing biology did *not* conclude that only mothers should take care of the children. For example, one father working as consultant thinks that female and male values are different and, therefore, complementary. However, in his view this does not imply that women should stay at home while men work. Instead, he reasons that children need *both* “worlds” (the female and the male) at home and at the childcare centre where he would like to see more male pre-school teachers.

#### 4. Opting-out gendered

In this group the fathers did not stay at home with the child for one uninterrupted period before the child started day care and instead took a day now and then or, for example, in relation to vacation, or opted out completely. Almost half the parents belonged to this group (19/40).

We should note that none of the parents claimed that they were against fathers sharing in the leave. Instead, their reasons often had to do with what they believed to be their specific circumstances such as the father’s job made it difficult for him to go on leave, he studied or had not been working long enough to be eligible for income-related parental leave benefits. Given their views on their career situation, they could rationalize their decision morally on the basis of the specifics of their situation, even though it contrasted with the national ideal of care. This type of moral rationality is highly gendered, as only men have this possibility of opting out<sup>2</sup>.

A Stockholm father working in a bank explains that his wife stayed at home until the child was 16 months old, as he felt indirect pressure to continue working. After the child began attending day care, “I went on parental leave from time to time”. In contrast to previous studies that have emphasized work culture and pressure from work as an important factor (Hobson, Fahlén and Takács 2012), this father was one of only a few who mentioned pressure from colleagues or their superiors as a reason to abstain from taking leave:

“Yes, it is a little sensitive sometimes, if one says that now I wanted to go on leave one day a week or something ... they. ... [The superiors] will never say no, they cannot refuse my request to go on leave, but one can still read behind the lines that they think it is a bit difficult.”

Another father working in a leadership position admits that he was surprised when someone in the leadership group of his enterprise dared to openly

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2 Bekkengen, L. *Man får välja: om föräldraskap och föräldradedighet i arbetsliv och familjeliv*. 2002.

state that it is not possible to combine parental leave with this type of position. He concludes that “it is still true that one does not expect men to go on leave with their children in the same way [that one expects it for women]”. A number of interviewees to the contrary highlight the employer as a facilitator, who encourages the fathers to go on leave.

The lack of eligibility for parental leave benefits was also a reason given by some fathers. For example, a Stockholm mother and her husband did not have income-related parental leave because they had lived abroad. She stayed at home for half a year and then worked part-time because she could not afford to stay at home longer and she wanted to make a good impression at her employer. She hired a child-minder to help out before the child started attending day care. Her husband did not want to stay at home with the child at all both for economic reasons and because of a lack of interest (FSWC<sub>1</sub>). These cases show that parents functioning outside the institutional framework of the family policies rely on solutions that are quite gender conservative.

## 5. “Man-doing-his-duty”

This strategy based on the “man-doing-his-duty” rationality implies that the father uses “his” time before the child starts day care. This strategy was used in 7 of 40 cases. A father in Stockholm provided an example of a case in which he claims that his particular type of job as a salesman made it difficult to go on leave for long periods, but he still did his duty by using his parental leave days occasionally. He explains:

“She [his wife] was at home for 16 months. During these 16 months I took 30 days of leave spread throughout ... Actually, it was not so strange, because it was difficult for me to go on leave for long periods” (MSWC<sub>1</sub>).

## 6. “Breastfeeding plus sharing”

According to the “breastfeeding-plus-sharing” strategy, the mother should stay at home for at least 9-12 months to breastfeed the child, and afterwards the father should stay at home for a longer period than the quota time. This strategy was used by 14 of 40 parents. In all cases in which fathers stayed at home for a longer period than the quota period, the child also stayed at home for a much longer period than the 13 months of fully-paid leave in Sweden. Instead of dividing the allotted 12 or 13 months equally, the mother stayed at home for 9-12 months and then the father stayed at home for the quota period

plus a few more months. Thereby, they stretched the leave period, by taking less than 100% of the benefits per month.

It seems that most parents have the starting point that the child's best interests come first, so they prefer breast-feeding over equal sharing, but those with a breastfeeding-plus-sharing moral rationality try to approximate their equality goal as much as possible given their economic constraints on how much they can stretch the leave period. A father of three, working as a consultant, who had shared parental leave equally with his wife, said "we try to make sure that this will be as equal and just as possible. I do not see any clear difference between the sexes and think that it is good to have day care".

In contrast to the cases in which fathers used workplace pressure to avoid going on leave, in some cases going on leave actually became an asset. One accountant, who was on father's leave for 8 months and then worked part-time for a few more months, commented: "We shared fifty-fifty... I received only positive reactions from my clients; to some extent I even developed better relations with my clients and even with my boss because of this".

## 7. Conclusions

In summary, based on the results of this study, the following lessons can be learned for policymaking:

- Longer leaves need not be a trap for women; if they are generously paid, then given the breastfeeding norm, longer leaves would likely increase the percentage of leave time taken by men, especially if they are accompanied by increases in father's quotas.
- It turns out that moral incentives matter: the state sends signals about what is expected, so the Swedish system of officially giving fathers half the leave time and requiring them to allow mothers to use any part of "their" time, does in fact encourage fathers to share more in the leave time.
- Too much flexibility hurts gender equality: if men are really ready to "become fathers" then they need to stay at home for relatively long periods without a break. Governments can strengthen the incentives for fathers to stay at home for a period without a break by requiring fathers to stay at home for several months without a break in order to receive the parental leave benefits.
- Given the strong norms that exist for breast-feeding for 9-12 months, a fully individualized system is likely to meet great resistance from the population unless it is implemented together with an increase in the total leave time to 18 months.

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# Recommendations of the European Commission on Work-Life Balance

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## **Keywords**

participation of women in employment, pre-school care, parental leave

## **Abstract**

Although women's participation in employment is relatively high in the Czech Republic, it is amongst the lowest in the EU where women with small children are concerned. This has adverse consequences in the form of a slower career development for women, big gender pay gaps and a low return on investments in women's education. Insufficient capacity of pre-school establishments also plays a part in the low participation of women in the labour market. The European Commission therefore recommends within the framework of the "European Semester" that the Czech Republic considerably increase the availability of affordable and quality childcare facilities and services.

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## **1. Recommendations of the European Commission within the framework of the European Semester**

Since 2011, the European Commission has annually published a number of recommendations to the member states in the framework of the "European Semester". The recommendations stem from an analysis of the reforms carried out by the member states and are based on the underlying documents provided by the member states themselves as well as the European Commission's own investigation and gathering of data.

The European Semester was introduced in 2010 in response to the economic crisis. The crisis has shown the need for strengthening of economic governance at the European level and a better co-ordination of policies among the member states. A decision was made to harmonise the schedules and procedures for coordination of economic policies that had previously been

applied independently, into a single integrated process. This made it possible to simplify the process of coordination, better align the goals of the national budgetary policies and the growth and employment policies and, at the same time, take into consideration the goals set by the member states within the EU. Furthermore, the supervision and coordination framework was extended to broader macroeconomic policies. In terms of budget, a new budgetary timeline was introduced for the euro area.

The European Semester starts at the end of the year with the publication of the Annual Growth Survey which contains growth priorities for the upcoming year. In the first half of the year the European Commission analyses the situation in the individual member states, the observance of fiscal rules and the presence of macroeconomic imbalances (for example, competitiveness in the financial sector, etc.). The Commission also monitors that the member states work towards improving the situation in areas such as employment, education, innovations, and that they take climate-related and poverty-reducing measures in accordance with the Europe 2020 long-term growth strategy. On the basis of this thorough analysis, the European Commission issues in May or June a proposal for measures for each member state to improve its economic policy. The European Commission always thoroughly discusses the recommendations provided with the member states concerned. The final formulation of the recommendations is approved by the European Council at the end of June and it is formally approved by the Council of Finance Ministers at the beginning of July.

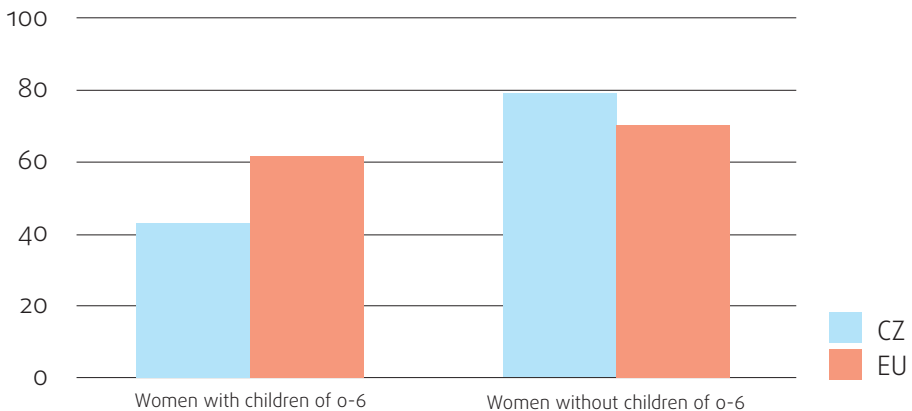
In relation to the Czech Republic, the European Commission formulated recommendations in seven areas in 2014. In the area of employment, the Commission identified the low employment of women with young children as one of the main issues and recommended that the Czech Republic should “increase considerably the availability of affordable and quality childcare facilities and services, with a focus on children up to three years old”. Other recommendations were related to the budgetary policy, tax system, pension system, employment services, education, business and public administration.

## **2. Participation of mothers with young children in employment in the Czech Republic**

In general, Czech women work more than women in the EU but the reverse is true for those who have young children. The overall employment rate of women is relatively high in the Czech Republic. In 2012 it reached 79% for women aged 20-49 years who do not have children up to 6 years of age (i.e. have older children or do not have children at all), which is high above the

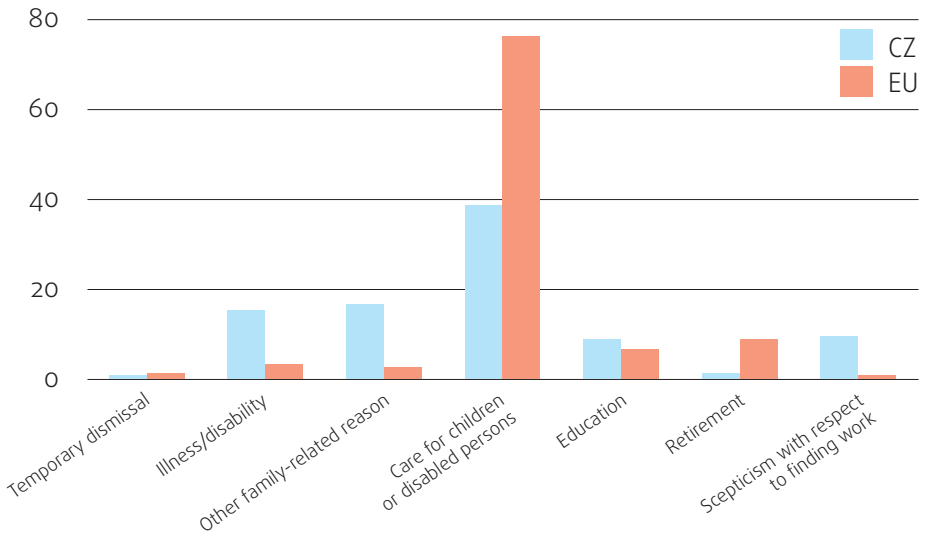
EU average (70%). On the other hand, the employment rate of women with a child up to 6 years old had dropped to 43%, compared with 60% in the EU (see Graph 1). Thus, the impact of maternity on women's employment, measured as a difference between the employment rate of women aged 20-49 years with children up to 6 years old and women without such young children is the largest in the EU – almost 40 percentage points. The same difference in employment is revealed when we compare mothers of children aged 0-6 and mothers of children 6-12 years old. Once these children reach school age, women's employment rapidly increases.

*Graph 1: Employment rate in women aged 20-49, 2012*



The above facts are corroborated by surveys which have revealed that child-care is the main reason for inactivity on the labour market, a reason far more important than for women in the EU. While three quarters of women in the Czech Republic indicate care for children or disabled family members as the reason for their non-involvement, the figure in the EU is less than 40% and the reasons for absence from the labour market are much more diverse (see Graph 2).

Graph 2: Reasons for inactivity in women aged 25-49 (in percent, 2013)



### 3. Reasons for low employment of mothers with young children

Parental leave, which is unusually long in the European context, enabling women to stay with children at home until they reach 4 years of age, is one of the reasons for the low involvement of women in the labour market. While women have the option to shorten their parental leave to two years, most of them stay at home with children at least until they reach three years of age. Many women use this option on the basis of their own choice.

However, the low employment of women with young children is also due to a lack of kindergartens and nurseries. Some women would prefer an earlier return to employment if they could place their child in a suitable establishment of pre-school care. According to information of the Czech Statistical Office, approximately 12% of women with four-year old children who are outside employment would wish to work. At the same time, according to Eurostat figures, 16% of inactive women indicate unavailability of childcare as the reason for their absence from employment.

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# Balancing private and work life: the views of European equality bodies

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## **Keywords**

equality bodies, Equinet, work-life balance

## **Abstract**

Equality bodies, national institutions mandated to promote equality and assist victims of discrimination, have a role to play to promote work-life balance. Equinet, their network at the European level, collected the experience of 15 equality bodies. This paper presents the issues addressed in the work of equality bodies on work-life balance, the change pursued, the actions taken by equality bodies, the factors that facilitate the work of equality bodies and barriers that block it. It also suggests areas for future work both for equality bodies and for policy makers.

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Equinet – the European Network of Equality Bodies; in its activities to support the work of the members, 41 equality bodies from 31 countries, Equinet published a *perspective* “Equality bodies promoting a better work-life balance for all” in 2013<sup>1</sup>.

This Equinet *perspective* is based on a roundtable discussion of the Equinet Working Group Policy Formation on the work of equality bodies on work-life balance and on a survey of Equinet members. The *perspective* was then conceptualised and drafted by Equinet Board Advisor Niall Crowley.

The study elaborates the experience of sixteen equality bodies from fifteen countries: Austria, Belgium, Croatia, Denmark, Finland, France, Hungary (2), Ireland, Latvia, Malta, Portugal, Romania, Serbia, Slovakia, and Slovenia. It aims at supporting equality bodies in taking up work on work-life balance and to strengthen their contribution through peer learning on progress made by other equality bodies.

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<sup>1</sup> Equinet. *Equality bodies promoting a better work-life balance for all*. 2013.

This paper's content is fully derived from the Equinet *perspective* on "Equality bodies promoting a better work-life balance for all" in 2013 and the original analysis by Niall Crowley. For the purposes of the Conference on Work-life balance organized by the Public Defender of Rights, it becomes relevant to share some findings of the perspective in terms of:

- issues addressed in the work of equality bodies;
- change pursued by equality bodies;
- actions taken by equality bodies;
- factors that enable the work of equality bodies and barriers that block it;
- areas for future work.

## 1. Issues addressed in the work of equality bodies

The main issues identified from the work of the equality bodies on work-life balance relate to discrimination, gender mainstreaming, culture, workplace practice, care infrastructure, and diversity.

Discrimination includes pregnancy-related discrimination, but also discrimination in connection with adopting working arrangements for work-life balance: denial of rights in access to leave arrangements or in access to flexible working arrangements. As in most areas of work of equality bodies, most equality bodies responding to the Equinet survey highlight significant levels of under-reporting of these different forms of discrimination. This is true even though, in some instances, equality bodies dealt with a significant level of casework on pregnancy-related discrimination.

**Gender mainstreaming work** by equality bodies focuses on two areas: design of statutory leave arrangements (in particular aiming at incentives for an increased role of fathers in caring activities) and labour activation measures (aiming at facilitating reconciliation of work and family life).

Equality bodies have also challenged the **culture countering** work-life balance, in particular gender stereotypes that assign gendered roles to women and men, both at home (unequal sharing of caring, housework and paid work) and in the workplace (workplace cultures that make it difficult for men in particular to request flexible working arrangements or to take advantage of statutory leave provisions).

Workplace practices have been promoted and supported to offer flexibility to employees to balance work with caring responsibilities or with other needs.

Equality bodies have also challenged limitations in the development and provision of care **infrastructure**. This is particularly true where the demand for services for children (or other family members) exceeds the supply or where the costs are exorbitant.

In relation to **diversity**, equality bodies have raised the issue of taking into consideration the diversity among those with caring responsibilities and among those who need access to flexible working arrangements in the design of leave arrangements, flexible working arrangements and supports. This diversity includes social class/socio-economic status differences (and the possibility to afford the decrease in income that comes with certain flexible work arrangements or the costs of care services); gender differences (with household choices being dependent and reinforcing gender pay inequalities); age differences (and the need expressed by some older people for flexible working arrangements in the period prior to retirement); religious differences (requiring accommodation for their religious obligations); disabilities (requiring reasonable accommodation of individual needs to enable participation in the workplace) and finally sexual orientation differences (with the needs of lesbian, bisexual, and gay employees to have access to leave arrangements that are available for same-sex couples).

## 2. Change pursued by equality bodies

Equality bodies seek to achieve change through their work on reconciliation of work and family life and work-life balance. This change can be at different levels, pursuing different objectives and using different levers.

The change sought can be at societal level (change of culture), institutional level (change of practices in the workplace, policies and legislation), household level (change in sharing of housework and caring responsibilities) and individual level (redress for discrimination).

The equality bodies identify six different **change objectives** for their work on these issues. To decrease discrimination, reduce gender stereotyping and advance gender equality, and also to change employment practices and increase access to the labour market for those with caring responsibilities. And, finally to encourage households to reconsider the distribution of paid and unpaid work.

In order to achieve such changes, equality bodies mainly use equal treatment laws and the promotion of role model organisations. Awareness-raising and the gathering and presentation of evidence of discrimination and inequality are an additional important stimulus for change.



## 3. Actions taken by equality bodies

### 3.1 Casework

Discrimination and related legal casework is a common and significant focus for action on work-life balance by equality bodies.

High levels of pregnancy and maternity related discrimination have been reported. To this, we can add discrimination reported against people likely to seek flexible working arrangements, who have taken up flexible working arrangements or who are taking up and/or returning from leave arrangements.

Discrimination is also highlighted in relation to failure to make flexible working arrangements available to an employee with caring responsibilities and unfair treatment at work due to family responsibilities. In certain situations and jurisdictions, these are and can be considered a form of discrimination.

Discrimination in relation to these issues that is addressed by equality bodies is not confined to the workplace. Equality bodies also report responding to discrimination by educational establishments in relation to these issues.

### 3.2 Support good practice

Equality bodies report three different ways in which they support good practice.

First, they provide **advice and training** to employers and social partner organisations on their obligations under equal treatment legislation in matters pertaining to these issues. Secondly, **diversity and the accommodation of diversity** is a focus for some action on these issues by equality bodies. Equality bodies have promoted flexible working arrangements and the development of workplace cultures that are favourable to this flexibility. Equality bodies have used funding schemes, training, guidance materials, peer learning opportunities and award schemes in pursuit of these goals. Thirdly, **cooperation and partnership arrangements** are used with key partners including employer organisations, trade unions, associations concerned with gender equality, and policy makers or Government Ministries.

Examples of this include the Equality Authority in **Ireland** providing funding to a large employers' association to develop a "Maternity and Parenting Toolkit" to address the difficulties experienced by women during pregnancy and maternity leave and to ensure the process is a positive one for employee and employer alike.

The National Commission for the Promotion of Equality in **Malta** implemented a pilot project on teleworking. This was preceded by a research initiative to analyse the utilization and sustainability of teleworking in different contexts. The pilot teleworking project then enabled a number of public officials to work some days per week from home over a twelve-month period. This was intended to demonstrate the benefits of this flexible working arrangement, to

address any barriers identified and demonstrate that teleworking is feasible. The project is now being followed up by the provision of training for managers to enable them to effectively manage teleworkers and to ensure sustainability for this practice.

### 3.3 Policy work

Equality bodies have engaged in policy work concerned with reconciliation between work and family life and work-life balance. This work has been focused mainly on the provision and design of statutory leave entitlements for caring work.

Some equality bodies have placed particular emphasis on securing statutory leave entitlements that engage men in caring roles and that make reconciliation of work and family life an issue for both men and women. This has included policy work to secure the provision of paternity leave, the right of mothers to voluntarily share a portion of maternity leave with their spouse or partner, and provision of paid parental leave.

