

Background document

Purpose of this public consultation

In August 2015, the Commission published a "Roadmap" for the initiative 'A new start to address the challenges of work-life balance faced by working families' to replace the 2008 Commission proposal to revise the Maternity Leave Directive¹. The objective for this initiative is to increase the participation of women in the labour market by modernising and adapting the current EU legal and policy framework to today's labour market to allow for parents with children and/or dependent relatives to better balance family and work life, allow for a greater sharing of care responsibilities between women and men, and to strengthen gender equality in the labour market.

In line with Article 154(2) TFEU, the Commission has launched the first stage consultation with the European social partners to obtain their views on the possible direction of European Union action, in particular on legislative measures concerning family leaves and flexible working arrangements that could address these challenges. In accordance with Article 155 TFEU, during the first stage consultation social partners may inform the Commission on their wish to initiate a negotiation process for a social partner's agreement. In such a case, the Commission suspends its initiative for the duration of the negotiations. If these are successfully concluded, social partners may request their agreement be implemented by the Commission presenting a proposal for a Council Decision.

Legislative and policy measures can be complementary elements in a package in order to improve work-life balance. Therefore the roadmap also outlines possible non-legislative options for the way forward, including comprehensive policy guidance to Member States in the area of work-life balance, as well as reinforced monitoring, better use of EU funds and knowledge-sharing activities.

The purpose of this consultation is to gather views on the development and implementation of a range of possible tools at EU-level to support work-life balance.

Context

The issue at stake and its consequences

Women are increasingly well-qualified, even outperforming men in terms of educational attainment², and yet they continue to be **under-represented in the labour market**³. In the EU, the participation of women in the labour market has not significantly increased since 2006 and the employment rate is still lower than in other developed countries⁴. Parenthood still has strikingly negative impacts on the employment rates for women. Evidence shows that when women have children they are less likely to be in paid employment and that they spend more time doing unpaid care work whilst, when men have children, they are more likely to be in paid employment. The situation for parents with children with disabilities is particularly difficult. Moreover, women, especially mothers, are more likely than men to work **part-time**⁵, and this is often on an involuntary basis. Women are more likely than men

¹ http://ec.europa.eu/smart-regulation/roadmaps/docs/2015_just_xxx_maternity_leave.en.pdf

² In 2014, 42.3% of women (aged 30-34) had tertiary education or higher compared to 33.6% of men.

³ In 2014, 75% of working-aged men were in employment vs. 63.5% of women (EU28).

⁴ Switzerland: 77.4%, USA: 66%, Japan: 67.6%, cf. Eurostat 2015.

⁵ 32.9% of working women vs. 9.9% of working men in 2014.

to assume care responsibilities for elderly/dependent family members, leading to their exit from the labour market or reduction in their working hours⁶. Women are often trapped in **low-productivity, low-skilled and low-paid sectors** and jobs and are over-represented in jobs on **fixed-term contracts**. Many women, especially mothers, are **employed in jobs below their skill level**.

Overall low pay, a higher concentration in part-time work and greater interruptions in careers due to caring for others (children and/or dependent relatives) contribute to a **greater risk of poverty and social exclusion** for women as well as a **large gender pension gap** (40%). Furthermore, when only one parent is employed, the **risk of children living in poverty** is higher, resilience to economic downturns is weakened and families are financially worse off.

Women's under-representation in the labour market is also a **sub-optimal allocation of their skills and competences** which they have acquired through education and consequently a **waste of resources for the EU economy**. Preliminary findings from Eurofound have estimated that the gender employment gap costs around €325 billion per year (2.5% of EU GDP)⁷.

The root causes

The **availability of work-life balance solutions** influences people's decision to leave the labour market or reduce their working hours after having children and/or when having to care for a dependant relative, the choice whether or when to have children, or how many children to have.