The Institute for Equality between Women and Men in **Belgium** published a report on “Paternity Leave in Belgium: The experience of workers” which included recommendations to the authorities on the need to extend leave and make it more flexible and noted the absence of protection from dismissal in case of paternity leave.

The Equality Authority in **Ireland** made a submission to the Law Reform Commission in response to their consultation on legal aspects of family relationships. This called for the introduction of paternity leave and for the right of mothers to voluntarily assign a portion of their maternity leave to their spouse or partner.

The National Commission for the Promotion of Equality in **Malta** contributed to the development of a Teleworking Policy in the Public Administration with respect to their pilot teleworking project. Ultimately, the **Telework National Standards Order** came into force. This set out the general framework for teleworking in the private and public sectors.

### 3.4 Research

Equality bodies have conducted research and surveys to identify the nature and scale of pregnancy related discrimination and action based on this discrimination, establish the prevalence and type of flexible working arrangements made available by employers and explore time use by men and women and the sharing of caring, housework and paid employment between women and men. They also assessed the business case for reconciliation of work and family life and work-life balance.

Amongst other cases, the Institute for Equality between Women and Men in **Belgium** published a study on “Pregnancy at Work: Experiences and barriers faced by women workers in Belgium”. This estimated that the percentage of women who have been victims of pregnancy-related discrimination at 76.6%. Only 52.8% of the women who experienced some form of discrimination considered this to be a problem. This is related to the highly stereotyped roles of women and men.

The Equality Authority in **Ireland** has conducted significant research on pregnancy-related discrimination. This work was carried out in partnership with the Crisis Pregnancy Programme of the Health Service Executive and encompassed three reports in 2011: “Pregnancy at Work: A National Survey” concluded that unfair treatment was more common in organisations with few flexible working arrangements and without a formal equality policy and that women with higher earnings potential, better levels of education, and an employed partner are more likely to avail of the extended period of unpaid maternity leave and to receive top-up payments from employers while on maternity leave.

“Pregnancy Discrimination in the Workplace: Legal Framework and Review of Legal Decisions 1999-2008” provided a detailed profile of the characteristics of the women who experienced the 54 examined cases. “Pregnancy and Employment: A Literature Review” brought together evidence from national and international sources on pregnancy discrimination, the health consequences of working during pregnancy and the impact of child-bearing on women’s future careers and earnings. The reviewed research made it clear that public policy makes a difference.

The Commission for Equality in Labour and Employment in **Portugal**, the Equality Authority in **Ireland** and also the Institute for Equality between Women and Men in **Belgium** published research on gender and time use.

The Equality Authority in **Ireland** explored the business case for work-life balance in “The Business Impact of Equality & Diversity: The international evidence”.

### 3.5 Communication work

Effective communication about reconciliation of work and family life and work-life balance has been found to have special importance for equality bodies, where under-reporting of pregnancy-related discrimination is prevalent, or there is limited provision of flexible working arrangements by employers and specific barriers inhibit take-up of flexible working arrangements, particularly by men.

Widespread gender stereotyping influences the choices made by women and men and, ultimately, the sharing of paid work, care and housework within

households. Communication to challenge stereotypes and to make their implications visible is seen as important.

The Defender of Rights in **France** sought to raise awareness of both employers and those vulnerable to pregnancy-related discrimination through the publication and dissemination of the leaflet “Pregnancy without Discrimination”.

The Institute for Equality between Women and Men in **Belgium** conducted an awareness campaign on pregnancy-related discrimination. This showed the bellies of a pregnant woman and of a fat man accompanied by the slogan “Is a pregnant woman less productive than a man?” and the charge-free phone number of the Institute.

The Commission for Equality in Labour and Employment in **Portugal** organised a national campaign to promote work-life balance among employees and employers. This lasted ten days and included a TV advertising spot, a radio advertisement and ten radio programs with testimony from people and companies about using work-life balance arrangements.

The Equality Authority in **Ireland** published “An Introduction to Gender Equality Issues in the Marketing and Design of Goods for Children” in 2007. This established the need to challenge stereotyping from an early age in identifying how the marketing of toys reinforced gender stereotypes that ultimately shaped views about the gendered division of housework and care.

## 4. Factors that enable or barriers that impede the work of equality bodies

### 4.1 Barriers

Under-reporting emerges from the Equinet survey as a significant barrier to the scale and quality of the work of equality bodies on reconciliation of work and family life and work-life balance issues. All the equality bodies responding to the survey, bar one, report significant levels of under-reporting of pregnancy-related discrimination. Fear of victimisation is identified as a key cause of this phenomenon.

A number of equality bodies point to the lack of human and financial resources as the main barrier to work on work-life balance.

In the current context of financial and economic crisis and high levels of unemployment, equality bodies report that social partner organisations and individual employers can be uninterested in taking action on reconciliation of work and family life. In parallel, fiscal consolidation measures have impacted negatively on the supply of public sector care services.

The arena of private or family life can be seen as being beyond the mandate of the equality body or any statutory intervention. This can limit action by the equality body on key issues relating to the distribution of paid work, care and housework within households. However, it was noted that this area can be addressed indirectly by challenging stereotypes.

## 4.2 Enabling factors

Equality bodies note that the standing accorded to them by key stakeholders and by the general public is an influential factor in the nature and impact of their work. The status of their recommendations or findings and the reputation of the supports they provide are key factors in enabling equality bodies to achieve change.

Four equality bodies report that their work is to some extent driven by a mandate that explicitly includes, alongside the grounds of gender, reference to protected grounds such as family status, parenthood, or a mandate to harmonise work and family life.

Statutory obligations on employers in relation to flexible working arrangements and access to these arrangements influence the capacity of equality bodies to make an impact.

## 5. Looking forward

The findings of the Equinet **perspective** “Equality bodies promoting a better work-life balance for all” allows us to draw some conclusions suggesting ways of moving forward both for equality bodies and for policy makers.

### 5.1 Equality bodies

A number of equality bodies have developed a significant body of work on reconciliation of work and family life and work-life balance. They could usefully serve as role models to support a wider focus by other equality bodies.

Equality bodies are challenged to develop their focus on these issues given their centrality to advancing gender equality, in particular, and equality on the other grounds of discrimination.

The structural nature of gender inequality is a focus for action on reconciliation of work and family life by some equality bodies. Equality bodies could usefully develop initiatives that seek to advance gender equality and equality on the other grounds, and that address the structural nature of inequality.

Equality bodies could usefully re-examine their work on these issues and the manner in which their work might best contribute to such a change. This would include a review of the goals that guide their work on these issues,

exploration of how best to address the underlying causes of the discrimination they seek to combat in this area, and an assessment of the most effective combination of legal, policy, communication and practice support actions that they could deploy to achieve their goals.

## 5.2 Policy makers

Policy makers could usefully engage equality bodies in the planning and implementation of policies and programmes to support reconciliation of work and family life and work-life balance at the national and European Union levels.

Legal duties of employers to consider or make accommodations for reconciliation of work and family life and work-life balance could be explored, developed and implemented. These obligations have been found to offer valuable levers for change for equality bodies in advancing gender equality. Such obligations would build on the evident business case for such flexibility.

Policies and programmes to support reconciliation of work and family life and work-life balance could be further developed and enhanced. Significant gaps in these policies and programmes are evident from the work reported by equality bodies on these issues. Statutory leave provisions, flexibilities in the workplace and care services could be a focus for this further development. Reviewing the positive contribution of current policies and programmes to gender equality, the elimination of gender stereotyping, equality between women and men in the sharing of caring responsibilities and equality on other grounds could be the focus for their enhancement.

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# Portuguese national campaign for promotion of the work-life balance

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## **Keywords**

work-life balance, gender equality, parental leave, campaign

## **Abstract**

The Work-Life Balance can be defined as the relationship between the amount of time and effort expended on work and the amount expended on other aspects of life, such as the family. Time to Have Time was the slogan of a 2013 Portuguese campaign to promote gender equality and work-life balance in Portugal. After brief contextualization, this article describes what has been done lately in Portugal to promote gender equality and work-life balance, and describes the relevant campaign.

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## **1. Work-life balance as a women-and-men issue**

The distribution of tasks within the family is still influenced by established gender roles: men are more likely to spend more hours in paid work, while women spend longer hours in unpaid domestic work. Men in OECD countries spend 131 minutes per day doing unpaid work, women spend 279 minutes per day cooking, cleaning or caring. This average difference of approximately 2.5 hours per day conceals many disparities among countries.

In Portugal, men spend 96 minutes per day cooking, cleaning or caring, lower than the OECD average of 131 minutes and less than a third of the time spent by Portuguese women, who spend 328 minutes per day, on an average, in domestic work, one of the highest differences in the OECD<sup>1</sup>.

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<sup>1</sup> OECD. *Better life index 2012*.

## 2. Achieving gender equality and work-life balance

Reconciliation of work, private and family life is a concept recognised at the EU level as an important priority for achieving gender equality in the labour market. This cannot be achieved without increasing female participation in the labour market and at the same time promoting sharing of caring responsibilities between women and men.

The work-life balance has become an increasingly prominent theme in labour market discourse and policy-making both in the EU and in the OECD. This is based on multi-dimensional reasons including personal, social and economic factors. When discussing the work-life balance, it is also important to consider four important factors that cannot be disconnected from the work-life balance subject: the decreasing fertility that countries are facing at this moment<sup>2</sup>, gender equality, the ageing population and also health and safety factors.

A lot has been written and said about the work-life balance, but an efficient recipe is still far away. However, it is quite obvious that promoting family-friendly policies and working conditions, which enables fathers and mothers to balance their working hours and their family responsibilities and assist women in participating more in private and public sector employment, is part of the key solution.

A recent document from OECD<sup>3</sup> recommends that a whole-of-government approach and means such as appropriate legislation, policies, monitoring and public awareness campaigns, amongst other things, be employed to encourage members to promote family-friendly policies and working conditions which enable fathers and mothers to balance their working hours and their family responsibilities and facilitate women participating more in private and public sector employment by:

- designing tax-benefit systems so that both parents have broadly similar financial incentives to work;
- securing the availability of and access to affordable good-quality early childhood education and care as well as affordable long-term care for other dependants including, for example, disabled children or elderly relatives;
- providing employment-protected paid maternity and paternity leave for working mothers and fathers;
- encouraging working fathers to take the available care leave, for example by reserving part of the parental leave entitlement for the exclusive and non-transferable use by fathers;

2 EUROSTAT – data for the period 2000-2006.

3 *Recommendation of the Council on Gender Equality in education, employment and entrepreneurship – adopted on 29 May 2013 – Meeting of the OECD Council at Ministerial Level*



- providing incentives to fathers to use flexible work entitlements, promoting a more temporary use of part-time work among men and women, providing incentives for women to participate for more hours in the labour force, and raising awareness of gender stereotypes to encourage more equal sharing of paid and unpaid work (household responsibilities) between men and women;
- ensuring that all parents can participate in the labour market regardless of their partnership status, providing ample employment supports to single parents;
- ensuring that policies that address the problem of unemployment do not discriminate either directly or indirectly against women;
- improving employment conditions and access to social support for informal workers, especially those in the most vulnerable categories such as home-based and domestic workers.

### **3. Parental leave and pre-school childcare enrolment in Portugal**

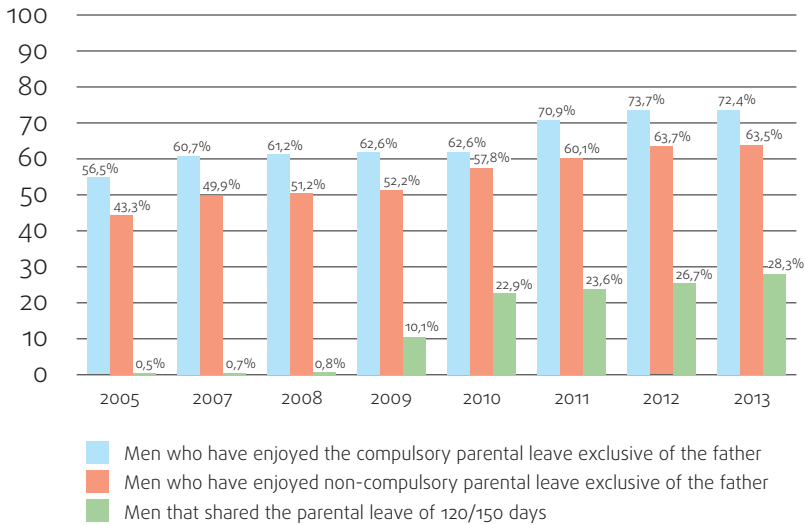
In an attempt to improve the work-life balance, in 2009 Portugal introduced a parental leave reform that has helped both mothers and fathers to spend more time with their newborn children, as well as promoting gender equality through financial incentives to share parental leave.

Subsequently, there has been a development in recent years in the use of parental leaves, by increasing the use of parental leaves exclusive of the father and the parental leave shared between the mother and father. The percentage of men that shared the parental leave of 120/150 days increased from 0.5% in 2005 to 28.3% in 2013<sup>4</sup>.

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<sup>4</sup> Source: Portuguese Informatics Institute.

Graph 1: Developments in the use of Parental Leave, 2005-2013 – (% in the total of women’s leaves)



It is also important to mention pre-school childcare enrolment that has tripled in Portugal in the last decade and now stands at around 65%, while the OECD average is 58.2%.

#### 4. Portuguese National campaign for the promotion of work-life balance

Bearing in mind the importance of promoting a work-life balance and the imperative need to strengthen policies, strategies and measures enabling professional development of people, without questioning roles within the family, and also the perception that reconciliation of professional standards with domestic and family responsibilities constitute one of the greatest challenges of modern times, for both men and women, in October 2013 the Portuguese Commission for Equality in Labour and Employment launched the campaign Time to Have Time.

Women are as much part of the labour market as men. Juggling professional demands and domestic responsibilities is one of the greatest modern-day challenges for both men and women. When corporate management is committed to striking a balance between work and family, it becomes possible

to contribute to the promotion and retention of the best talents and to the improvement of professional performance.

This commitment is not a liability, but rather an investment driving corporate productivity and sustainable competitiveness. Equitable sharing of family and household chores between men and women is essential to achieve a better balance between work and the family. Reconciling professional and family life is taking Time to Have Time.

The main goal of the campaign, composed of a video, posters and flyers, was to raise awareness about aspects of the work-life balance. It was also an opportunity provide information about Portuguese instruments for reconciling professional and family life provided by the Labour Code, such as:

- sharing parental leave by the mother and father (article 40);
- extended parental leave – either parent can take 3 months’ leave (article 51);
- time off for the father to accompany the mother to prenatal visits to the doctor (article 46 (5));
- grandparents’ right to take time off work to assist in care for an under-school-age grandchild (article 50);
- justified absences to take part in school meetings up to four hours per trimester for each child (article 249 (2)(f));
- up to 15 justified absences per year for pressing, indispensable assistance in case of illness or accident of a family member (article 49 (2));
- organization of a flexible or part-time schedule for workers with children up to 12 years of age (articles 55 and 56);
- the option of having a telework scheme with connections to information and communication technologies (articles 165 and seq.).

Moreover, examples of good practice for promoting the reconciliation of professional and family life that can be adopted by employers include:

In relation to forms of organizing the work schedule:

- a flexible or adaptable work schedule;
- working 8 hours without a lunch break (reduced working hours);
- a part-time job schedule at the worker’s initiative with the possibility to be reversed;
- condensed working hours for the purpose of reconciliation;
- hour bank working system for the purpose of reconciliation;
- shift and/or rotating schedules according to reconciliation needs;
- working from home;
- mobile office;
- telework;

- meetings through videoconference;
- establishment of a time limit for scheduling meetings.

Concerning parenthood protection and family assistance:

- providing information on paternity rights;
- hiring workers to replace workers on parental leave;
- establishment of specific measures to reintegrate workers after a period of extended parental leave.

Regarding social benefits and financial assistance to workers and their families:

- own social equipment to support disabled dependents (e.g.: nursery, kindergarten, holiday camp and retirement homes);
- protocols with external entities and/or financial assistance for the payment of care, education and wellbeing services;
- baby-sitting services during trips or overtime work;
- protocols with companies to ensure children's transport;
- public information on the existing resources in the area of the organization and/or residence for the purpose of reconciliation (ex.: nurseries, retirement homes);
- free parking or parking at affordable prices;
- access to health services in the premises of the organization or outside them.

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*Recommendation of the Council on Gender Equality in education, employment and entrepreneurship – adopted on 29 May 2013 – Meeting of the OECD Council at Ministerial Level.*

# Parental Rights in Austria

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## Keywords

work-life-balance, parental rights, Austria, specialized legislation, case groups

## Abstract

This paper briefly presents the existing parental rights and legislation in Austria and case groups concerning this topic that were analysed by the Ombud for Equal Treatment Austria. It deals exclusively with the topic of work-life balance for parents or more generally, employees who care for (non-handicapped) children. It does not include topics related to work-life balance in connection with caring for elderly or ill persons or combining other private interests with professional needs. Other legal regulations are related to this sphere.

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## 1. Frame conditions in Austria

Historically, there exists a strong catholic influence in Austria. Secondly, the major influence of the “Social Partnership” has been characteristic of the political situation since World War 2, which means deals must be achieved between the socialist and the conservative parties on all the important questions related to society – e.g., wages, education policy, trade unions, and so on. It could be stated that, in the decades after World War 2, nearly all the important political questions were negotiated between these two political blocks in Austria in a consensus-orientated atmosphere. Both of these background conditions promote traditional gender roles: The mother as the main caring person for children, the male breadwinner model, few public child-care facilities, etc. All of this has come into focus within the last decades and there have been a great many changes in these traditional structures; nevertheless, their impacts are still felt in Austria.

Some facts and figures illustrate this<sup>1</sup>: The labour market participation of women increased from 61.2% in 2002 to 67.3% in 2012; this includes women

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<sup>1</sup> All figures from Statistik Austria.

aged from 15 to 60. Part time rates in 2013 show that nearly half of the working women, exactly 45.5%, but only 10% of working men are employed in part time positions. Part-time contracts for men have also increased in the past few years, but are still very low compared to those for women. Parental leave days that were taken by men increased from 1.7% in 2002 to 4.7% in 2011 – this is not really an encouraging increase and shows that parental leave still is a predominately female domain in Austria.

20.8% of children under three years of age are in external child care. Thus, this rate is still quite low and reflects the great impact of the image of the mother on the one hand, and also the lacking infrastructure, because new child-care institutions are still being built slowly in Austria, especially in rural regions.

## 2. Specialised legislation in Austria

### 2.1 Parental Leave Act

The main act dealing with parental rights in Austria is the Act on parental leave, which includes regulations on maternity protection. The most important maternity protection regulations are the following: The prohibition of certain activities during pregnancy, for example carrying heavy objects, working with dangerous or harmful material, and night work and overtime hours are also forbidden during pregnancy. Another factor is the “absolute prohibition to work” for new mothers from two months before birth to two months after birth. New mothers are protected against dismissal from the moment of announcing their pregnancy to the employer until four weeks after returning to their job and all rights must be guaranteed for them after returning to their job, including rights that came into force during the time of absence of the mothers from the workplace.

The same act also contains the regulations concerning parental leave for both parents. Parental leave can be taken until the child reaches two years of age, where the duration is left to the free choice of the parents, with a minimum duration of three months. There is also a dismissal protection for parents on parental leave until four weeks after returning to the workplace. Parents can alternate their parental leave, but only one parent can take parental leave at any given time. Income during parental leave (and also during maternity protection) is paid by the state, not by the employer. This, by the way, brings a great many additional problems in Austria, because the duration of this so called “children’s money” is not adjusted to the duration of parental leave. After parental leave the contract of the returning employee comes into force again, which means that the returning parent must be given the same position

and tasks as before leave, although this is often a problematic situation. EU law, specifically the Directive on parental leave, says “the same or similar”.

## **2.2 Parental part time**

Another regulation concerning parental rights (although written in the same Act) has existed in Austria since 2004 – called “parental part time”. The right to claim parental part time is bound to some requirements, which are: The company the parent works for must have more than 20 employees, the employment relationship must have existed for 3 years at the beginning of parental part time, whereas times of maternity protection and parental leave count are included in these three years; and the parent must live in the same household with the child or have custody of the child. Parental part time can be taken until the child is 7 years of age, but can be taken only once per person. Dismissal protection also applies during parental part time (to be specific, this begins when parental part time is claimed), lasting until four weeks after the child reaches four years of age. After that, dismissal protection applies only “because of discrimination”, so that dismissal is not forbidden generally, but only for reasons of discrimination. This is not easy to prove in a legal procedure.

Both parents can take parental part time, alternating or also at the same time (the last aspect is quite new). There is free choice for parents to decrease their working hours or just to change their working hours. During parental part time, the former position and tasks should stay the same as previously. In cases of disagreement with the employer, there is an official procedure beginning at the workplace and ending before the labour court, but action must be initiated by employers. Judges have to balance the interests of the parent against the interests of the company in their decision.

## **2.3 Equal Treatment Legislation concerning parental rights:**

An Equal Treatment Act is in force in Austria, which also includes the “family status” as a field of protection against discrimination, according to EU law. The “fact of having children” was explicitly added to the Equal Treatment Act by an amending law in 2013.

### 3. Case groups

The following passages show the results of an internal study by the Austria Ombud for Equal Treatment<sup>2</sup>, where 50 cases with a connection to work-life-balance were analysed in 2010 to 2012. The main aim of the analysis was to identify case groups with a type of typical discrimination in special situations connected with children or family duties.

#### 3.1 Cases concerning pregnancy

This case group includes cases concerning pregnancy. A typical discrimination in this situation is dismissal or other forms of ending the contract such as not renewing a terminated contract even if this was already promised or even fixed. Ending of a contract can happen only in cases where maternity protection is not in force, as it is the case for example in terminated contracts or during the probation period.

If female employees are under maternity protection, typical discrimination after announcing pregnancy in the workplace is bullying and/or a deterioration of working conditions. We also found that sometimes pregnancy is regarded as lack of loyalty by managers and discrimination gains a very personal component in these cases.

#### 3.2 Parental leave

Group b. contains cases of discrimination connected with parental leave. Here we found some interesting gender differences. Men are often discriminated against immediately after announcing their parental leave, whereas women more often encounter discrimination after returning to work from parental leave.

This could be because male employees are not expected to announce parental leave and are punished immediately if they do so. There were some cases where male employees were dismissed immediately after announcing their intention to take parental leave – which is illegal, but still hard on the men concerned.

Companies are obviously used to absence and parental leave for women and thus there were only a few cases of women who were discriminated against before taking parental leave; more often, their problems began when they returned to work or shortly beforehand.

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<sup>2</sup> Wagner, S. *Diskriminierung auf Grund des Geschlechtes, "insbesondere unter Bezugnahme auf den Familienstand oder den Umstand, ob jemand Kinder hat"*. Internal study. 2013.



### **3.3 Parental part time**

The typical discrimination of parents in parental part time includes workplace bullying, worsening of working conditions and degradation and dismissal after ending parental part time. Degradation may have occurred quite often, because we had many cases with male employees in management positions taking parental part time.

### **3.4 Part time beside parental part time**

Another case group we could identify were cases of employees working part time other than parental part time. This case group was represented by women only, which is not surprising when we recall the part time statistics for women. All the women had multiple family responsibilities, for example more than two children or a handicapped child.

The main field where they felt discriminated against consisted in their working hours; they were urged to work more hours than those fixed. Their family duties were not accepted by employers or bosses. One example was a woman who received great understanding from her superior when she told him she had to leave on time because she had an appointment to have her car repaired; however, the same person showed no understanding when she wanted to leave on time to visit a doctor with her handicapped child.

## **4. Conclusions**

Which conclusion can we draw from the presented facts and especially the described cases? The most important ones are: From the viewpoint of the Ombud for Equal Treatment, the regulations concerning parental part time are helpful especially for men who want to take over family duties for some time. This regulation gives them the right to decrease their working hours, whereas women often already work part time prior to having children.

This regulation urgently needs legal improvements and accompanying measures, mainly to increase acceptance by employers. We noticed that employers feel restricted in their entrepreneurial freedom by the regulation, which they are, of course, and therefore they do not want to accept it. However, there are other aspects of this regulation that should be improved too; especially, the requirements are too strict in our opinion, so that many employees in Austria cannot make use of parental part time.

In addition, it is very important to eliminate legal disadvantages affecting part time work; the European Court of Justice has done this for several decades. On the other hand, the necessity of limiting fulltime hours should not be forgotten, to enable parents to work fulltime, at least when they want to

do so. This is of course a weighty political question. Employees with family duties must become the norm in companies; taking over family responsibilities by employees should be managed professionally, on a structural and not on a personal level.

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# Work-life Balance from the Perspective of National Legislation of the Slovak Republic

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## **Keywords**

work-life balance, flexible working arrangements, telework, job sharing/twin job, maternal leave and parental leave, project employment

## **Abstract**

The purpose of this contribution is to provide a basic understanding of the current legislation concerning the issues of work-life balance in the Slovak Republic. The contribution is divided into three parts according to the subject: 1) use of flexible working arrangements and work organisation in practice, 2) working time modification with respect to the needs of pregnant women and women and men taking care of children – sections 164 and 165 of the Labour Code, 3) agreements on works performed outside the employment relationship.

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## **1. Use of flexible working arrangements and work organisation in practice**

### **1.1 Part-time employment – Section 49 of the Labour Code<sup>1</sup>**

Generally, one can say that the standard way of performing work in Slovakia is employment, i.e. employment relationship with a set weekly working time up to the maximum of 40 hours per week (Section 85 (5) of the Labour Code). However, the current wording of the Labour Code enable the employer and the employee to agree a working time shorter than the set weekly working time in the employment contract (Section 49 (1) of the Labour Code in conjunction with Section 85 of the Labour Code).

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<sup>1</sup> Act No. 311/2001 Coll. the Labour Code.

## 1.2 Work from home and telework – Section 52 of the Labour Code

The possibility to work from home or telecommute represents a flexible solution reacting to the fast progress of the information technology in recent decades, which contributes significantly to the employees' balancing of the work and family responsibilities. This innovative organisation of work enables employees to work productively also outside the conventional office space or other workplaces. The main advantage of this for the employer is the reduction of job-associated costs, especially in terms of savings of money for rent, energy supply and office equipment. The employee's gains from this type of work include savings of the time associated with commuting and the possibility to organise work time according to his/her needs. Such work enables physically disabled persons to be employed and allows mothers on maternity leave to stay in touch with their workplace. Social isolation resulting from the lack of contact with his/her working group may represent a disadvantage for the employee.

The flexibility of the aforementioned types of employment follows from several reasons:

- the employee performs work for the employer under the terms agreed in the employment contract, but performs this work at home or in another agreed place (hereinafter referred to as "work from home") or (s)he performs it at home or in another agreed place with the use of information technology (hereinafter "telework") (Section 52 (1) of the Labour Code);
- the employee performs the given work in the working time, which (s)he organizes on his/her own (Section 52 (1) of the Labour Code);
- the provisions on distribution of the set weekly working time, uninterrupted daily rest time, uninterrupted weekly rest time and idle time do not apply to the employee, which enables the employee to independently regulate the working hours during a given day in a week.

In case of telework, the employer is also required to adopt suitable measures to secure a proper performance of work, e.g. to provide for, install and regularly maintain the software necessary for the performance of telework (except in cases where the telecommuting employee uses his/her own equipment), or ensure the protection of data being processed and used in telework (Section 52 (2) of the Labour Code). The duties of the employer also include the adoption of measures aimed at the prevention of isolation of the employee performing work from home or telework from the other employees, which enable the employee to be in touch with the other employees (Section 52 (3) of the Labour Code). Similarly to part-time work, the working conditions of a telecommuting employee or employee working from home must not disadvantage the employee vis-à-vis a comparable employee performing work at

the employer's premises (Section 52 (4) of the Labour Code), which introduces the prohibition of discrimination into these relationships.

### 1.3 Introduction of flexible working time – Sections 88 and 89 of the Labour Code

For the purpose of increasing flexibility in the performance of work, the Labour Code allows the employer to introduce **flexible working time** through a collective agreement or on the basis of agreement with the employees' representatives. Flexible working time allows even or uneven distribution of working time (Section 88 (1) of the Labour Code). Flexible working time offers the employee a possibility to freely dispose of the beginning and end his or her work shift. Flexible working time specifies a **basic working time** as a time period in which the employee is obliged to remain at the workplace (Section 88 (2) of the Labour Code). The second part of flexible working time is the **optional working time** which means a time period in which the employee is obliged to remain at the workplace in an extent necessary to work for the amount of operation time (Section 88 (3) of the Labour Code). The operation time represents the total working time that the employee is obliged to work within the flexible working time period determined by the employer (Section 88 (4) of the Labour Code), where this period may be a working day, a working week, a four-week working period or another working period (Section 88 (5) of the Labour Code). In any case, the length of the working shift while flexible working time is applied must not exceed 12 hours (Section 88 (6) of the Labour Code).

### 1.4 Job sharing/twin job – Section 49a of the Labour Code

**Job sharing** represents another form of employment. It is a work position where the employees working part-time organize their working time and job responsibilities associated with the work position by and between themselves (Section 49a (1) of the Labour Code). The prerequisite for job sharing is entering into a written agreement between the employer and the employee on assigning of the part-time employee to a shared job (Section 49a (3) of the Labour Code), where the employer is obliged to notify the employee in writing of the working conditions related to the shared job prior to execution of the agreement (Section 49a (2) of the Labour Code). This notice is also a part of the job sharing agreement. Subsequently, the distribution of working time and job responsibilities is a matter of agreement between the employees with whom the employer entered into the job sharing agreement. In the event of their failure to reach an agreement, these are set by the employer (Section 49a (4) of the Labour Code). The Labour Code also regulates the procedure in case an impediment to work occurs to one of the employees working in a shared job, the possibilities to terminate the job sharing agreement, and the process of termination of the shared job (for more

information see Section 49a (5) to (7) of the Labour Code and also other relevant provisions, e.g. Section 144 and Section 101 of the Labour Code etc.).

### **1.5 Working time modification at the employee's request – Section 90 (11) of the Labour Code**

Achieving work-life balance is further helped by the duty of the employer to allow the employee, at his or her request, for health or other serious reasons on his or her part, to suitably modify the set weekly working time or to agree on such modification with the employee in the employment contract under the same conditions. Therefore, the prerequisite for exercising this right is chiefly the existence of health or other serious reasons on the part of the employee (i.e. care for a close person) and subsequently requesting modification of the working time from the employer.

## **2. Working time modification with respect to the needs of pregnant women and women and men taking care of children – Sections 164 and 165 of the Labour Code.**

Pursuant to the applicable provisions of the Labour Code, the employer is obliged to consider the needs of pregnant women and women and men taking care of children when assigning employees to working shifts (Section 164 (1) of the Labour Code). The employer is also obliged to grant the request of a pregnant woman or a woman or man taking long-term care of a child below 15 for shorter working time or another suitable modification of the weekly working time, unless this is prevented by serious operational reasons (Section 164 (2) of the Labour Code). Furthermore, these persons (i.e. a pregnant woman or a woman or man a taking long-term care of child below 3 or a single man or a woman taking long-term care of child below 15) may be required to do overtime work only with their consent; being on call can also only be arranged on a basis of mutual agreement (Section 164 (3) of the Labour Code).

In this respect, it should be noted that the protection following from long-term care for a child is equally applied also to persons other than the natural parents of the child. This concerns employees (men and women) who have assumed substitute care of the child, i.e. care and guardianship pursuant to Sections 45 to 47 or pursuant to Sections 60 and 61 of Act No. 36/2005 Coll., on family (hereinafter the "Family Act"), or adoption pursuant to Part Four, Chapter Two of the Family Act (Sections 97 to 109 of the Family Act) or foster care pursuant to Sections 48 to 53 of the Family Act.

## 2.1 Maternal leave and parental leave

The terms “maternal leave” and “parental leave” belong to the basic concepts of labour law in the “impediments to work on part of the employee” category (Section 141 of the Labour Code). Generally, they may be characterised as a time period when the employer is obliged to excuse temporary non-performance of the employee’s (male or female) working duties under the employment contract, namely the employer is obliged to excuse the non-performance of the obligation to perform the agreed work in a set time at a given place that was agreed as the place of work. The above-specified duty of the employer corresponds with the employee’s right to its fulfilment, i.e. primarily to demand that the employer allows the interruption of the work and, subsequently, when the reasons for the interruption have passed, fulfils other related duties. These include for example the employee’s right to re-enter employment and be assigned to the same work position and workplace (Section 157 of the Labour Code), at least to the work specified in the employment contract (Section 47 (1)(a) of the Labour Code), unless the employer and the employee agree otherwise – Section 54 of the Labour Code).

The Labour Code entitles a woman to a 34-week maternal leave in relation to giving birth and taking care of the new-born child. A single woman is entitled to a 37-week maternal leave and a woman who gave birth to two or more children simultaneously is entitled to a 43-week maternal leave. A man is also entitled to a parental leave in relation to care about a new-born child in the same length, if he takes care of the new-born child (Section 166 (1) of the Labour Code).

In respect of the care of a new-born child, the employer is obliged to provide the woman or the man who request it with a parental leave in order to deepen the care. The parental leave is provided on request of the parent, a man or a woman, upon the end of the maternal or parental leave provided under Section 166 (1) of the Labour Code. Therefore, it can be concluded that the employee (male or female) may but does not have to go on parental leave under Section 166 (2) of the Labour Code and the employer must provide the employee who requested it and meets the stipulated conditions with parental leave. The duration of the parental leave is not precisely determined; rather, a maximum limit is set, which depends on the age of the child, where the general maximum limit is the child’s reaching three years of age (up to the date of the child’s third birthday) or child’s reaching six years of age if the child requires personal care due to long-term unfavourable medical condition. In that case, leave is provided in the extent requested by the parent, but it usually exceeds than one month (Section 166 (2) of the Labour Code). Insofar as parental leave under Section 166 (2) of the Labour Code was not taken within the limit stipulated therein, the Labour Code also permits that the employer and

the employee agree that parental leave will be provided until the child's fifth birthday or, if the child requires personal care due to long-term unfavourable medical condition, until the child's eight birthday.

### **3. Agreements on works performed outside the employment relationship**

Under Section 223 (1) of the Labour Code, the employer may, under extraordinary circumstances, enter into agreements with natural persons on works performed outside the employment relationship for the purposes of performance of the required tasks or providing for its needs, i.e. an agreement to complete a job, agreement to perform work and agreement on a temporary work for students. The Labour Code stipulates general and individual conditions for entering into such agreement in the Part Nine, specifically in Sections 223 to 228a of the Labour Code.

#### **3.1 Project employment**

The concept of project employment is not currently embodied in Slovak labour legislation. However, situations may arise in practice where it is not effective for the employer to hire an employee for an indefinite term to perform tasks which are not part of the employer's basic tasks within the performance of its activities. Therefore, if it is not effective for the employer under extraordinary circumstances to enter into an employment relationship with a natural person in order to perform certain tasks (e.g. potential projects), it is possible that the employer and the natural person enter into one of the above-specified agreements on works performed outside the employment relationship in a regime which applies to these agreements. In relation to project employment, performance of work as part of work from home or telework or the use of a fixed-term employment (Section 48 of the Labour Code) may be considered, i.e. for instance in cases of seasonal jobs or "campaign jobs", which require a substantial expansion of the workforce over a limited period of time. Under certain circumstances, part-time employment may also be used for the purposes of completing a project.<sup>2</sup>

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<sup>2</sup> Krišťáková, M. *Čo je projektové zamestnanie a ako ho právne upraviť? (What is project employment and how to regulate it from the point of view of law?)*. 2013.



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# Work-Life Balance – the Hungarian Experience

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## **Keywords**

social allowances, parental leave, kindergarten, part-time work

## **Abstract**

Despite the equality of parents in rights and obligations, mothers usually still play a greater role in childcare and, at the very least, their reintegration into the workplaces is more difficult. As the specific priorities of mothers are different, legislative methods should also be diverse. Some would like to get back to work as soon as possible, while others prefer to stay at home with their children. Pluralism dictates that regulations should support individual decision-making. This study evaluates mothers' options in the Hungarian legal system.

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To achieve a balance, a state of equilibrium is one of the most ancient policies; the approximately 5000-year-old text of the Old Testament decrees that we should work for six days and rest on the seventh (Ex 20; 9-10). Both work and not working are essential for us to remain human beings. Still, in reality one always finds that "work" and "life" are in opposition and, whichever one chooses, one misses the other. One of the most difficult tasks is to find a way in which one gets both life and work and not just one of them. Conditions seem to be even more difficult in relation to motherhood. This presentation evaluates the state's obligation in supporting individual decision-making.

States are likely to decide **instead** of the mothers whether they should stay at home or get back to their workplaces as soon as possible. As particular cases and individual motivations are different, a liberal state must respect the mother's decision and support it in every possible way.

One should not neglect historical heritage when evaluating the balance between "life" and "work". Like many other communist countries, Hungary attempted to achieve full employment from the mid-sixties; this was an economic nonsense. To this end, low retirement ages and long social allowances for mothers were introduced. As the state was the only employer, it did not

make any difference. Following the political transition, economic circumstances have changed but an allowance once given is difficult to withdraw. At least in the mid-nineties the Constitutional Court annulled the regulation that reduced the sum of the allowances that were granted to mothers staying at home with their children [Decision 43/1995. (VI. 30.) CC]. The State's task is not to **force** mothers to go back to work but to give real alternatives if they **feel like** going back to work. The question arises: how can the State support individual decision-making?

For those who choose "life", which in this context means not going back to work, the state grants social allowances. In the first two years, 70% of the average salary is granted but, after six months, this is limited in approx. 460 Euros per month. This sum of money is not a great deal, but seems to be enough to make ends meet. It is worth noting that, after a year, a mother is entitled to undertake occupation in addition to this allowance (naturally, she can have an occupation earlier but without the extra money). From 2 to 3 years the mother is still entitled to stay at home, the money is very little, it is more like pocket money, the main advantage of this period for the mother is that the employer cannot replace her in her position; he or she has to re-employ her when the allowance is over.

On the other hand, some mothers intend to get back to "work" as soon as possible. In their interest, the state has to provide places in kindergartens and nurseries for the children. The Ombudsman in his report in 2010 inquired into the availability of kindergarten places [1920/2010 CFR]. He found that the supply met the demand, i.e., there were more places than children to take care of but availability was a problem in smaller villages. Only towns of more than 10,000 inhabitants were obliged to operate kindergartens while this obligation was lacking in smaller settlements, causing difficulties for parents. The report was successful: the minister altered the relevant legislation. Another issue is provision of alternative jobs, like part-time work and telework. Similarly, the legislation allows a large variety of possibilities but employers have not abandoned the old myth, namely that an employee works at the workplace and does not work out of the workplace. Employers still think a reliable employee is always at his workplace, and they hesitate to provide an opportunity for telework and part-time work. Such forms of work are simply not popular with employers.

Finally, postgraduate courses can also help mothers with reintroduction into the sphere of work. In 2012 the Ombudsman conducted a general inquiry called the "Dignity of Labour". Within its framework, he examined postgraduate courses and he found that some of them were not open to mothers receiving social allowances. The ombudsman found this to be a dubious policy,

as postgraduate courses could help the reintegration of mothers into the labour market [2477/2012 CFR].

Working opportunities for women and mothers (parents) with small children received special attention as part of the project. The inquiry aimed at assessing the possibilities of part-time employment for mothers with small children in the public sector, the range of courses the labour centres organised for this specific group, the practice of labour recruitment and the relevant problems and practices in the private sector. The employment of parents with small children was found to be more difficult because of the lack of jobs, the rare possibility for non-typical forms of employment and the refusal by employers to adopt flexible working hours. One of the biggest obstacles to the employment of women and parents with small children was that they could not arrange for care for their children for the time they are at work. The employment rate of mothers with small children in Hungary was the lowest employment rate among the EU Member States in the occupation of mothers with children under 3 years of age (14 %). These circumstances had a great impact on employment opportunities of women and the obstacles hindering them in returning to work could violate their right to work. The Ombudsman requested the Minister for National Economy to pay special attention to improvement of the opportunities for women in the labour market<sup>1</sup>.