Without sufficient **leave arrangements** and flexibility in working arrangements, some women and men choose to leave the labour force altogether and for a longer time rather than facing working conditions that do not allow for balancing their work and family responsibilities. This is particularly the case for single parents. Lack of paid leave arrangements for fathers relative to mothers, or insufficient incentives to make use of them, can further reinforce gender differences between work and care. With women being the main users of family-related leave, their position in the labour market is weakened as regards employability, pay or career development (including women without children, due to the perception that they may, in future, have children).

Lack of formal care services also entrenches the role of women as primary care-givers for children and dependent family members. Despite the fact that childcare⁸ has been shown to be a key measure in improving female labour market participation⁹, many parents still experience difficulties in finding available, affordable, quality childcare for a suitable number of hours. Long-term care services¹⁰ are also still underdeveloped to reach demand in many Member States, which remains a major impediment to female employment and growth.

Unavailability of flexible working arrangements (e.g. flexible working hours or telework) can also lead some parents and those who care for dependent relatives to leave the labour market because of the difficulties of balancing their working hours with caring for children and/or dependent relatives.

⁶ Social Protection Committee (2014) Adequate social protection for long-term care needs in an ageing society.

⁷ Eurofound (forthcoming) The Gender Employment Gap - Challenges and Solutions estimates the public finance costs (income transfers/benefits) as well as foregone income (e.g., foregoing earnings, foregone taxes and social security contributions) of the gender employment gap.

⁸ For young children under the mandatory school age and for school-aged children as well

⁹ See for instance: OECD (2012) Closing the Gender Gap

¹⁰ For elderly, dependent or frail people

While some employers develop family-friendly policies in order to attract and retain highly-skilled women (and increasingly men), in general, attitudes to the organisation of work tend to remain fixed around on-the-job presence for full-time hours (or more).

Work disincentives can further compound these problems. A number of Member States have tax-benefit systems in place which reduce the incentives to work of the lower-earning partner in the couple, by making going to work or increasing work hours for that partner financially less advantageous. Moreover, high costs of childcare or long-term care services, especially for low-income earners, can represent further significant disincentives to work.

Progress towards a more equal sharing of caring and domestic activities between women and men is also slow. Employed women still spend on average more hours on unpaid caring or domestic work than employed men and the gender gap is the widest in couples with young children.

Current EU-level tools to support work-life balance

Several EU Directives exist that provide minimum standards in some areas related to work-life balance, in such areas as maternity leave, parental leave and part time work. Most notably, the **Pregnant Workers (Maternity Leave) Directive** (92/85/EEC) provides for paid maternity leave (at least at level of sick pay) for 14 weeks. Pregnant workers and workers on maternity leave are protected against dismissal. **The Parental Leave Directive** (2010/18/EU) entitles men and women workers to a minimum of four months' leave on the grounds of the birth or adoption of a child¹¹. It also provides that workers may also request limited time off work for urgent family reasons (force majeure). Parents who return from parental leave also have the right to request (but are not entitled to) changes to their working hours and/or patterns for a certain period of time. Moreover, the **Directive on Part-Time Work** (97/81/EC) has the purpose of eliminating discrimination against part-time workers and improving the quality of part-time work.

Overall labour market participation and notably female labour market participation has been recognised as an issue at EU level and the EU has set a 75% employment rate as a headline target to be achieved by 2020.

In addition to legislation, the EU has been addressing work-life balance issues and obstacles to parents' labour market participation through the **European Semester**¹², and country-specific recommendations (CSRs) have been issued to those countries with the greatest challenges. Such recommendations include providing affordable and adequate childcare and long-term care services and removing financial disincentives to work. Moreover, the new guidelines for Member States' employment policies adopted by the Council in October 2015 highlight the importance of increasing female labour market participation and ensuring gender equality including equal pay, and refer specifically to the reconciliation of work and family life.