To conclude, I would like to stress the fact that individual preferences are different. In the case of motherhood, some prefer “work” others “life”; notwithstanding that “life” at home with a baby is much more like “work”. States cannot overrule personal decision-making in this respect. They should support both lifestyles.

To highlight the most important point: “life” and “work” are not in contrast. It is very tempting to choose just one of them and neglect the other. Yet my personal view rejects such a situation; I deeply believe that maintaining a balance adds the most to human dignity.

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# Balancing private and work life in Poland – the view of the Office of the Human Rights Defender

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## **Keywords**

Labour Code, parental leaves, part time work, flexible working hours, equality body

## **Abstract**

The article presents the basic work-life balance instruments provided by the Labour Code in Poland, which still encourage mothers to accept responsibility for taking care of a child. It also points to the lack of child-care institutions, which has the greatest effect on the situation of the mothers on the labour market.

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The basic act regulating employment – but also entitlements of parents – is the Labour Code, which applies only to workers employed through an employment agreement. Simultaneously, 80% of workers in Poland are employed through employment agreements or self-employed, while 1 in 10 workers in Poland has no formal agreement or is employed on the basis of a civil-law agreement<sup>1</sup>. Consequently, 1 in 10 workers in Poland has no access to the solutions provided by the Labour Code.

The Labour Code offers many work-life balance solutions but here I will focus only on the few of them: parental leave, part-time work, flexible working hours and telework.

Firstly, five different types of leave are associated with childbirth:

- maternity leave – 20 weeks of fully paid leave, 6 weeks of which may be used by fathers;

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<sup>1</sup> Social Diagnosis 2013. Objective and subjective quality of life in Poland, in *Contemporary Economics*, 2013, p. 131.

- additional maternity leave – 6 weeks of fully paid leave, which may be used by either of the parents;
- parental leave – up to 26 weeks of paid leave, which may be used by either of the parents or both of them;
- childcare leave – up to 36 months of unpaid leave, which can be used by either of the parents till the child reaches 5 years of age. A benefit of about 100 euro is available for the low-income families. If care is required for a child with disabilities, the childcare leave can be prolonged to up to 72 months and can be used until the child reaches the age of 18;
- extra paternity leave – 2 weeks of fully paid leave allocated only to fathers, which they can use until their child reaches 1 year of age.

Another solution provided by the Labour code considered as a work-life balance measure is part-time work. In Poland, 11% of employed women are part-time workers, compared to 5% of employed men (while in the EU 33% of employed women are part-time workers, compared to only 10% of employed men)<sup>2</sup>. Research shows that part-time work is not considered as to be a work-life balance measure by women in Poland – the main reason for being a part-time worker is that full time jobs are not available for them<sup>3</sup>.

Flexible working hours allow reconciliation of work and family life but are not widespread in Poland<sup>4</sup>. What is more, regulations on flexible working hours are rather limited, e.g., there is no regulation about the circumstances under which a request for reduced or flexible working hours has to be accepted by an employer.

Finally, the Labour Code regulates telework as work performed outside the workplace. The number of the teleworkers in Poland is extremely low<sup>5</sup>. This is because the employer is the one who has to provide the employee with all the telework equipment and there is no possibility of combining the telework with working in an office.

The system of parental leaves excludes mostly women from the labour market and still does not encourage fathers to take parental leave, even if this is possible under the provisions of the Labour Code. The additional leave which can also be used by fathers is still called “maternity leave”, even though it is available to both parents. The family benefit is also called a “maternity benefit”, even if the father receives it. In addition, a father is entitled to additional maternity leave or to parental leave only if the mother is also entitled – that

2 Source: Eurostat 2013. *Persons employed part-time – Total*.

3 The program *Good Climate for Family* by the President of the Republic of Poland, p. 17.

4 European Commission. *Flexible working time arrangements and gender equality – A comparative review of 30 European countries*, 2009, p. 69.

5 European Commission. *Flexible working time arrangements and gender equality – A comparative review of 30 European countries*. 2009, p. 26.

means the leaves are not available for father if the mother works on the basis of a civil-law agreement or has no formal agreement at all.

Overall, 91% of society approves of or mostly approves of reform of the Labour Code on annual parental leaves but, according to 58% of those surveyed, only a small number of fathers will use it and 1 in 5 is of the opinion that the reform will worsen the situation of young women on the labour market<sup>6</sup>. The main reason for the reform of family policy, including reconciliation of the work-life balance, is the low fertility rate. Tackling discrimination on the grounds of gender or increasing the number of employed women are a “side effect” – e.g., the main goal of the family policy of the President of the Republic of Poland is to increase the number of births but the recommendations include: equality on the labour market and promoting the responsibility of both parents for raising a child.

The role of the equality body is to include the discrimination context in the debate on family policy. The crucial point is to raise awareness among women who cannot imagine men as equal partners in taking care of their child and in dealing with housework. E.g., when the law on annual parental leave came into force on 1<sup>st</sup> April 2013, it provoked protests from mothers who gave birth in the first three months of 2013 and who were not included in the reform, so that their maternity leaves would be shorter. The name of the protest was the protest of “mothers of the first quarter of 2013” – no fathers were involved. Child-care obligations are still seen as women’s obligations only – it never occurred to any of the protesters that fathers would provide childcare if the one-year parental leave were available to them. Another example – during research conducted by the Office of the Human Rights Defender of the Republic of Poland women asked, what support they need in childcare, they did not mention more paternal involvement but they would welcome lowering the retirement age for women, so the grandmothers could take care of their children<sup>7</sup>.

Finally, it is worth mentioning that women in Poland do not actually have the possibility of going back to work as soon as they wish. One of the crucial obstacles is the inaccessibility of child-care institutions. Over 75% children aged 3-6 were attending nursery schools in 2013<sup>8</sup> but only 4.8% of children aged 0-3 were attending nurseries or children’s clubs<sup>9</sup>. The act on care for children under the age of 3 created several forms of day care, e.g. day care providers, but there were only 56-day care providers in Poland in 2013, who were taking care of 120 children<sup>10</sup>.

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6 Public Opinion Research Center. *Opinions About Annual Parental Leave*. 2013.

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# Work-life Balance – Data Sources

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## **Keywords**

family, work, dependent children, Labour Force Sample Survey

## **Abstract**

This paper deals with sources of data which allow to get a picture of the state of work-life balance. Aside from the information on what data can be used from what sources, we add a few notes on what may and may not be compared. The paper further deals with the types of households and describes some of the basic trends in the behaviour of Czech families. The age of the child is a very important factor, as is the importance assigned to education. People with better education are more likely to have a better job and higher salary – likewise, they are more likely to adhere to the traditional family patterns. In contrast, families with small children where none of the partners has a job or any kind of material security, or where there is only a single parent who is unemployed, are highly vulnerable.

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Labour Force Sample Survey serves us as the main source of data on families and, by extension, households. This survey has been monitoring the basic data on the labour market since 1993; one of its undeniable advantages is its international comparative nature (the Labour Force Survey is carried out across Europe). The social and economic situation of households is also studied as part of another international comparative survey, EU-SILC. Data from 2005 and onwards are available for the Czech Republic. Family bills are a source of information concerning the development of household living standards in the individual population groups. The national Census of the Population, Buildings and Apartments represents a specific source of data (the last Census took place in 2011). Its main value lies in that it enables us to study the regions in detail. Aside from this we can also rely on unilaterally defined surveys and research (e.g. the ad hoc module of the Labour Force Sample Survey of 2010 or the Generation and Gender Surveys of 2005 and 2008). When we attempt to capture the situation of Czech households, it is necessary to first define them. We differentiate between several types of households. As mentioned above,

the data on the households are obtained through sample surveys (the Labour Force Sample Survey, EU-SILC) and the national Census of the population, buildings and apartments. Households include information on family relationships. Depending on our focus, we distinguish dwelling households (persons living in one apartment) and households on common budget (according to the economic involvement of the individual household members). The latter type is more commonly used for statistical purposes. A census household consists of persons living together on the basis of their family or other relationships within a single household on common budget. It represents an elementary unit which is not divided any further. Four basic types of census households are distinguished:

- family household – two-parent family (a wedded couple or cohabiting partners, also called “de facto marriage,” with or without children);
- family household – lone-parent family (one of the parents with at least one child);
- multimember non-family household (two or more persons, related or unrelated, on common budget but not constituting a family household);
- household of an individual.

Census households are used to a minimum degree (household on common budget may compose of many census households).

We should always remember that census data must not be confused with data from sample surveys. In the case of family households, the important factors here include the age of the child (which clearly determines the economic activity of the parents), number of children (in relation to the age of the parents) and the relationship of the parents (the child may live with married or unmarried parents or with a single parent).

If we consider the median age at which people leave the parents' household, it is clear that it continued increasing from 1995 to 2006 for both genders. For men, it increased from about 24.5 years to 27 years, whereas for women it increased from 22 to 24.5 years. It has been stagnating since 2007. The median age of entering into a cohabitation of partners has also increased. For men it grew from 27 years in 1995 to over 30 years in 2013, whereas for women the age increased from 23.5 to 27 years in 2009. Subsequently, it slightly decreased for women, to 26.5 years. If we are interested in the rate of return of women to the labour market after giving birth to a child, the employment rate of women according to the age of their youngest child turns out to be the useful indicator. Four years of age represents a useful age limit for the youngest child – women are usually economically inactive until that time. This indicator shows whether and how much does the labour market discriminate again women because they are taking care of children. It is also interesting to compare this rate with the unemployment rate among men. The use of part-time job arrangements

by working mothers is also interesting, especially depending on whether the mother is raising the children alone or with a partner. International comparison is also important (concerning the possibilities and willingness of mothers to work part-time). The situation in the Czech Republic is that mothers (especially if single) cannot make use of part-time jobs. Mothers taking care of small children therefore return to the labour market only with great difficulty. The division of roles in households according to the age of the youngest child demonstrates that the traditional division of roles or role sharing is still dominant. What situations may arise?

- the mother and father are both employed (also related to part-time work);
- the father is employed, the mother is not (traditional notion of roles in the family);
- the father is unemployed, whereas the mother is employed (this model practically doesn't exist in the Czech Republic);
- neither the father nor the mother are employed (this leads to various social issues, including poverty and social exclusion).

The model where in families with children under three the man is employed, whereas the woman stays at home, has remained dominant in the past 20 years without any significant changes (the model involving both parents being employed is much less common); in a clear majority of cases of families with children between four and six years of age, both parents are employed. The level of educational attainment is, as mentioned previously, an important socio-economic factor. Persons with higher education are more likely to receive higher salaries, get a better work position and follow a more traditional pattern of family behaviour. Here, the data obtained through EU-SILC (life conditions) play an important role alongside the Labour Force Sample Survey results. These sources give us information on the income per person in the individual households, on families threatened with poverty, costs of housing (expressed as a share on the net monetary incomes of the household) or the individual types of income. Whether these incomes come from employment, other sources or social benefits is very important in families with economically dependent children. It is necessary to understand that the birth of a child represents a major decrease in household income for the family. In the initial years of the child's life, at least the loss of the woman's income has to be counted with. The income of two-parent families with children is on average a half of that of two-parent families without children. Lone-parent families are the worst off.

# Approaches to Work-Life Balance Research<sup>1</sup>

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## **Keywords**

research strategy, family, work, research question, research aims

## **Abstract**

This contribution offers an overview of the approaches to the work-life balance research. In the context of the Czech Republic, work-life balance is not a new topic; however, it represents a very topical issue which is subject to research by many non-profit organisations and research institutions. This paper provides a brief introduction into the issues of research design selection. Firstly, it gives an explanation of the basic principles of preparation of scientific research. Further on, it discusses the views and the various levels in which the issues of work-life balance can be studied. Finally, it presents showcases of topics related to this issue, which have been researched in the Czech Republic and in Europe as a whole in recent years.

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The issue of balancing work with personal life represents a matter with which each employed person deals on a daily basis. The topic of balancing/combining work and family life is researched by a number of research institutions, including the department of Gender & Sociology, where I work. When I was asked by the organisers of this conference to present the approaches to work-life balance research and evaluate some of the contemporary studies, the thought occurred to me that the scope of this topic is large enough to fill a one-semester course at a college. This paper therefore represents only a brief introduction into the issue. Firstly, I would like to introduce you to the basics of conducting a research, i.e. what needs to be taken into consideration at the beginning of any research, including research focused on work-life balance. Further on, I will

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present the perspective and levels on which the issues of work-life balance can be studied. Finally, to illustrate I will present the range of topics which have been researched by my department in recent years.

## 1. What lies at the beginning of any research?

At the beginning of any research effort, it is necessary to clearly define the research problem in which we are interested within the given area. Then the researcher defines three research goals:

- The **symbolic goal** of the research determines the main issue or a problem which the researcher wishes to address, which influences the choice of the level of analysis. For instance, you may want to raise awareness of the issue of fathers' participation in care for pre-school children).
- The **applied aim** defines the purpose of the research / what the researcher wishes to achieve through its results.
- The **learning goal** is formulated in the main research question.

Depending on the research problem, the researcher chooses the data that will be collected and the way of analysing them, i.e. the methods of data collection and analysis. The form of presentation or application of the research findings is chosen on the basis of the purpose of the research.

## 2. Levels of analysis

I will now present the levels on which research topics, including work-life balance, may be studied.

- **On the micro-level**, work-life balance is studied from the perspective of individual stories and strategies. The level that is studied thus concerns the individual and his/her interaction with the surroundings.
- **On the meso-level** (or middle level) of generalisation, research into work-life balance is focused on the issue of balancing work and family life in organisations and institutions.
- **On the macro-level**, the research concerns mainly the general cultural norms and values as well as public policy and the labour market, i.e. the institutional support for work-life balance and structural factors influencing the functioning of individual groups of people on the labour market.

### 2.1 Work-life balance research topics

I will now present concrete research topics, which are studied on the aforementioned individual levels of analysis.

**On the macro-level**, these include in particular the attempts to a) create typologies of the studied countries with respect to their social policy; or b) typologically describe the programmes aimed at achieving work-life balance. Analyses on the level of welfare state typologies are primarily concerned with the extent to which the individual welfare states enable the two-income family model or the breadwinner model (i.e. man as the breadwinner, woman as the housewife)<sup>2</sup>. On the level of individual programmes / family policy measures, we inquire about the type of care these countries support. This may be home care, division of care between parents or institutional care, or no support for families whatsoever<sup>3</sup>. There is also a trend to inquire about the cultural bias of the institutions involved in work-life balance, i.e. what is the cultural ideal of care they subscribe to and help co-create<sup>4</sup>.

Further types of research attempt to explain the current shape of measures of family policy institutions with respect to their historical development on the basis of the assumption that there is considerable path dependency in the way institutions operate<sup>5</sup>. In contrast to this, policies may also be investigated from the point of view of their current shape, where the focus lies in the description of current developments<sup>6</sup>.

The implications of the adopted legislation for the circumstances of work-life balance in the given country or region represent another viable perspective. For example, we may be interested in the exact number of children of various ages attending kindergartens and the influence of kindergarten availability on the position of women on the labour market – specifically, the employment rate of mothers<sup>7</sup>.

**On the meso-level** of institutions and organisations, the studies aim to analyse work-life balance programmes, similarly as on the level of countries. The analysis concern the design of measures for achieving work-life balance and its implications for the given organisation. For instance, we may consider the internal rules concerning the flexible forms of employment or entitlement to

2 see e.g. Lewis, J. Gender and the Development of Welfare Regimes, in *Journal of European Social Policy* 2 (3), 1992, pp. 159-73.

3 see e.g. Leitner, S. Varieties of Familialism. The Caring Function of the Family in Comparative Perspective, in *European Societies* 5 (4), 2003, pp. 353-375.

4 see e.g. Kremer, M. *How Welfare States Care: Culture, Gender and Citizenship in Europe*. 2007.

5 see e.g. Saxonberg, S., Sirovátka, T. and Janoušková, M. When do policies become path dependent? The Czech example, in *Journal of European Social Policy* 23 (4), 2013, pp. 437 – 450.

6 see e.g. Blum, S., Formánková, L., Dobrotič, I. Family Policies in 'Hybrid' Welfare States after the Crisis: Pathways Between Policy Expansion and Retrenchment, in *Journal Social Policy & Administration*, 48 (4), 2014, pp 468-491.

7 see e.g. Hašková, H., Saxonberg, S. (eds.), Mudrák, J. *Péče o nejmenší. Boření mýtů (Care for children. Myths Busted)*. 2012.

a place in the company kindergarten, or exact statistical data or life experience with their use<sup>8</sup>.

The influence of company culture on the position of men and women in the organisation and the work-life balance possibilities represent another research topic. In this respect, the studies often focus on researching the level of androcentrism – i.e. whether the organisation's ideal is an employee without family ties, how common is overtime work / work outside the usual working hours and on weekends and to what extent workforce diversity and equal opportunities are supported on the level of company documents and in practice<sup>9</sup>. Discrimination at the workplace and the issue of gender pay equality also represent important topics<sup>10</sup>.

**On the micro-level** of work-life balance research, personal preferences, in other words the individual focus of men and women on family or work, are considered<sup>11</sup>. Further subjects of study include the individual balancing strategies, for example decisions on the length of the parental leave and timing of maternity/paternity and the related topic of division of paid and unpaid work and the ways of spending leisure time<sup>12</sup>. The issue of work-care or work-life balance conflict and the influence of this issue on personal satisfaction, stress levels and overall well-being currently represent an important and popular research topic<sup>13</sup>.

### 3. The context of the research problem

Looking at the context of the research problem, the aforementioned levels of analysis may be applied with respect to an international, national or local

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8 see e.g. Formánková, L., Křížková, A. Flexibilní pracovní režimy jako nástroj kombinace pracovního a rodinného života (Flexible Working Arrangements as a Tool for Balancing Work and Family Life), in *Fórum sociální politiky* 3(2), 2009, pp. 14-19.

9 see e.g. Formánková, L., Křížková, A. Flexibilní pracovní režimy jako nástroj kombinace pracovního a rodinného života (Flexible Working Arrangements as a Tool for Balancing Work and Family Life), in *Fórum sociální politiky* 3(2), 2009.

10 see e.g. Bettio, F., Corsi, M., Lyberaki, A., Lodovici, M. S., Verashchagina, A. *The Impact of the Economic Crisis on the Situation of Women and Men. Synthesis report.* 2013.

11 see e.g. Hakim, C. *Work-life Choices in the 21st Century: Preference Theory.* 2000.

12 see Hašková, H. Proměny časování a způsobu návratu matek do zaměstnání (Developments in the Timing and Manner of Return of Mothers to Work), in *Gender, rovné příležitosti, výzkum* 12 (2), 2011, pp. 40-52.

13 Formánková, L., Křížková, A. Odras nejistot, znevýhodnění a marginalizace na trhu práce v biografických výpovědích žen s nízkým vzděláním (The Reflection of Uncertainty, Deprivation and Marginalization in the Labour Market in Biographical Testimonies of Women with Low Education), in *Gender, rovné příležitosti, výzkum* 11(2), 2010, pp. 23-35.

level. Altogether considered, these levels of inquiry are evident also in the programme of this conference.

Studies aimed at the **international context** are usually comparative studies focusing on comparing a large number of countries, e.g. the whole of the European Union. Such studies involving a large number of observed cases (N) take advantage of the data obtained from large international databases (e.g. Eurostat, ISSP, ESS, OECD). Qualitative studies focus rather on detailed in-depth comparison of a small number of countries, for instance an analysis of family policy measures in a couple of selected countries.

Excluding international comparative studies, work-life balance research focuses on **national contexts**. Here again, there is a possibility to view family policy generally, or to approach it through individual measures such as the prevalence of parental leave among men or the position of men and women on the labour market.

Work-life balance measures can also be researched on the **local level of regions**, cities or city wards. A good example of this is the study on availability of childcare facilities in Brno.

## 4. Research of the Department of Gender & Sociology

I would now like to illustrate the aforementioned research strategies on specific projects carried out by the Department of Gender & Sociology. The list of research topics is of course not exhaustive, but it represents an example of selected projects researched in recent years.

Projects focusing on the **micro-level** of work-life balance result in studies of women's careers based on qualitative data and analyses of the influence of maternity on the career decisions of women.

On the **meso-level**, the level of organisations, we focus on topics concerning diversity at the workplace. Diversity encompasses variety on the part of the employers and clients, especially with regard to gender, age and ethnic diversity. Issues of female representation in senior job positions or the availability of flexible working arrangements are also covered by this topic.

The **macro-level** of work-life balance is reflected on the level of analysis of the Czech family policy and its historical development, also in an international context. Studies of the department focus also on the participation of men and women on the labour market.



## 5. Conclusion

To conclude, the topic of this conference, work-life balance, is not a new one in the Czech context. However, this does not mean it is not urgent. Studies into this issue may be seen from a number of different research perspectives, using different data and methods of analysis. The topic can be addressed both through the analysis of statistical research and on the basis of in-depth individual interviews or with the use of focus groups. It is possible to study both the micro-level, the individual decisions and preferences, as well as the national or inter-national macro-level. In this area we focus on the issue of relationships on the labour market or family policy measures. The regional and local perspectives are also important, as well as the issue of involving organisations in the topic of work-life balance. Work-life balance is a matter closely related to the issue of the positions of men and women on the labour market and the family as well as in the society in general, therefore it is necessary to continue studying the developments in this area.

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# Exclusion of Labour-Law Relationship under Section 318 of Act No. 262/2006 Coll., the Labour Code, and Equal Opportunities

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## **Keywords**

discrimination, labour-law relationship, equal opportunities, employer, employee, spouse, registered partner

## **Abstract**

The objective of this article is to provide an analysis of the relevant provisions of the Labour Code and related legislation and ascertain whether or not Section 318 of the Labour Code, in particular, is at variance with any of the articles of the Charter of Fundamental Rights and Freedoms, focusing especially on the possibility of unequal treatment or discrimination on grounds of family or marital status. The above provision appears to be discriminatory in the context of work-life balance. It places natural persons operating a business and their partners in a worse position than other stakeholders on the labour market. Regard must be had to the obligation of the family to provide, *inter alia*, for its own functioning in material terms; at the same time, in view of the basic principles of private law, which also include protection of the family, parenthood and marriage, these relationships enjoy special statutory protection under Section 3 (1)(b) of Act No. 89/2012 Coll., the Civil Code. This fact must be pointed out and, consequently, arguments need to be sought in favour of an amendment to the legislation on employment between spouses or partners. The impossibility of employing a spouse or partner can be considered discriminatory in relation to both Czech and European legal rules.

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## 1. Introduction

The topic of effective work-life balance is much debated. To achieve balance between life and work, there must undoubtedly exist a suitable legal environment which will make this goal possible. The family, which is considered an elementary component of developed society, has the obligation to provide, *inter alia*, conditions for its own functioning in material terms. One of the basic principles of private law embodied in Czech legislation consists in protection of the family, parenthood and marriage, which enjoy special statutory protection pursuant to Section 89/2012 Coll., the Civil Code. In this context, Section 318 of Act No. 262/2006 Coll., the Labour Code, which explicitly prohibits the employment of a spouse or partner within a basic labour-law relationship, appears counterproductive. In this context, the notion of partners refers to registered partners under Act No. 115/2006 Coll., on registered partnership. The above provision effectively means that a natural person operating a business, whether as the operator of a trade under the Trade Act or under other legal regulations, may not employ a husband, wife or registered partner. The provision in question appears to be a discriminatory measure which contradicts the Charter of Fundamental Rights and Freedoms, the anti-discrimination legislation of the EU and, ultimately, also the Labour Code itself. It places natural persons operating a business and their partners in a worse position than other stakeholders on the labour market.

## 2. Unequal position in the employment of spouses and partners in Act No. 262/2006 Coll., the Labour Code

The Labour code is a private-law code applicable to individual labour-law relationships which defines, amongst other things, the parties to labour-law relationships and lays down conditions applicable to the performance of dependent work. Since any natural person operating a business may become an employer, it is only logical that the Labour Code also regulates labour-law relationships arising in the business sector. Section 318 explicitly prohibits the employment of a spouse or partner within a basic labour-law relationship. Said provision excludes not only the establishment of a basic labour-law relationship during marriage, but also further continuation of such a relationship if marriage is concluded at a time when the relationship already exists. The above limitation, which pertains to both employment relationships and relationships established through agreements on work performed outside employment, is not applicable to legal entities where one of the spouses is the governing

body and enters into a labour-law relationship with the other on behalf of the legal entity. The outlined situation is not a labour-law relationship between spouses but rather between one of the spouses and the relevant legal entity. However, the limitation does not pertain to “cohabitating partners” (in Czech: *druh a družka*) and close relatives (it does not prevent the establishment of a labour-law relationship between parents and children). The same regulation also applies to partners who have entered into registered partnership.

## 2.1. Relationship to the Charter of Fundamental Rights and Freedoms

The Charter of Fundamental Rights and Freedoms is a source of law which became part of the Czech Republic’s constitutional order in 1993. Observance of rights and freedoms is placed above legal norms.

Article 26 of the Charter of Fundamental Rights and Freedoms<sup>1</sup> is part of Chapter Four of the Charter, which stipulates economic, social and cultural rights. These are mutually related fundamental rights which include, according to Article 26, the right to the free choice of profession and training for it, the right to engage in enterprise and pursue other economic activity and the right to acquire the means of one’s livelihood by work. Under paragraph 2 of the cited article, the conditions and limitations for the exercise of certain professions or activities may be set by law.

Article 1 of the Charter stipulates that “All people are equal in their dignity and in their rights. Their fundamental rights and freedoms are inherent, inalienable, unlimitable, and irrevocable.” In the conditions of a State governed by material rule of law, justice represents the understanding of an individual as a dignified human being equal to all other human beings in his or her rights. This brings human rights into play, i.e. ‘positivised’ fundamental rights defining not only the regulative framework of the applicable legal rules but also the framework of their constitutionally conforming interpretation and application.<sup>2</sup>

Finally, the Charter stipulates the prohibition of discrimination in Art. 3 (1): “Fundamental human rights and freedoms are guaranteed to everybody irrespective of sex, race, colour of skin, language, faith, religion, political or other conviction, ethnic or social origin, membership in a national or ethnic minority, property, birth, or other status.”

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1 *Czech Republic: Constitutional Act No. 23/1991 Coll., introducing the CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS as the Constitutional Act of the Federal Assembly of the Czech and Slovak Federative Republic, as amended.*

2 Wagnerová, E, Šimiček, V, Langášek, T, Pospíšil, I. et al. *Listina základních práv a svobod. Komentář (Charter of Fundamental Rights and Freedoms. Commentary)*, 2012, p. 55.

Being phrased so generally in Art. 3 (1) of the Charter, the prohibition of discrimination must be interpreted as relying on the values<sup>3</sup> laid down in above-mentioned Article 1 of the Charter. Material equality before the law is only possible if we respect the prohibition of discrimination. A majority of people acquire the means of their livelihood by work in accordance with their needs and in accordance with cited Art. 26 of the Charter. A natural person can exercise this right either in a dependent labour-law relationship regulated by Act No. 262/2006 Coll., the Labour Code, or as a person operating a business under the conditions laid down in Act No. 455/1991 Coll., on business in trade (the Trade Act), or pursuant to special regulations. The Trade Act stipulates the rules of public law governing the operation of a business which must be met by every natural person who wishes to exercise his or her right to operate a business and pursue economic activities pursuant to Art. 26 (1) of the Charter and whose activities are not excluded from the scope of the Act.

As mentioned in the Introduction, a natural person – human being – can acquire the means of his/her livelihood primarily by work, either as an employee or as a person operating a business – the operator of a trade. Trade is defined as follows in Section 2 of the Trade Act: “Trade is a systematic activity operated independently, on one’s own behalf, under one’s own responsibility, with the aim of achieving profit.” (Section 3 of the Trade Act contains an exhaustive list of activities excluded from business in trade.) In the sense of Section 5 of the Trade Act, a trade may be operated by both legal entities and natural persons insofar as they meet the conditions stipulated by the Trade Act. The terms “natural person” and “legal entity” are defined in the Civil Code, but the relationships between them in the area of business in trade are determined by the Trade Act. For the purposes of the matter at hand, we will further deal with the concept of natural person operating a business (operator of a trade). The conditions for obtaining a trade licence are stipulated in the Trade Act and are divided into general and special conditions. In relation to the matter at hand, it should suffice to mention the general conditions which must be met by a natural person seeking to obtain a trade licence. They are set out in Section 6 of the Trade Act and comprise unless the Act stipulates otherwise: full capacity to conduct trading and commercial activities that may be replaced by emancipation judgement and good character. A natural person who meets these conditions (and, of course, special conditions in cases defined by the Act) can obtain a trade licence and “operate a business”; in other words, s/he is allowed to acquire the means of his or her livelihood in this manner. A natural person may operate a trade either independently, through his or her own work, or s/he may employ another natural person under the

3 Wagnerová, E, Šimíček, V, Langášek, T, Pospíšil, I. et al. *Listina základních práv a svobod. Komentář (Charter of Fundamental Rights and Freedoms. Commentary)*, 2012, p. 101.

conditions stipulated in Act No. 435/2004 Coll., on employment, and Act No. 262/2006 Coll., the Labour Code.

## 2.2 Prohibition to employ spouses and partners in the context of related provisions of the Labour Code

The Labour Code defines, in general, labour-law relationships which arise between employers and employees in the performance of dependent work and, furthermore, in its Section 1 (c), it incorporates the applicable regulations of the European Community. It is indisputable that the Labour Code must consistently implement the relevant legal instruments including the anti-discrimination directives of the European Community. In accordance with this procedure, Section 1a incorporates, inter alia, the principle of equal treatment of employees and the prohibition to discriminate against them. The principles set out in said provision follow on systematically from the subject matter of the Labour Code, are undoubtedly mandatory by nature and constitute the foundation of the entire field of labour law. "The basic principles correspond to the main values from which labour-law relationships stem and on which they rely. The Labour Code enumerates the basic rules that act together in the exercise of labour-law relationships. The provisions concerned are not just declarations but are normative in nature; in practice, they are always applied in conjunction with a specific provision of the Labour Code and operate as an important rule for interpretation."<sup>4</sup>

Thus, the principle of equal treatment and prohibition of any discrimination are among the basic principles of labour-law relationships. The Labour Code takes into consideration the general principle of prohibition of discrimination, or favourable/unfavourable treatment of any party to labour-law relationships on grounds corresponding to defined discriminatory characteristics under above-mentioned Art. 3 of the Charter, as well as International Labour Organisation Convention No. 111 concerning the prohibition of discrimination in respect of employment and occupation, and last but not least, EU Directives. Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions can be considered fundamental; it was later amended, or indeed radically changed, in connection with the adoption of Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Directive 76/207/EEC<sup>5</sup>. The Directive stipulates, among other things, that the principle of equal

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4 Andraščíková, M. et al. *Zákoník práce s komentářem (Labour Code with Commentary)*, 2012, p. 39.

5 Koldinská, K. *Gender a sociální právo. Rovnost mezi muži a ženami v sociálně právních souvislostech (Gender and Social Law. Equality between Men and Women in Social and Legal Context)*, 2010, p. 103.

opportunities and equal treatment in employment, occupation and vocational training, including working conditions, must be observed notwithstanding the legal relationship in which the person concerned performs work or is employed.

In accordance with Section 3 of the Labour Code, dependent work can only be performed in a basic labour-law relationship (unless it is regulated otherwise by special regulations<sup>6</sup>). Under the above provision, basic labour-law relationships comprise employment relationship and legal relationships established by agreements on work performed outside employment, i.e. agreement to complete a job and agreement to perform work.

They can also be deemed to include dependent work as defined in Section 2 of the Labour Code, which has fundamental importance as it defines the subject matter of labour law. In Section 5, the Labour Code also stipulates the conditions which must be met by any natural person to qualify as an employee under labour law. These conditions are as follows: reaching the age of fifteen years and, simultaneously, completing a full course of primary schooling.

The above definitions suggest that defining the parties to a labour-law relationship is easy and clear. The specific requirements for the establishment and termination of labour-law relationships are defined equally clearly and comprehensibly in the Labour Code. The manners of terminating a labour-law relationship are set out exhaustively in the Code and these provisions are mandatory in nature. Section 318 of the Labour Code – in its amended wording – according to which “a basic labour-law relationship may not be established between spouses or partners”<sup>7</sup> appears very disputable and, in the light of the foregoing, even insidious. According to the footnote, partners are registered partners under Act No. 115/2006 Coll., on registered partnership and amending certain related laws, as amended.

According to the provision in question, an employment contract or some other agreements on work performed outside employment may not be entered into between a natural person operating a business – the operator of a trade and his/her spouse or registered partner; otherwise it is invalid. It follows from the wording of the Code, which reads “employment relationship may not be...” that if an employment relationship is entered into between such parties prior to marriage (registered partnership), the employee will find him/herself in a position contrary to the law on the date of marriage or conclusion of registered partnership and his/her labour-law relationship thus terminates.<sup>8</sup>

The above provision of the Labour Code, which is undoubtedly mandatory and has a substantial effect on natural persons operating a business, must be

6 For example, Act No. 361/2003 Coll., on the service relationship of the members of the security corps, as amended.

7 Act No. 262/2006 Coll., as amended.

8 Andraščíková, M. et al. *Zákoník práce s komentářem (Labour Code with Commentary)*, 2012, p. 454.



viewed from two perspectives. First, from the viewpoint of its position in the structure of the Code and, secondly, in relation to equal treatment and equal opportunities on the labour market in both formal and material terms. However, the prohibition of a labour-law relationship existing between spouses (partners) is only included in Part Thirteen of the Code, titled Joint Provisions, namely in Chapter IX, titled Special Nature of Work Performed by Certain Employees, Exclusion of Labour-Law Relationship and Posting Employees for Work in the Territory of Another Member State of the European Union, Sections 317 to 319.

The Labour Code is a legal rule which should serve both employees and employers for daily use and should therefore meet the requirements for comprehensive wording, clarity and ease of use. The way in which the prohibition of employment between spouses (partners) is incorporated in this legal rule, as described above, certainly cannot meet these criteria. It cannot be reasonably expected that the operator of a trade, who must cope with a number of regulations on a daily basis, will be keen to read through the Labour Code up to its Section 318. Nothing within the frequently used and seemingly exhaustive provisions of the Code, which address the individual aspects of the establishment and termination of a labour-law relationship, indicates that future spouses or registered partners should consider the possibility that one of the spouses (partners) will lose his/her job. If Section 318 is to form part of the contents of the Labour Code, it should undoubtedly be included in its Part Two. This would certainly be in line with the official trend towards reducing the administrative (and also excessive legislative) burden on entrepreneurs. It seems even more important to consider the second aspect, i.e. whether to accept such a provision in the Labour Code in the present circumstances and in the light of the above anti-discrimination legislation.

### **2.3 Historic development of the prohibition to employ spouses**

The 2006 explanatory memorandum on Act No. 262/2006 Coll., the Labour Code, and the explanatory reports concerning its later amendments do not provide any comments or explanation; as a result, we must take what is now a historic perspective to look at the history of the provision. Labour-law relationships between spouses were prohibited for the first time by Act No. 105/1990 Coll., on operating private business. While the Act provided that a person operating a business may employ an unlimited number of workers, it also determined that a labour-law relationship may not arise between spouses. A husband may employ his wife and a wife may employ her husband only as a co-working family member.<sup>9</sup> The above legal regulation was later transferred to Act No. No.

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<sup>9</sup> Bělina, M. et al. *Pracovní právo (Labour Law)*, 2010, p. 37.

65/1965 Coll., i.e. the “old” Labour Code, namely Section 269, as follows: “A labour-law relationship may not be established between spouses.” The Labour Code does not contain any other limitations as to family relationships. It can be inferred from the wording of the provision in question that the limitation in its original form pertained only to a situation where an employment relationship was to arise between spouses – i.e. after they had concluded marriage. If employment was established earlier, i.e. before marriage, this was a situation accepted by the law.

The New Labour Code, i.e. Act No. 262/2006 Coll., adopted the provisions prohibiting a labour-law relationship between spouses “entirely illogically and without regard to the development of society after 1990”<sup>10</sup> and actually made it even stricter, as it provides in Section 318 that “A labour-law relationship set out in the second sentence of Section 3 cannot be established between spouses”. That provision can only mean that an employment relationship not only cannot arise between spouses, but cannot exist between them either. The law does not stipulate any procedure applicable in cases where an employment relationship exists between spouses under the previous legislation and when and how it should terminate. It is interesting that the explanatory memorandum on the new Labour Code provides no comment at all on Section 318. Section 318 was supplemented with the words “or partners” through an amendment to the Labour Code implemented by means of Act No. 362/2007 Coll. The above change occurred as a result of the adoption of Act No. 115/2006 Coll., on registered partnership and on amendment to some related laws, as amended by Act No. 261/2007 Coll.

As already mentioned, the explanatory memoranda on the Labour Code and its amendments do not comment on the provision in question. The legislature provides no instructions whatsoever for understanding this mandatory rule, which has a profound effect on the life of employers – natural persons – and their partner. Therefore, we need to look at comments provided in specialised publications. A relatively extensive commentary on Section 318 is offered in the book titled *New Labour Code with Commentary, Applicable Case-Law and Related Regulations*.<sup>11</sup> The author of the commentary (Kottbauer) confirms that the provision is mandatory and the legal regulation prohibits a labour-law relationship between spouses on grounds of the statutory property association of spouses. He does not detail this view in any way. The author then extensively deals with the determining the exact time when an employment relationship

<sup>10</sup> Jakubka, J. et al. *Zákoník práce s komentářem k 1.1.2007 (Labour Code with Commentary as of 1 January 2007)*, 2007, p. 392.

<sup>11</sup> Hochman, J., Kottbauer, A., Úlehllová, H. *Nový zákoník práce s komentářem, použitelnou judikaturou a předpisy souvisejícími (New Labour Code with Commentary, Applicable Case-Law and Related Regulations)*, 2008, pp. 764-5.

terminates due to the conclusion of marriage and analyses this situation in terms of factual impossibility of providing the contracted performance in accordance with the relevant provisions of the Civil Code. Thus, the commentary deals only marginally and in no greater detail with the actual existence of the above legal rule as such, and uses unpersuasive legal arguments. (The author also neglects the shift in legislation which allows spouses to limit or entirely exclude the existence of their community property.) The simple observation that “Through an amendment to the Labour Code implemented by Act No. 362/2007 Coll., the relevant provision was supplemented with the words ‘or partners’ , i.e. what applies to spouses is also valid for partners under the Registered Partnership Act”, is totally unsatisfactory.<sup>12</sup> It is a well-known fact that registered partnership is not marriage and certainly does not give rise to community property in the sense of the Family Act. Thus, the above commentary definitely fails to deal with the extension of the prohibition of mutual employment to registered partners.

A different, more critical approach to the matter is taken by the team of authors of the book titled *Labour Code and Implementing Government Regulations and Other Related Regulations with Commentary as of 1 January 2007*<sup>13</sup>. The authors maintain that, illogically and without any regard to the development of relations in society, the new Labour Code simply mechanically adopted the previous legal provisions. They point out, in full accordance with the opinion of the authors of the present text, that pursuant to Section 48 of the Labour Code, the existence of marriage between a natural person who is the position of employer and his/her employee does not constitute grounds for termination of their employment relationship. The authors also consider that “There is not a single person in the Czech Republic who could reasonably explain why a labour-law relationship cannot exist between spouses. Therefore, the only reason lies in the fact that the same provisions were part of the previous Labour Code.”<sup>14</sup> The authors point out that a labour-law relationship can exist between spouses if one of them founds a legal entity and the Labour Code does not provide any limitations as to employment of other family members or relatives. In the conclusion of the said commentary, the authors state their opinion, or rather observation, that the principle of equal treatment and

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12 Hochman, J., Kottbauer, A., Úlehlová, H. *Nový zákoník práce s komentářem, použitelnou judikaturou a předpisy souvisejícími (New Labour Code with Commentary, Applicable Case-Law and Related Regulations)*. 2008.