The **European Structural and Investment (ESI) Funds**¹³, in particular the European Social Fund (ESF) and the European Regional Development Fund (ERDF), have been providing financial support

¹¹ At least one month shall be provided on a non-transferable basis. Member States, or where implemented through collective agreements, social partners, are free to decide whether or not this leave is paid, and whether or not this leave can be taken in a piecemeal way or part-time.

¹² For more information, please see http://ec.europa.eu/europe2020/making-it-happen/index_en.htm

¹³ For more information, please see http://ec.europa.eu/contracts_grants/funds_en.htm

investments to improve access and quality of childcare services. While the ESF focuses on soft measures, i.e. support to allow extended opening hours of childcare facilities for parents working at night or during the weekend or training of childcare assistants, the ERDF can support the development of childcare infrastructures.

Targets to improve the provision of childcare, the '**Barcelona Targets**', were set by the European Council in 2002¹⁴. They aimed to provide childcare by 2010 to at least 90% of children between 3 years old and the mandatory school age, and to at least 33% of children under 3 years of age.

Finally, the EU has provided some **policy guidance in the area of work-life balance**. The Commission's 2013 Social Investment Package (SIP)¹⁵ urged Member States to remove barriers to women's labour market participation by addressing workplace discrimination, flexible working arrangements, and removing tax-benefit disincentives for second earners to work. The SIP also contained a Commission Recommendation on Investing in Children¹⁶, calling on Member States to support the employability and participation of parents – notably single parents and second earners - in paid work, and to provide accessible quality early childhood education and care services (ECEC).¹⁷ The Commission has also worked to support the development of a quality framework for these services¹⁸. Moreover, the 2014 Report on Adequate social protection for long-term care needs in an ageing society prepared by the Social Protection Committee and the Commission services calls on Member States to ensure adequate access to affordable quality care and to make it easier for people taking care of elderly, dependent or frail family members to reconcile employment and care responsibilities.

Finally, the Commission organises **awareness-raising events and exchanges of good practices between Member States on reconciliation policies and female labour market participation**.

Remaining gaps despite the current EU-level policy tools

Despite existing EU legislation, country-specific monitoring and recommendations, policy guidance, and financial support, to improve work-life balance and female labour market participation, the situation in Member States remains uneven.

In 2013, the Commission published a report on the attainment of the Barcelona targets¹⁹ showing that a majority of Member States have not achieved these targets (targets whose original deadline was 2010). In 2013, 17 Member States had not achieved the target of providing childcare for 90% of children aged between 3 and the compulsory school age, although most of these Member States were not far from the target. There was a greater shortfall in achieving the target of 33% for ages 0-3, as 19 Member States had not achieved it and six were very significantly below the target.

¹⁴ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/71025.pdf

¹⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1444905511940&uri=CELEX:52013DC0083>

¹⁶ <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013H0112>

¹⁷ Already in 1992, the Council gave a Recommendation on child care (92/241/EEC, OJ L 123, 08/05/1992).

¹⁸ See 2014 Report of the Working Group on Early Childhood Education and Care under the auspices of the European Commission.

¹⁹ http://ec.europa.eu/justice/gender-equality/files/documents/130531_barcelona_en.pdf

Some Member States have made substantial progress in implementing reforms since receiving country-specific recommendations. However, work-life balance and female labour market participation have remained a challenge and several Member States have accordingly received Country Specific Recommendations in this area for two or more years in a row.

In addition, the interplay between different aspects of public policy should be considered, as evidence shows that these policies often interact and reinforce each other. For example, it is important to consider the availability of childcare arrangements following the end of maternity or parental leave, given the large gaps in provision of such services that exist in several Member States, especially for children under the age of three. Moreover, the take-up of parental leave by fathers needs to be considered in the context of tax and benefit systems that can incentivise the spouse earning less in a couple to withdraw from the labour market or to work part-time. The unavailability of full-time childcare arrangements and care for children after school hours needs to be considered, as this can lead to incompatibility with parents' full-time work. This larger context needs to be taken into account to avoid unintended side-effects and to effectively support the equal economic independence of women and men.