13 Jakubka, J. a kol.: *Zákoník práce a prováděcí nařízení vlády a další související předpisy s komentářem k 1. 1. 2007 (Labour Code and Implementing Government Regulations and Other Related Regulations with Commentary as of 1 January 2007)*, 2003, pp. 392-3.

14 Jakubka, J. a kol.: *Zákoník práce a prováděcí nařízení vlády a další související předpisy s komentářem k 1. 1. 2007 (Labour Code and Implementing Government Regulations and Other Related Regulations with Commentary as of 1 January 2007)*. 2007.

prohibition of discrimination is, in line with EC Directives, based on the prohibition of discrimination on grounds of gender, marital status and family duties.

The sixth, updated edition of said contains a commentary which is almost identical to the one provided in the previous text. Unfortunately, the commentary ignores the fact that the prohibition was extended to registered partners through an amendment to the Code.<sup>15</sup>

In their later publications<sup>16</sup>, the authors do not deal with the subject from the viewpoint of equality of the parties and merely restrict themselves to explaining the relevant provisions without any evaluation.<sup>17</sup>

In view of the above observations and facts, Section 318 of the Labour Code – which is mandatory by nature and prohibits the existence of a labour-law relationship between spouses and registered partners (i.e. natural persons) – is highly problematic in terms of its position in the structure of the Code and undoubtedly discriminatory given the existing standard of anti-discrimination legislation.

### 3. Evaluation

Based on the described history of the relevant provision, it is obvious that the prohibition was enacted in 1990, i.e. at a time when the foundations of private entrepreneurship were laid for the first time and when legislation was being liberalised or re-created. It is quite understandable and acceptable that legislation had to respond forthwith to the changing social and economic conditions after November 1989. It is less understandable, however, that the new Labour Code adopted this strict limitation clearly without any thorough analysis or substantiation, made it actually even stricter and further extended its scope. The obligation to heed Section 318 clearly applies to employers – operators of a trade – who operate a business as natural persons under the Trade Act. Thus, without any obvious reason, the Labour Code clearly imposes different, meaning worse, conditions on natural persons operating a business and their spouses and partners in terms of their labour-law relationships than on other stakeholders on the labour market. It even places registered partners in the same position and under the same regime as spouses, notwithstanding that registered partnership is not marriage and by far does not give rise to the consequences which are typical of marriage (for example, in contrast to spouses, no community property is created). Under the present legal circumstances, due

15 Andraščíková, M. et al. *Zákoník práce s komentářem (Labour Code with Commentary)*, 2012, p. 454.

16 e.g. Bělina, M. et al. *Pracovní právo (Labour Law)*, 2010, p. 37.

17 Vysokajová, M., Kahle, B., Randlová, N., Hůrka, P., Doležilek, J. *Zákoník práce. Komentář (Labour Code. Commentary)*, 2012, p. 557.

to the impediment brought by the Code, a spouse operating a business may not employ his wife despite that there would be no such statutory impediment if he founded, for example, a limited liability company as its sole shareholder. If such an employer who is a natural person married an employee, the employee would find herself in a conflict with the law as from the date of marriage and her employment relationship would terminate. The newly married employee would have to register with the Labour Office as an unemployed person and the newly married employer would have to report a vacancy to the same office. It is a question whether the employee who is now a job seeker would qualify for unemployment benefits as s/he in fact voluntarily deprived herself of employment by the ill-advised step of concluding marriage. (The same would of course be true in the opposite case where the wife is the employer and the husband the employee, as well as for registered partners). The only solution to this situation that would surely be taken by an informed employer, and of course also by an informed employee, would be to avoid marriage or registration and the partners would continue living in a non-marital cohabitation. They would live in a common household, raise their children and meet the costs of the common household together without formalising their relationship.

In the light of the above arguments, the prohibition of a labour-law relationship as set out in Section 318 of the Labour Code appears to be an obsolete provision which has no support in the present anti-discrimination legislation and situation in society. After all, the Labour Code is at variance with itself, namely Section 1a (e), according to which "equal treatment of employees and prohibition to discriminate against them" is one of the basic principles of the Labour Code, in the light of which the individual provisions of the Code must be applied. The legislature did not deal with the existence of this provision in the explanatory memoranda on the Labour Code and its amendments, and specialised literature also failed to deal with it satisfactorily (or to actually deal with it at all). It must be noted that the provision places a certain group of persons – parties to labour-law relationships – in a worse position than other parties to labour-law relations on the basis of their marital and family status or other status (in the case at hand, on grounds of different sexual orientation). This undoubtedly results in violation of equality in both formal and material sense, i.e. in discrimination.

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# Panel discussion – Experience of employers applying measures to balance private life and work

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## **Keywords**

balance, parental leave, maternity leave, flexibility, part-time jobs, home working

## **Abstract**

Representatives of three employers presented programmes to promote work-life balance programmes for employees during the panel discussion. The representative of the Office of the Government spoke about the activities of the Czech Republic in this area. The last discussion paper was dedicated to the situation on the labour market, with an emphasis on the degree of support to balance as ascertained by the surveys of a company dealing with employee recruitment.

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Ivana Hlochová, head of the HR department of Průmstav, a.s.; Michaela Kadeřábková, HR Manager at GE Money Bank; Václav Mach, Director of External Relations in the CEE Region at Microsoft; Lucia Zachariášová, lawyer with the Gender Equality Unit, Human Rights Section of the Office of the Government of the Czech Republic; and Tomáš Ervín Dombrovský, Head of Analysis, Communication & Relations at LMC participated in the panel discussion.

The representatives of three employers presented programmes to promote work-life balance in companies. The specific programmes of these employers included availability of part-time work, work from home (or teleworking in general), sick days, contact with employment during maternity leave and parental leave, programmes for families with children, day-care for employees' children, etc. The programmes targeted various groups of employees: parents on maternity leave and parental leave, carers for dependent persons (not only children but also elderly people), people with disabilities. The creation and maintenance of the programmes was motivated by endeavours to form a corporate culture



which attempts to respond to the needs of employees and work towards their satisfaction. Employee satisfaction pays off for the company in that it reduces fluctuations and hence the costs of training new employees. A positive image of the company in the public is also an important implication. The programmes have to do with social responsibility of employers in general.

Prümstav, a.s. attempts to promote work-life balance and, simultaneously, concentrates on the specific needs of people of various genders, ages, ethnic origins, nationalities, as well as people with handicaps, different sexual orientations and religions. The attention paid to these topics follows on from the corporate culture, which is based on the needs of Prümstav, its employees, the programme of the VINCI<sup>1</sup> engineering group and the expectations of civil society. Prümstav has stipulated in its collective bargaining agreement that it endeavours to support the returns of women and men from maternity/parental leave, as well as returns of employees caring for dependent persons (child, parents, partner), by creating an increased number of working time patterns, which will be sufficiently flexible, in order to enable employees to reintegrate into work life and achieve family and professional life balance. They offer flexible working arrangements for people returning from parental leave as well as for health reasons and study reasons. The option to work from home is available to those who need to care for a dependent family member.

GE Money Bank concentrates on providing assistance to families and supporting care, healthy lifestyle, personal development and social responsibility. Families are supported through the “flexible office” and “flexible working time” programmes; there are additional days off, five days of paternity leave on the birth of a child, allowance in an early return from maternity leave and parental leave. A mothers’ portal has been established and workshops are organised for mothers.

Microsoft endeavours to promote women’s participation, with tangible results such as a growth in the proportion of women among employees from 16% to 30% and in the top management from 10% to 50%. The company also promotes teleworking, which is possible thanks to modern technology. The support of flexible working arrangements brings greater employee satisfaction and productivity. The increased flexibility is appreciated by a majority of the employees. The savings on operating expenses, lease of premises and bills for electricity amount to 10%. Much less time is spent on commuting, as a result of which the distance between the home and office is unimportant for most employees.

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<sup>1</sup> The VINCI group has published a manifesto including, among other things, their support for fostering diversity, equal opportunities and flexibility supporting a balanced professional and personal growth of the employees.

In terms of steps of the Government of the Czech Republic in the area of professional, private and family life balance, the Government committed in its policy statement to “seek professional, private and family life balance, including sufficient capacity of pre-school facilities and support for flexible and stable forms of employment”. Support to flexibility should be aided by the Act on the Provision of Childcare Service in Children’s Groups which determines the conditions under which employers and other parties may provide childcare services in children’s groups and specifies tax deductible costs of children’s groups operated by employers, as well as tax credits for placement of a child in a kindergarten or a childcare establishment. In addition, the possibilities and duties following from the Labour Code were also mentioned. The Committee for Professional, Private and Family Life Balance is currently interpreting the term “serious operating reasons” that may justify non-adjustment of the working time of employees caring for children and dependent persons.

It follows from the data presented in the last paper that there is a low offer of flexible working arrangements. Part-time jobs were offered to less than 5.5% of newly staffed positions this year. The average in EU member states is 20%. Employers offered the possibility to work at least occasionally from home in 6.1% of the approx. 96 thousand vacancies staffed via the Jobs.cz career website this year. This is an area with the greatest shift over the past five years – only 1.5 % of positions included work from home in 2010. Flexible working time arrangements were available in 12.5% of vacancies, which is a stable figure in the past five years. Sick days were offered by employers in less than 12% of the newly staffed positions this year. A survey showed that the passing of the Children’s Groups Act does not motivate most employers to establish a children’s group.

The following problematic areas follow from the discussion. The Labour Code makes few arrangements for flexible work, especially teleworking, which makes it difficult to bring such forms of employment into practice. Specifically, the problematic provisions are those on safety and protection of health at the workplace, where the employer would be held accountable for an employee’s injury during work from home (this topic was already discussed in one of the workshops during the conference “Equality and Prohibition of Discrimination in the Activities of the Public Defender of Rights in 2013”) and provisions on the place of performance of work which are an essential requisite of the employment contract and play a role in the calculation of travel allowances and in reporting business trips in general. A single place of performance of work is an obstacle to teleworking without having to report the work as a business trip. If the employer’s registered office is agreed as the place of performance of work and the work is made e.g. from home, the employee is permanently on a fictitious business trip without physically leaving one place.

The provisions of the Day Care Act were also discussed, with the conclusion that the Act does not sufficiently motivate employers to establish such groups

due to the rather strict rules (including hygienic regulations). For an employer, the establishment of a children's group is primarily an investment, and the fact that it would be a tax credit is not a strong enough motivation.

As to part-time jobs, the well-known fact was noted that there is a low number of employees in part-time jobs. Employers were said to claim that there is little interest in part-time jobs among employees. They also claim that this form of employment is costly – for example, a part-time position represents 70% of the costs of a full-time job for the employer. The part-time arrangement may also be disadvantageous for employees – it necessarily means a lower remuneration while the volume of work tends to be more than one half of the full-time job. It was also noted in the discussion that expansion of short-term working arrangements may lead to discrimination of women. (This can be observed in the countries of Western Europe where an overwhelming majority of all employees in part-time jobs are women, where part-time jobs provide less advantageous employment conditions than full-time employment. A part-time job also means lower levies and hence a lower pension.) Thus, an increased offer and use of short-term working arrangements need not necessarily lead to improvement in the overall situation although it may help in a number of cases.

It was apparent from the presentations of employers' representatives and the subsequent discussion that the existing labour-law regulations make it possible to introduce various measures aimed at supporting work-life balance, and those employers who have regard for the welfare of their employees and social responsibility in general make use of this possibility. Nevertheless, it is possible to identify provisions which correspond to a rather conservative approach to the performance of work for employers and make the introduction of flexible working arrangements difficult. This applies to regulation of safety and health protection in relation to work from home (or teleworking in general) and regulation of the place of performance of work due to which teleworking must be reported as a business trip. The participants of the panel discussion agreed that the state (local governments) fails in the long term in relation to child care services. Although some employers plan to establish child care facilities, it can hardly be expected that employers will cover the needs of their employees in the future. Part-time work was the last major topic discussed; the debate showed that in the existing conditions, part-time work is advantageous neither for employers nor for employees.

This summary was prepared in co-operation with the panellists.

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# Workshop – Striking the balance in Science

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## **Keywords**

gender equality, combining work and parenthood, targeted support to research, systems of evaluation of scientific work, employment contract for a fixed term, work culture in the scientific environment

## **Abstract**

On 23 October 2014, the workshop Balance in Science was held in Brno within the Work-Life Balance international conference. Representatives from universities, research institutions and grant agencies participated in the workshop. The main points under discussion concerned the chains of contracts for a fixed term in the academic environment, gender-blind systems of evaluation of scientific works and the gender context of the increased representation of targeted funding of science. In the final part, the discussion centred around responsibility of key institutions (higher-education institutions, research organisations, providers) for cultivating a gender-sensitive and fair academic environment by specifying conditions for the provision of targeted support and adopting e.g. codes of conduct. The Office of the Public Defender of Rights will submit the

outputs from the workshop to other institutions and bodies to which the below stated specific measures are directed.

## 1. Fixed-term contracts

Following an amendment to the Labour Code and the existing transfer to contracts for an indefinite term at higher-education institutions and public research institutions, it is necessary:

- To clarify the aspect of operational impediments, or “serious operational reasons in the academic sector”.
- To call on **employers** (higher-education institutions, public research institutions) to address the interpretation of “serious operational reasons” and adoption of measures pursuant to Section 39 (2), (4) of the Labour Code (detailed specification of serious operational reasons, rules applicable to a different procedure, scope of employees to whom the different procedure applies, term of validity of different regulation):
  - where trade unions exist, the solution chosen is to be incorporated in the collective bargaining agreement;
  - where trade unions do not exist, an internal regulation is to be adopted which will define, in accordance with the Labour Code, the jobs to which serious operational reasons apply and which, therefore, cannot be subject to contracts for an indefinite term.
- Turn to the **Ministry of Labour and Social Affairs** with a request for issuing a **methodical instruction** for the interpretation of serious operational reasons on the employer’s part where the employer is a higher-education institution or public research institution (whether and under what conditions targeted funding can be deemed as a serious operational reason).
- Turn to the **Public Defender of Rights** with a request for a **survey** and monitoring of the situation at higher-education institutions and public research institutions in connection with the assumed indirect discrimination on grounds of gender in repeated conclusion of fixed-term contracts.
- Present an initiative to the **Research, Development and Innovation Council** and **providers**, proposing that they demand an internal regulation to be in place at applicants / recipients. Providers currently have the power to demand various documents from applicants for targeted support. Given the set-up of the system of research funding in the Czech Republic and the increase in the volume of targeted funding, providers should contribute to cultivation of scholarly culture and working conditions of academic staff. One possibility is to introduce conditions which will signal to institutions that employment arrangements are an important aspect of cultivation of the working environment in science and research.

The participants of the workshop agreed on the urgency of this matter because negotiations between employers and employees are currently underway, in which employees receive incorrect and misleading information, adding to a lack of certainty on the employees' part and preventing them from making informed decisions on their employment contracts and future positions.

### **Discrimination on grounds of gender:**

Fixed-term put employees in general at risk. It is often claimed in the academic environment that fixed-term contracts are necessary for the following operational reasons:

- short-term targeted funding and uncertainty regarding the financial means available for the next year;
- necessity to provide for employee performance on the basis of evaluations of scientific output that are linked to fixed-term contracts.

The adverse impact of both of the above factors is significantly stronger for female scientists and specifically those who are mothers, for the following reasons: When her contract is terminated during maternity leave and parental leave, the female scientist's employment is terminated at the time of expiry of the contract; scientists-mothers are thus protected less than other employees.

The systems of evaluation of scientific work in the Czech Republic seldom take account of career breaks on grounds of parenthood or they do so on an *ad hoc* basis, using individual assessment which disregards the systemic nature of the problem. Thus, scientists-mothers may be found poorly performing due to career breaks on account of parenthood because their working performance (e.g. publication outputs) is lower than that of their colleagues who undergo no such interruption. The parental break becomes an impediment especially when it lasts long; this, however, is expected in the Czech Republic given the social expectations, the rules of payment of the parental allowance and the arrangements of institutional childcare.

## **2. Systems of evaluation of scientific work**

Both external and internal systems of evaluation of scientific work seldom take account of career breaks on account of parenthood or care for dependent family members (or due to long-term illness). If they are taken into consideration, this is done on an individual basis without clearly formulated conditions.

The workshop recommends that the evaluation systems always take into consideration the **eligible duration of parenthood** (in the sense laid down in

the Act on Higher-Education, in Section 21 (1) (f) and Section 58), in that the time limit for evaluation will be prolonged by the eligible duration of parenthood so as to include also results which are often fully accomplished only after commencement of the maternity leave and parental leave.

The workshop further requests higher-education institutions and public research institutions to set clear, transparent and fair evaluation systems which are reviewable, known in advance and provide for career breaks so as to avoid disadvantaging persons caring for children and other dependent family members.

### 3. Targeted funding and grant agencies

#### 3.1. Change in investigator in case of commencement of maternity leave and parental leave

Providers fail to deal systematically with the aspect of a change of the investigator in situations where the original investigator commences maternity leave and parental leave. This results in a situation where, if the original investigator returns to work and wishes to resume his/her role as investigator for the grant, there is no guarantee that this will take place. The person to whom the role passed may be reluctant to abandon it.

The workshop therefore recommends that providers introduce such arrangements, in situations where the investigator changes on account of parenthood or care for a dependent person, that the **existing investigator elects between transferring the role for a fixed term equal to the eligible duration of parenthood or care for a dependent person and its transferring for the remaining term of the grant.** Such a condition may be determined in the tender dossier, which should clearly specify the manner in which pregnancy, parenthood and care should be addressed in the given RDI support programme.

#### 3.2. Costs of childcare

The workshop also discussed the possible **eligibility of the costs of care for a child or some other dependent person** in RD support programmes. The costs of care could be addressed:

- by increasing the overhead costs if the institution has its own kindergarten or some other childcare facility;
- through services with inclusion of a fixed amount for childcare (for example, following the model of European Commission's Marie Curie Fellowships).

### 3.3. Czech Science Foundation

The situation which exists in the Czech Science Foundation was discussed thanks to the participation of prof. Stanislava Hronová, member of the Presidium of the Czech Science Foundation. Specifically the following matters were discussed:

- Publishing statistics segregated by the gender of the main investigator and by science field – applicants, investigators, evaluators (both as a pool of all evaluators for the panel in question and as the actual evaluators who produced the assessments in the given year).
- Incorporating into the tender dossier the option to change investigators for a fixed term equal to the eligible duration of parenthood or care.
- Striving to occupy the positions of chairman and vice-chairman of panels by a man and woman so as to equalise the representation of women and men in the sectoral councils, which consist of a panel chair and vice-chair, for example by calling to nominate both men and women for these position, by targeted search for qualified candidates, etc.
- Abandoning age limits; instead, limits would be defined as years from receiving the doctor's degree (for example, for Junior Grants, 8 years from completing the Ph.D.).
- Including maternity and parental leave in the time limits indicated in the tender dossier for Junior Grants.

The participants of the workshop addressed prof. Hronová as a representative of the Czech Science Foundation, calling on the CSF as a key provider to assume responsibility for cultivation of the academic environment by setting rules of participation which will contribute to strengthening gender equality, employment security of academic staff, etc.

The participants of the workshop also discussed the question whether it is possible to increase the anonymity of project evaluation (gender-blind evaluation) within the standard procedure on the one hand and, experimentally, in the framework of sensitisation of the evaluators.

There was not enough space for discussing **quotas** and the topic was only mentioned as an instrument which may help the Czech Science Foundation address the representation of women and men in its bodies where there are few members and the requirement for representation therefore cannot collide with requirements for the quality and excellence of the members.

A representative of the Technology Agency of the Czech Republic also participated in the workshop; he showed interest in including gender topics in the programme calls and called on the Science Foundation of the Czech Republic to do the same.



## **4. Codes of conduct and culture of the academic environment**

The workshop discussed the importance of the adoption of codes of conduct by employers (higher-education institutions, public research institutions) and providers who explicitly declare support for gender equality and non-discrimination, as well as specific measures of addressing gender equality and non-discrimination in recruitment, professional development, career growth and communication within the relevant institution.

## **5. Other problem areas**

### **5.1. Status of female doctoral students in the system of social insurance**

In the existing system, female doctoral students who are considered to be students face problems if they do not contribute towards social insurance or if they do not contribute towards social insurance for a sufficiently long time. In that case, they can opt only for parental allowance in the reduced amount (until the child reaches 4 years of age) if they have no income or the daily assessment base is not sufficiently high. The period of studies is taken into account for the purposes of parental allowance only if the studies are successfully completed and the person is employed.

Amendment to the following laws should be considered:

- Act No. 187/2006 Coll., on sickness insurance;
- Act No. 117/1995 Coll., on state income support;
- Ministry of Labour and Social Affairs / Government – exemptions for parents receiving parental allowance (conditional on, for example, successful completion of master's studies or enrolment in doctoral studies).

## **6. Proposed measures:**

The Office of the Public Defender of Rights will be provided with a legal analysis of gender equality in the academic environment which was prepared by Mgr. et Mgr. Pavla Špondrová for the National Contact Centre – Women and Science at the Institute of Sociology of the Academy of Sciences of the Czech Republic. The study contains specific proposals for changes in legislation and internal regulations aimed at strengthening gender equality and non-discrimination in the academic environment.

The Research, Development and Innovation Council, providers and the Ministry of Education, Youth and Sports will be approached with a request for including gender equality among the quality criteria which are required and, simultaneously, formed by means of the support system. We request that the Public Defender of Rights support these steps which will remedy the existing situation.

# Workshop – Employers for Balancing – Employer Possibilities and Experience in Introducing Balancing Measures

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## Keywords

work-life balance, parental leave, maternity leave, pre-school care, flexible working arrangements, home work

## Abstract

The workshop focused on examples of good practice in supporting work-life balance and on discussing the supportive measures balancing. During the panel discussion, the representatives of the employers and the European institutions pointed out the risk which they assume when offering work from home and discussed the use of part-time work and other forms of flexible working arrangements. Another topic of discussion was the support of employees-carers, both on the part of the government and the employers. Calls and proposals for legislative changes that could make it easier for the employer to support the work-life balance of their employees were made during the workshop.

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The Work-Life Balance Conference included a workshop aimed at introducing good practice of the employers and also discussing the elements in legislation which hinder or prevent larger support for balancing on the part of the employers. The workshop's participants included representatives of private companies' HR departments (Česká spořitelna, GE Money Bank, Průmstav) and public administration (the Vysočina Region), a co-owner of an international company (YSoft) and representatives of European institutions (Eurofound, European Institute for Gender Equality – EIGE, Confederation of Family Organisations in the European Union – COFACE).

The contributions of the employer's representatives revealed that work from home is an oft-used benefit. Employees use it, but it carries certain risks and disadvantages for the employers. One of the risks is connected with the safety and protection of health at the workplace, where the employers assume accountability for injuries during working time. The employers would welcome a legislative change which would reduce the risk connected with the safety and protection of health at the workplace in that the employer would not be held accountable for injuries occurring during work from home. The place of work represents another limitation for the employer.

A large part of the discussion was devoted to the use of part-time work by the employees and the way this is being offered by the employers. The Czech Republic is among the EU countries with the lowest use of part-time work. The reasons for such low use of part-time work on the part of the employers is its high cost, e.g. in providing for working sites or work equipment (e.g. a computer) as well as the need to secure continuous operation or services at the counters. Job sharing arrangements could represent a certain help for the employers. However, shared jobs are suitable only for certain job positions and operations and sometimes these positions are difficult to fill since the employees in the shared job require the same times off work corresponding with the needs of providing pre-school care. Shared jobs can therefore only be used in positions whose nature is suitable for this kind of arrangement and where the employees sharing the job are capable of reaching an agreement. The employers also noted that shared jobs are not very popular with the employees, especially due to financial reasons. Mothers returning from maternity/parental leave and students wishing to work alongside their studies represent an exception. However, people in the two target groups may later encounter limitations when they become interested in changing the arrangement to full-time work, but find out that the employer cannot offer increased working hours. Part-time work represents no solution to the situation of single mothers. The employer's insistence on meeting the working hours instead of taking account of the employer's productivity may represent an obstacle to greater use of part-time work. It was often mentioned during the discussion that the employers would offer part-time work more often if the Labour Code was modified in order to enable the employers to more easily adjust their employee capacity, especially with respect to termination of employment. The representative of the Regional Authority mentioned the specific situation of the local governments, where part-time work on offer is limited by the specified number of personnel approved by the Regional Council, which cannot be increased without its further approval. Therefore, she proposed an exception for this purpose to be included into the Act on civil servants of the self-governing territorial units.

A part of the discussion on flexible working arrangements was dedicated to the recent case law concerning the use of the so-called serious operational reasons. The employers would appreciate a clear definition of what constitutes serious operational reasons, or at least what they are not.

The second major topic was the support for caregiving, especially providing for the availability of pre-school care also for children between 1 to 3 years of age. With regard to the duration of the parental leave, there was a broad consensus on maintaining the current state, i.e. its length up to the 3 years of age of the child and the possibility of choosing the duration of the parental leave and also the partner's option to take turns during parental leave. However, it is important to reinforce the possibility to freely choose the length of the parental leave; considering the absence of a sufficient number of pre-school care facilities, this freedom is for all intents and purposes only illusory. In this area the government fails, in the long term, to adopt appropriate measures. A co-operation between the employers and local government could offer a working model. The employers find it easier to co-operate with private childcare institutions due to their greater flexibility with respect to working hours (public institutions usually do not have sufficiently long working hours). Prolonging the "opening hours" of public kindergartens in order to make them correspond with the usual employees' working hours would be a helpful step, as would be the cancellation or limitation of the kindergartens' reduced opening hours during holidays. Indeed, this applies also to after-school groups used by parents of still relatively small children. The employers expressed their opinion that the government is currently shifting responsibility for the provision of pre-school care to private companies, which in fact often substitute for the role of the government.

The employers might be motivated to establish "company kindergartens" if they were given financial incentives. They would also appreciate to be provided with a list of trained workers who could be hired to provide care; the employers would likewise welcome subsidies to establish proper facilities for this purpose.

Of the represented employers, only Česká spořitelna plans to make use of the Day Care Act which is currently being prepared. The representative of GE Money Bank stated that as a company, they cannot positively discriminate with respect to e.g. their Prague employees by providing them with a children's group or a company kindergarten, while they cannot provide for the same in the regions. They are then forced to look for other alternatives, for example an allowance for babysitting; however, this is subject to taxation on the part of both the employer and the mother. Some employers expressed interest in the concept of an allowance or a subsidy for private kindergarten which the parents would then choose according to the locality they would find

suitable. In this regard, the employers would appreciate if this subsidy was eligible to tax credit.

The GE Money Bank representative mentioned that the dates when children become eligible for pre-school care represent an obstacle for an earlier return of mothers from maternity leave. A child born in December or even in the next calendar year cannot be accepted into pre-school care the following September; however, the mother/father has already lost the parental allowance with the child's second or third birthday and may not yet get back to work due to the care of a small child. Again, a greater flexibility on the part of public pre-school facilities would help.

A lack of time prevented the participants from discussing other topics concerning care, i.e. care for the sick, disabled or the elderly. However, they perceive the problem as serious and in need of systematic attention. The cases where members of the so-called "sandwich generation" will have to take care both of minors and the elderly will become more common.

Employment of person with disabilities was another issue that was discussed. Opinions were voiced that the government punishes the employers for their failure to meet the statutory quotas, but it does not offer sufficient assistance for meeting them. The employers thus often face a situation where they wish to employ people with disabilities, but cannot find suitable applicants. Provision of a positive motivation for the employers to employ people with disabilities would also be beneficial.

Awareness of flexible working arrangements and the support for them on the part of the employers could be effectively raised through promotion of good practice in the media.

In the end of the panel discussion, the employers themselves affirmed that providing support for work-life balance counts among the characteristics of a socially responsible organisation and helps the employers to improve the loyalty and devotion to the work on the part of the employees.

Drawn up by Lukáš Talpa and Jana Kvasnicová in collaboration with the participating panellists.

# Workshop – Equal Pay, Equal Treatment and Work-Life Balance

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## Keywords

equal pay, work-life balance, equal opportunities, gender, gender stereotypes, career

## Abstract

The workshop named Balancing and equal opportunities led by Barbara Havelková of Oxford University, Linda Sokačová of the Alternativa 50+, a public benefit corporation (NGO), and Zuzana Ondrůjová of the Office of the Public Defender of Rights focused on the relations between pay discrimination, equal treatment and balancing work with care. The workshop was also attended by Andrea Mesárošová of the Slovak Office of the Public Defender of Rights. The discussion focused on the negative impacts of care for children on employment and the labour market and on whether there is discrimination of employees who try to balance care with work. Discussion also concerned measures that could improve the situation in the Czech Republic.

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The workshop was opened by Barbora Havelková, who provided an introduction into the legal tools and the European case-law in the area of equal pay. She framed her contribution by introducing the concept of gender equality and equal opportunities of men and women in the society. She touched upon

the issues of privacy and family and noted that not all personal decisions are always voluntary and free. Very often we are forced into a number of life choices and strategies selection by the society. The contemporary society is based on a number of gender stereotypes and a gender hierarchy. Women are thus often led to focus primarily on care for children and the family, whereas men are led to focus on public life and their careers. This has a number of implications for the individual lives, the position of people on the labour market, in the social sphere, etc. Women in the Czech Republic typically go on parental leave due to gender stereotypes, discrimination and the way the labour market operates, and are absent from professional life for long periods of time. Their choice to care for children and the family is thus not solely their personal choice, but is many ways determined by the societal norms.

Even though equal pay was one of the major topics, for the most part the workshop focused specifically on the implications of care for children and the family on women's careers and equal pay, as well as whether care for children is solely a free personal choice. The notion of the willingness to care being conditional on societal circumstances sparked a lively debate. The involvement of ideology in contrast with the role of love and affinity to children were discussed. The guests did not reach agreement on this issue. However, there was broad consensus that favourable flexible working arrangements and a functioning system of kindergartens are necessary to achieve equality in the position of men and women on the labour market. Women's success on the labour market and their economic and social position is impeded by the lack of places in kindergartens and, in the opinion of some of the guests, also the facilities for children under three and not completely effective anti-discrimination legislation.

The workshop was also attended by representatives of the employers. The representatives formulated the problem as one of over-regulation and a lack of flexibility in the Labour Code. Nevertheless, Linda Sokačová pointed out in her presentation that the Czech Labour Code is flexible and allows various forms of employment as well as home work. The employers often cannot use it properly and some are not even interested in doing so. In her presentation, Linda Sokačová introduced the issues concerning equal pay, which she encountered as part of gender audits and work-life balance audits performed with Czech employers. In one of the audited companies, the finding was that people working for the employer for a longer period of time had on average lower salaries than those working there for a shorter time. Their loyalty is thus rewarded with a lower salary increase, since they are more willing to consent to non-increase of their salary if the employer faces an economic crisis. The employees concerned were mostly women, carers and other groups disadvantaged on the labour market. Bonuses provided for zero absence due to sickness during



the whole calendar year, setting of a maximum time for visiting a doctor or pay decrease resulting from visiting a doctor are further negative trends in pay. They affect primarily people over fifty, carers, parents with children and handicapped persons. The lack of self-confidence among women, which leads to their asking for a lower salary than men, is also a problem. However, the employers should secure equal pay for their employees on the basis of the job demands and the requirements for the given job position, not on the basis of the job applicant's requests.

Zuzana Ondrůjová from the Office of the Public Defender of Rights presented last. She spoke mainly about the most common problems in the areas of work-life balance and equal opportunities encountered by the Office's lawyers in their daily work.

How could the situation be improved?

The participants proposed several measures which could improve the situation in the area of equal treatment and work-life balance:

- improvements to the anti-discrimination legislation;
- better enforceability of the law in the Czech Republic and increased awareness of the law among citizens;
- development of pre-school childcare facilities;
- development of favourable flexible working arrangements on the part of the employers.

# Workshop – What can the Equality Bodies and Ombudsman Institutions Do for Better Balancing of Family and Work Life? Lessons and challenges

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## **Keywords**

work-life balance, equality body, flexible working arrangements, part-time work, disability, discrimination by association

## **Abstract**

As part of the workshop, representatives of European equality bodies and ombudsman institutions (from Slovakia, Hungary, Poland, Austria, Portugal and the Czech Republic) met to discuss their activities in relation to promotion of equal treatment in balancing of work and family life. It turned out that the options at disposal of the individual equality bodies are, to a large extent, influenced by their statutory powers (e.g. the power to submit complaints to a court of law, control mechanisms, monitoring activities). These differences have implications for the possibilities that the equality bodies have in protecting the rights of employees against discrimination.

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The conference included a workshop for the representatives of European equality bodies and ombudsman institutions. The topic of discussion in the workshop was work-life balance and the activities of the institutions promoting equal treatment. The workshop was split into two parts: the introduction of the activities of the individual equality bodies in the area of work-life balance and the discussion on a case study.

The workshop was attended by representatives of ombuds institutions and equality bodies from Slovakia (Slovak National Centre for Human Rights – SNSLP), Hungary (Office of the Commissioner for Fundamental Rights), Poland (Office of the Human Rights Defender), Austria (Ombud for Equal Treatment), Portugal (Commission for Equality in Labour and Employment) and the Czech Republic (the Office of the Public Defender of Rights) as well as a representative

of the EQUINET network, which associates these institutions on the European level, and representatives from the academia (Dalarna University and Charles University).

The powers of these institutions in the area of work-life balance differ. The Polish ombudsman has the power to bring specific case of discrimination by the employer to the court. In Portugal, an approval mechanism is in place for cases where the employer wishes to terminate employment relationship with a pregnant employee. In the event of a dispute between the employer and the employee, the termination of employment must be reviewed by the Portuguese equality body. Hungary has an independent and separate equality body (Equal Treatment Authority) with a power to impose fines. The Slovak equality body is mostly monitoring and promotional-support body. In the event that the Slovak equality body finds misconduct on the part of the employer, the employer has a duty to co-operate with it. In the event the co-operation is insufficient, the facts of the case may be released to the media. The common practice in the Czech Republic involves first the Labour Inspectorate which performs an inspection to find out whether discrimination has in fact occurred. Only then, generally speaking, the ombudsman becomes involved in the case and may reach his/her own conclusions. In Austria, the competence of the labour inspectorates is limited. They only investigate accidents at work, not cases of discrimination. The employer has the duty to co-operate with the Austrian equality body. The Austrian equality body, however, only deals with discrimination by private employers, not in the area of public administration (in the public service).

EQUINET is currently performing a study of the penalties that the European equality bodies may impose. The conclusion of the study should subsequently help to promote equal treatment also outside the area of work-life balance.

The second part of the workshop, a discussion began on a case study based on an existing case recently decided by the Supreme Court of the Czech Republic, on 9 July 2014, File No. 21 Cdo 1821/2013, on the invalidity of termination of employment. The case study concerned a female employee at a Municipal Authority office who was working part-time (35 hours a week) because her child had a disability which required her to take the child by car to a preschool facility at the other side of the town. After a forced reorganisation by the employer, she was no longer allowed to work part-time. The employer then terminated the agreement on part-time work with the employee, citing serious operational reasons at the workplace as the reason. Nevertheless, the employee continued working part-time. For that reason, her employment was terminated.

Once again, the discussion revealed the differences between the individual institutions. The Austrian equality body would not be able to take up the

above-specified case since it concerned employment in the public service. In the event the case came before a court, the judge would have to find a balance between the interests of both sides of the dispute, the employer and the employee. The Slovak equality body would first have to define the boundary between the Labour Code and the Anti-Discrimination Act. The Hungarian ombudsman does not have the power to bring the discrimination case to the court. Furthermore, in dealing with the case, the Hungarian ombudsman has to base his arguments on a breach of a fundamental human right. In this case this could have been the right to private and family life. In Portugal, the aforementioned case would be better investigated by a labour inspectorate rather than the equality body. The employer would have to prove that full-time work is necessary. The steps taken by the Polish ombudsman would depend on the goal of the employee. The Polish regulation does not specify the condition of serious operational reasons giving the employer the right to terminate the agreement on part-time work with the employee. Arguing on the basis of the child's disability and the related discrimination by association could also be considered (for more see the CJ EU decision of 17 July 2008 in case *Coleman*, C-303/06). The UN Convention on the Rights of Persons with Disabilities could also serve as a basis of an argument. The representative of the Austrian equality body noted that the Austrian anti-discrimination act includes explicit provisions protecting against discrimination by association.

The workshop revealed considerable differences between the competences of the individual equality bodies across Europe in dealing with discrimination in employment and in work-life balance issues. Discussion on the case study revealed also the differences of substantive law and procedural character between the European equality bodies. This raises a question for the future whether the activities of European equality bodies could be standardised to a certain degree in order to prevent deviations in the protection of rights of employees.

## Narrative bios – active participants

### **Jana Borská**

Jana Borská is an independent sole practitioner – attorney and her experience and expertise are primarily in the field of family law, employment and labour law and civic law. She provides client representation in labour and employment law disputes and in disputes dealing with protection of children. She cooperates with a number of non-government bodies dealing with a wide range of child protection issues. She cooperates with the association of Body for Social and Legal Protection of Children and with the association of judges of custody courts. At the same time she works at the position of the Head of the Legal Department of the Czech Agricultural University in Prague where she mostly focuses on constitutional and European law.

### **Lóránt Csink**

Lóránt CSINK is a head of unit at the Office of the Commissioner for Fundamental Rights and associate professor at the Constitutional Law Department of the Pázmány Péter Catholic University. Previously he worked in numerous offices in the field of constitutional law (Parliament, the president's office, the Constitutional Court and the Ministry of Administration and Justice, Commissioner for Data Protection and Freedom of Information). In his PhD thesis (2008) he focused on the separation of powers and the president's role in parliamentary states. He is the author of more than 80 publications in the field of constitutional law and comparative law.

### **Tomáš Ervín Dombrovský**

Tomáš Ervín Dombrovský heads the Department of Analyses, Communication and External Relations in LMC s.r.o. He devotes a substantial part of his time to data and topics essential for the development of the domestic labour market and its more profound interconnection with the education system. He is responsible, among other things, for the development of the content of the Jobs.cz, Prace.cz and HRkavarna.cz portals and he is in charge of effective expansion of partner co-operation and community activities exceeding the scope of the company's everyday business.

### **Lenka Formánková**

Lenka Formánková works at the department of Gender & Sociology at the Institute of Sociology of the Academy of Sciences of the Czech Republic and also at the Faculty of Social Studies at Masaryk University in Brno. At this faculty, she graduated from Social Policy and Social Work and Psychology. So far, she

has participated in 8 national and international research projects which were focused on gender equality, female participation in labor market and reconciliation of work and family life. She has published over dozen of scholar papers for Czech and also international peer-reviewed journals (for example Journal of Contemporary European Studies; Journal of Social Policy and Administration; Gender, Equal Opportunities, Research) and she's also the co-author of the book Career Paths of Women (2011). She has presented her work on many Czech and international conferences and seminars, among others on the conferences of The Network for European Social Policy Analysis (ESPAnet), The British Sociological Association (BSA) or on the European Sociological Association (ESA). Her research is focused on gender analysis of social policy in Czech and international context and on the study of gender relations in the labor market and in the family.

### **Ivana Hanáková – Kosourová**

Since 2008, Ivana Kosourová has held the position of head of the HR Department of the Regional Authority of the Vysočina Region. She is responsible for comprehensive management of labour-law, HR and salary issues, ranging from selection of employees; establishment of, modifications to and termination of employment relationships; remuneration, accounting for the employees' salaries; mentoring and assessment of employees; and employee development and care. She is responsible for setting up and developing HR management procedures. She occasionally lectures at the College of Polytechnics Jihlava on the above topics. Ivana Kosourová engages in number of important professional activities. For example, she is a member of the "Půl na Půl" (fifty-fifty) assessment working group of the Ministry of the Interior of the Czech Republic, which has been promoting the introduction of equality policies and principles of gender mainstreaming in the activities of public bodies since 2007.

### **Barbara Havelková**

Barbara Havelková is the Shaw Fellow in Law at the Lincoln college and at the Oxford Law Faculty where she teaches among others EU law, constitutional law and human rights.

She is long-term focused on issues related to gender and law, feminist legal studies and antidiscrimination law. She is also the author of the monograph Equal Pay for Men and Women (Auditorium 2010) and co-editor and author of chapters in the monograph What about Prostitution? Public Policy and Rights of Persons in Prostitution (SLON 2014). Barbara also graduated from the Faculty of Law of Charles University in Prague (Mgr. 2004, JUDr. 2005), Europa Institute of Saarland University (LL.M. 2008) and Oxford University (MSt. 2010, DPhil 2013).

During the years 2007-2008, she attended the Harvard and Michigan Faculty of Law as a scholar of the Fulbright-Masaryk program.

She also worked shortly as an intern in the Legal Service of the European Commission and in the Chamber of Advocate-General Poiares Madura at the Court of Justice of the EU.

### **Ivana Hlochová**

Mgr. Ivana Hlochová has been working with the PRŮMSTAV, a. s. construction company (part of the VINCI Construction group) as an HR officer and quality, environment and social responsibility manager since 2008. In 2012 PRŮMSTAV was recognized as the third best company in the Czech Republic in terms of gender equality and in 2013 it was certified as a Socially Responsible Company, the very first company to achieve this certification in the Czech Republic.

### **Jean-Marie Jungblut**

Dr. Jean-Marie Jungblut is a research officer in the unit Living Conditions and Quality of Life at the European Foundation for the Improvement of Working and Living Conditions in Dublin. He is currently managing research projects on career reviews for prime age workers and workers with care responsibilities' challenges to reconcile work and family life. His work does focus on the comparative analysis of social policy practices, corporate responsibility and legal frameworks across Europe and the evaluation of best practice to inform the policy debate and contribute to the open method of coordination. Past research covered areas such as lifelong learning, skill production regimes, the impact of HRM practices on company performance and the assessment of the cost of young people not in education, employment nor training (NEET) in Europe.

### **Michaela Kadeřábková**

Michaela Kadeřábková studied International relations and European integration at the University of Economics in Prague. For a number of years she worked with President Václav Havel's Forum 2000 foundation, and later also with the European Steering Committee for Youth at the Council of Europe in Strasbourg. For almost 3 years she worked with CzechInvest – Investment and Business Development Agency, first as a project manager and subsequently as head of the HR development department. Among other tasks, she assisted companies with the implementation of the Investors in People (IIP) standard of developing human resources. Since January 2007 she has worked with GE Money Bank in the area of HR. There she joined the two-year Human Resources Leadership Program (HRLP), where she worked as HR specialist for recruitment and performance management and as HR Manager – Operations in Prague; at the same time she spent 10 months in Bucharest where she worked to facilitate HR

integration and company culture change in a number of companies. She later worked as head specialist in Organisation, Staffing and Development, where she was responsible for performance management and corporate development programmes, participating also in HR projects. Now she works as HR manager for IT and Finance, and as a trainer and coach.

### **Dana Kovaříková**

Dana Kovaříková is the head of the Political Department of the Representation of the European Commission in the Czech Republic. She has worked for the European Commission since 2002 and, in January 2014, she joined the Representation of the European Commission in the Czech Republic, where she originally worked in the Press Department. Before that, she had worked in various positions in the European Commission headquarters in Brussels. In 2005 – 2012 she worked at the Secretariat-General of the European Commission, where she was in charge of preparation of underlying documents for the Commission President, José Manuel Barroso.

### **Jana Kvasnicová**

Jana completed studies at the Faculty of Law (2009) and Faculty of Social Studies (2013, in gender studies and social anthropology) of Masaryk University. Since 2009 she has worked with the Office of the Public Defender of Rights. She worked as Deputy Head of the Equal Treatment department since its founding in December 2009 until 2013 when she went on maternal and subsequently parental leave. She currently co-operates with the Office of the Public Defender of Rights externally on organisation of educational and awareness-raising events. She also participates in teaching of the Legal Clinic on Discrimination and Equal Treatment course currently taught at the Faculty of Law of Masaryk University and the Gender and Legislation course taught at the Faculty of Social Studies of Masaryk University.

### **Marcela Linková**

Marcela Linková, PhD is a researcher working in the Gender & Sociology department at Sociological Institute of the Academy of Sciences of the Czech Republic (public research institution) and the head of the National Contact Centre for Gender & Science. Her research focuses on the changes in the academic works and an analysis of science policy from the gender perspective, particularly the forming of career paths, evaluation of science work and public accountability in science. She has coordinated and participated in a number of European projects (TRIGGER, KNOWING, CEC-WYS). She is a member of a number of advisory and expert bodies in the Czech Republic and with the European Commission (e.g. Expert Advisory Board Science in Society, Expert Group on the Research



Profession, Helsinki Group on Women and Science, Departmental Co-ordination Group for R&D, VERA Working Group for the Development of Human Resources and Equal Opportunities for Women and Men in Research and Development at the Ministry of Education, Youth and Sports).

### **Kateřina Liřková**

Kateřina Liřková, PhD is a sociologist and lecturer in the fields of gender studies and sociology at the Faculty of Social Studies of Masaryk University. In her research she specialises on the issues of gender, sexuality and social organisation of intimacy; she also researches education in the contexts of gender and ethnicity. She is currently the investigator in the Constructing Sexuality and Gender in Czechoslovak Sexological Discourses during Communism (1948-1989) project for the Marie Curie International Outgoing Fellowship – European Commission FP7. She worked as a visiting scholar at the Columbia University and New York University in New York and as a Fulbright scholar at New School for Social Research. She lectured at a number of American universities and published monographs abroad with Routledge, SAGE, Palgrave and Blackwell publishing houses. Her book *Hodné holky se dívají jinak. Feminismus a pornografie* (Good Girls Don't Look – Feminism and Pornography, 2009) was published in the Czech Republic and she also co-authored *S genderem na trh. Rozhodování o dalším vzdělání patnáctiletých* (With gender to the market. Educational strategies and decisions of 15 year olds) (2010) published by Sociologické nakladelství.

### **Václav Mach**

Václav Mach has worked for Microsoft from 2008. He holds the position of External Relations Director for the Central and East Europe region. He is active as a member of the Board of Directors of the ICT Union, member of the Steering Committee for Information Society, the main representative of the Confederation of the Personal Data Protection Industry in the Czech Republic, member of the Czech ICT Alliance, vice-chairman of the Audit Committee and member of the Prague Business Club, member of the Council of the Czech Society for Systems Integration, member of the Sectoral Council on Information Technologies and Communication and member of the Internet Safety Advisory Committee. In 2014, the American Chamber of Commerce in the Czech Republic awarded him the title "AmCham: The Plus Club Member" for his activities. In his position, he focuses on the support of the spread of modern information technologies and development of company relations not only through membership in professional organizations, but also with respect to representatives of government and self-government bodies, the legislators and representatives of regulation bodies. Václav Mach has years of experience in the field of electronic communication, which he gained when working for Vodafone,

where he held a number of managerial posts from 1999 to 2008, in particular in the field of external relations and regulation and also as a corporate agent of the company. Václav Mach graduated from the Czech Technical University in Prague and has attended a number of professional training seminars, such as the post-graduate management course offered by the CMC Čelákovice in co-operation with the University of Pittsburgh. He was born in 1967, is married and has two children. He likes to spend his free time with his family and he enjoys playing golf and tennis.

### **Anna Mazurczak**

Anna Mazurczak is lawyer in the Office of the Human Rights Defender, in the Department of Equal Treatment and Protection of Rights of People with Disabilities; member of the Human Rights Commission of the Polish Bar Council; interested in discrimination on the ground of gender, sexual orientation and sexual identity; co-author and editor of reports concerning antidiscrimination law; coordinator of the research on work-life balance conducted by the Human Rights Defender.

### **Marián Mesároš**

Mgr. Marian Mesároš is the Executive Director of the Slovak National Centre for Human Rights. He is a member of the Detský fond Slovenskej republiky civic association (Children's Fund of the Slovak Republic) and the Slovak Government Council for Human Rights, National Minorities and Gender Equality; within this position he also works in the committee for LGBT persons' rights. In the area of work-life balance issues, he focuses on monitoring and evaluation of adherence to the principle of equal treatment in accordance with the Anti-discrimination Act and also provides legal advice to victims of discrimination and intolerance. Both personally in terms of methodology, he provides for expert statements concerning issues of equal treatment, independent investigation in matters of discrimination and drafting reports and recommendations concerning issues of discrimination.

### **Andrea Mesárošová**

Andrea Mesárošová studied law at the Faculty of Law of Matej Bel University in Banská Bystrica. She works as a lawyer at the Office of the Public Defender of Rights in the Slovak Republic. In the Office she participates in protection of fundamental rights and freedoms of natural and legal entities in the area of public administration, manages communication with the clients, deals with their inquiries, participates in drafting reports and recommendations of the Public Defender of Rights in the individual areas of human rights protection and co-operates with the public administration authorities.

### **Kateřina Michailidisov**

Kateřina worked in HR management for over 10 years. She began her career in GIT Consult job agency, which specialises in recruitment of technical workers. Two years later she moved to esk spořitelna to work as recruitment specialist, focusing primarily on recruitment for jobs in retail banking in a number of regions of the Czech Republic. Having worked there for one year, she was offered the position of HR Business Partner and in this area she supervised approximately 50 managers at the 2nd and 3rd management levels in the divisions of Commercial Banking, Corporate Banking, Public Financing, Marketing, Internal Audit and others. She simultaneously participated in a number of company-wide projects such as Company Culture Development, Integration of Mothers Returning from Maternity and Parental Leaves, and Performance Management Implementation. After leaving esk spořitelna, she joined Telefonica O2 as Lead HR Business Partner in the Retail Customers division. There she was involved in consolidation of call centres and managed the HR aspects of closures in several locations in the Czech Republic; she also took part in the drafting and implementation of career maps. At the present time she works with GE as HR manager responsible for strategy and management of the GE Rozmanit (GE Diverse) programme, focusing on issues of Diversity.

### **Maurizio Mosca**

Since 1995 working on EU affairs, related to social inclusion and employment policies. From 2004 I have been dealing with as a researcher on gender equality issues, at national and European level. Joined EIGE in 2005 as gender expert for labour market and since then in charge of EIGE's work on good practices on gender mainstreaming. Professional economic background, I have also been a trainer for public and private organisation on networking, mainstreaming and effectiveness of EU projects.

### **Vaclav Muchna**

Vaclav Muchna is one of the co-founders of Y Soft and currently holds the position of Chairman of the Board of Directors of Y Soft Corporation, a.s. The company was founded in Brno in 2000. Today, Y Soft is a globally operating Czech company offering unique print solutions (software and hardware) enabling companies and organisations to effectively control print expenses, reduce waste, increase customer comfort and positively influence the environment. Y Soft employs over 250 employees, 200 of them in the Czech Republic. In 2006, Vaclav Muchna was awarded the prestigious "Start-up Entrepreneur of the Year" award and in 2010 he was declared the "Tech Entrepreneur of the Year".

### **Zuzana Ondrůjová**

Absolvovala Filozofickou fakultu (1992) a Právnickou fakultu Masarykovy univerzity (2006). S výjimkou krátkého období, kdy pracovala jako redaktorka a dramaturgyně České televize, se až do absolutoria na právnické fakultě se věnovala převážně činnosti průvodkyně v cestovním ruchu jako OSVČ se zaměřením na španělskou jazykovou oblast a incoming. Také i nadále spolupracovala s médií externí formou (scénáře, překlady). Od roku 2006 do roku 2009 byla asistentkou soudkyně Nejvyššího správního soudu, kde se v rámci svěřených úkolů podílela na přípravě konceptů soudních rozhodnutí ve věcech obecné veřejné správy (agenda stavebního práva, práva životního prostředí, přestupků, azylového práva, resp. práva na mezinárodní ochranu, průmyslových práv atd.) a především daňového práva. Od roku 2010 pracuje v Kanceláři veřejného ochránce práv jako právníčka, nejprve do roku 2012 v oddělení sociálního zabezpečení, a poté v oddělení rovného zacházení, kde pracuje doposud. Od roku 2013 je členkou pracovní skupiny evropského sdružení Equinet, konkrétně Gender Equality Working Group a v témže roce byla jmenována i asistentkou veřejného ochránce práv. Věnuje se při své práci celé oblasti diskriminace průřezově ve vztahu ke všem diskriminačním důvodům, ale zaměřuje se především na problematiku rovnosti žen a mužů (nejen v zaměstnání), a také na oblast rovného přístupu k bydlení, vzdělání a zdravotní péče. Od roku 2009 spolupracuje jako freelance se Soudním dvorem Evropské unie na překladech z jazyka španělského.

### **Tiago Pereira**

Tiago Pereira has a BSc in Sociology and a Post-graduation to Master in Human Resources Management, both acquired at the University Institute of Lisbon – ISCTE. He started his professional experience working as a trainee in the Commission for Equality in Labour and Employment, and then he worked in a Portuguese NGO, also on subjects related to gender equality and work-life balance. In 2013 he worked as a trainee in the Council of the European Union, more specifically in the Equal Opportunities Office. In 2014, he returned to Portuguese Commission for Equality in Labour and Employment, where he is working in the area of projects and training. Time to Have Time was the slogan of a 2013's Portuguese campaign to promote gender equality and work-life balance in Portugal. After a short contextualization, the presentation will show what have been done lately in Portugal in order to promote gender equality and work life balance, and will present the campaign in question.

### **Petr Polák**

Graduate of the Faculty of Law (2007) and Faculty of Arts of Masaryk University (2009). He started working with the Office of the Public Defender of Rights

immediately after college. He has been the Head of the Department of Equal Treatment of the Office of the Public Defender of Rights since 1 May 2012. Since July 2012, he has worked as an assistant of the Defender and a member of the Equality Law in Practice working group within the European association Equinet. He participates in teaching of the courses Legal Clinic on Discrimination and Equal Treatment and Ombudsman Legal Clinic taught at the Faculty of Law of Masaryk University. He specializes in the issues of application of the Union law in national practice, the effects of the international courts case-law in the area of protection against discrimination and age discrimination and the protection of rights of ethnic and sexual minorities.

### **Marek Řezanka**

Since 2003, Marek Řezanka has worked as an expert for the Czech Statistical Office. He studied demography and sociology and currently focuses on gender statistics.

### **Steven Saxonberg**

Professor Saxonberg is a researcher at the Centre for Social and Economic Strategies at the Charles University and Dalarna University in Sweden. He has recently published a book with Palgrave on Gendering Post-Communist Family policies and has also recently co-authored a book with Slon on the development of Czech family policy. He has published dozens of articles on comparative family policy for international journals and anthologies. Currently, he is finished a project on how parents make their child-caring decisions in Sweden, Norway, Czech and Slovakia, which will also be the topic of his presentation.

### **Jitka Schmiedová**

Jitka started with HR in Norsk Hydro, where she worked from 1991 in logistics, accounting, HR and later also in acquisitions and on wide restructuring of its agricultural division. She has also worked as HR manager in Mitsubishi Electric in Slaný and later as the director of personnel matters department at VZP Headquarters. In Česká spořitelna, she worked in 2007–2011 as HR director and headed an extensive project of HR transformation towards business partnerships. Jitka also held the position of Vice President People and Property in Vodafone Czech Republic. As a member of the Board of Directors and the executive team she participated in the transformation of Vodafone in the Czech Republic. Since 2014 she has held her old position of HR director in Česká spořitelna. Her main responsibilities include development of the HR team, company culture and the abilities of the people and the bank with the view of meeting the goals of the company's medium-term strategy.

**Irena Smetáčková**

Irena Smetáčková works at the Psychology Department of the Faculty of Education of Charles University in Prague. Her professional background includes psychology, pedagogy and sociology. She focuses mainly on gender psychology and social psychology. Her main research topics include gender socialisation, educational institutions and gender inequality in education. Besides research work and teaching, she also co-operates with a number of non-profit organisations promoting gender equality. She is a member of the Government Council for Equal Opportunities for Women and Men.

**Linda Sokačová**

Linda studied sociology at the Faculty of Social Sciences of Charles University, where she focused on gender concepts, social movements and sociological theory and research. In her professional life she focuses on family policy, societal discrimination and equal opportunities. Between 2000 and 2011 she worked for Gender Studies, a non-governmental organisation, where she became director in 2007. She is concerned with the processing of research data and analyses. Recently, she participated in the European Agency for Fundamental Rights research of the attitudes of the Roma people and migrants from the post-Soviet states to health care in the Czech Republic; she has also participated in the Agency for Social Inclusion in Roma Localities research of the migration trends in the Šluknov region. In the Counselling Centre for Citizenship, Civil and Human Rights, she has focused on research of the standing of migrants who are staying in the Czech Republic for a longer period of time. She also pursues the topic of social housing and serves as an advisor to the Czech Minister of Labour and Social Affairs, Michaela Marksová. Currently, she is a director of the Alternativa 50+ benevolent society, which is concerned with age discrimination and diversity and inter-generation solidarity.

**Daniela Světlíková**

Daniela Světlíková is an independent sole practitioner – attorney at law with experience and expertise mainly in the area of employment and labour law, human rights protection and trade licensing and family law. She represents clients in employment and labour law disputes, in do sutures associated with protection of persons from social exclusion. she is a member of the Helsinki Committee within which she had acted as a board member for many years. She also acts as a member of the Committee for Institutional Equality of Men and Women of the Government Council for Equality of Men and Women. At the same time she works as a lecturer – researcher at the Legal Department of the Czech Agricultural University in Prague where she focuses above all on employment law.

### **Agnes Uhreczky**

Agnes studied in Budapest and has a BA degree in Business Economics and a Master's degree in European Affairs from the Budapest University of Economic Sciences and State Administration. Based in Brussels since 2002, among others she worked on regional development, was an alternate member at the EESC, and before joining COFACE, she was the Director of AVSO, a European organisation active in the field of volunteering until Agnes' experience lies with European Integration, and influencing European level decision and policy-making processes. She wrote a number of legislative and policy proposals, mainly on the issue of civic engagement, European citizenship, active citizenship and volunteering. In addition, she participated as an expert in a number of United Nations working groups and contributed to UN publications.

Agnes wrote the lead article for the Work-Family life balance section of the UN Landmark publication that has been prepared in relation to the 20th Anniversary of the International Year of the Family in the United Nations in 2014. For the last 2,5 years, at COFACE, she has been leading the 2014 Year of Reconciling Work and Family Life in Europe advocacy campaign. Agnes is a regular speaker at international conferences on the subject of family policy, social inclusion, work-life balance and labour market reorganisation.

### **Lukáš Talpa**

Lukáš Talpa is an expert guarantor of the Active Fatherhood section at League of Open Men (LOM), a lecturer in seminars promoting fathers' work-life balance and also a manager of the Full-time Dad project through which LOM supports men as the primary carers for their children and promotes active participation in the care for children; he also manages the Patron project through which LOM supports young men in children's homes on their journey from institutional care to adulthood. He is also a member of the Work-Life-Family Balance Committee at the Government Council of the Czech Republic. He graduated from the Protestant Theological Faculty of Charles University in Prague and completed studies at the European Bible School in Geneva in counselling, pastoration and Bible studies; he spent 11 years as a pastor.

### **Ilaria Volpe**

Ilaria Volpe is Policy Officer at Equinet – the European Network of Equality Bodies. Equinet promotes equality in Europe through supporting the work of national equality bodies, public institutions acting as catalysts for more equal societies. She supports Equinet activities mainly in the field of gender equality. Previously to Equinet she has worked for the European Commission, for the European Women's Lobby and on projects including research on equal treatment legislation, consultancy on socio-economic policies for the German

Federal Employment Agency, and best practices analyses for a local think tank. She holds a Master in European Political and Administrative Studies from the College of Europe and a European Master in Law and Policies of the European Integration. She studied and worked in Italy, Belgium, Spain, France and Poland.

### **Sabine Wagner**

Sabine Wagner studied Law at the University of Vienna with a focus on Labour Law. She then spent ten years with the Green Party in Austrian Parliament, where she was mainly concerned with Women's and Equal Treatment issues. Since 2010, she has been working as a Legal Expert for the Ombud for Equal Treatment Austria, with a focus on Work-Life-Balance topics. Her further professional activities include lecturing at the University of Vienna, regular publishing in Labour Law journals, working as a lay judge at the Viennese Labour Court and speaking at national as well as international seminars and congresses on the topics of Equal Treatment and Work-Life-Balance.



International Conference Proceedings

## Work-life balance

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