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**Second-stage consultation of the social partners at European level under Article 154
TFEU on possible action addressing the challenges of work-life balance faced by
working parents and caregivers**

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1. INTRODUCTION

This document presents background information to support a second stage consultation of the European social partners on possible legislative action in the area of work-life balance, which would aim to address the problem of women's underrepresentation in the labour market.

According to Article 154 TFEU Social Partners have to be formally consulted, before the Commission submits proposals in the social policy field under Article 153 TFEU. Social partners are consulted in two stages – first on the direction of Union action and later on the content of the envisaged legislative proposal.

The first stage consultation was carried out on 11 November 2015 and closed on 4 January 2016. A consultation hearing with the social partners was held on 23 February 2016 to discuss the results of the first phase consultation. A broad public consultation was also carried out between 18 November 2015 and 17 February 2016. An overview of the results of both consultations is presented in this document as well as an advance summary of the opinion under preparation by the Advisory committee on equal opportunities for women and men.

This document sets out the nature and extent of the problem of women's low levels of labour market participation, which is linked to the unequal distribution of caring responsibilities between women and men and to the lack of effective possibilities for men and women to balance those responsibilities with the demands of their working lives. It explains the drivers of the problem as well as the consequences this problem has on women, men and their families, on employers, and on society as a whole. It also sets out the EU's policy objectives in this area, to enhance women's participation in the labour market and promote equality between men and women in employment, as well as explains how these objectives are coherent with other major EU-level policies.

The document then explains the current EU-level instruments in this field, which include legislation in the areas of leaves and, to some extent, rights to request flexible working arrangements, as well as EU-level policy guidance, quantitative targets in the area of childcare¹, financial support, and awareness-raising activities. The relevant instruments existing in the Member States are also outlined in this document. It is clear that there is some diversity of arrangements in place, and their levels of effectiveness in addressing the problem also vary considerably.

The document shows that despite existing EU-level measures and those in Member States, the challenges persist, and the current measures in place are not sufficient to adequately address the problem. It also sets out the legal basis for further EU-level action and the EU-added value, as well as explaining how this would be in line with the principle of subsidiarity.

Finally, this document presents possible avenues for EU action and briefly explores the costs and benefits of each possible measure. These could include improvements to the protection against dismissal during and after maternity leave, the introduction of breaks and facilities for breastfeeding upon return from maternity leave, improvements to parental leave (such as improving the flexibility with which parental leave can be taken, making provision at EU level for an allowance during parental leave and increasing the non-transferable period of parental leave), the introduction of a father-specific leave entitlement around the time of the birth of a child (paternity leave), the introduction of

¹ For the purposes of this document, the terms "childcare" (as used in the Barcelona targets) and "early childhood education and care" (as used in the Education and Training 2020 targets) are used interchangeably and cover care facilities for young children from birth to compulsory school age.

carers' leave to enable workers to take time off to care for or support ill, disabled, frail, elderly or dependent relatives (carers' leave) and increased possibilities for parents and carers to request flexible working arrangements or reduced hours. The document also briefly sets out possible non-legislative measures as a complement to legislative measures.

2. CONSULTATIONS AND STAKEHOLDERS VIEWS

2.1 Results of the consultation of the social partners

The trade unions that replied to the consultation were the European Trade Union Confederation (ETUC), Eurocadres and the European Confederation of Executives and Managerial Staff (CEC) as well as the European Confederation of Independent Trade Unions (CESI). It should be noted that ETUC's reply also took into account the view of 10 ETUC sectorial trade union organisations.

On the side of the employers, replies to the consultation were sent by *BusinessEurope*, the European Association of Craft, Small and Medium-sized Enterprises (UEAPME) and the European Centre of Employers and Enterprises providing Public Services (CEEP) as well as the Community of European Railway and Infrastructure Companies (CER), the Council of European Employers of the Metal, Engineering and Technology-Based Industries (CEEMET), the Council of European Municipalities and Regions (CEMR), the European Chemical Employers Group (ECEG), the Hotels, Restaurants and Cafés in Europe (HOTREC), the Performing Arts Employers' Associations League Europe (PEARLE), the Retail, Wholesale and International Trade Representation to the EU (EuroCommerce).

The social partners agreed, largely, with the Commission's objective of improving women's labour market participation and the first stage consultation's description of the challenges related to work-life balance and female employment. The trade unions and the employers' organisations however did not agree on the case for further EU-level legislative action in the field - with the trade unions favourable to new measures and the employers against further action.

Possible improvements to the EU legal framework

The trade unions believed that the EU legal framework could be improved to provide strengthened protection against dismissal upon return from maternity leave. ETUC would additionally like to see maternity leave guaranteed at full-pay level and coverage extended to all workers in atypical forms of employment. They would also like to introduce payment for parental leave, as well as introduce EU legislation for paternity leave and carers' leave. CEC and Eurocadres also appeared favourable towards paternity leave and carers' leave, but they cautioned that the latter should be designed so as not to reinforce expectations for women to provide informal care. ETUC considered that flexible working arrangements could be taken up at EU level whilst leaving the development of detailed solutions to collective agreements and CEC and Eurocadres were favourable to measures to facilitate greater flexible working. CESI is particularly in favour of further EU-level legislative action in the areas of flexible working arrangements, part-time work, childcare and care for other family members.

Employers' organisations, on the other hand, found the current EU-legislative framework in the area of work-life balance to be sufficient. They pointed out to the primary responsibility of the Member States and social partners in this area. *BusinessEurope*, UEAPME, CEMR, HOTREC, CER, EuroCommerce and ECEG also warned that new EU-level legislation in this field could create high costs for employers, which could adversely affect competitiveness and worsen unemployment. Two organisations specifically referred to the disproportionate burdens that SMEs could face (HOTREC, ECEG).

Willingness to enter into Negotiations

All of the trade unions have indicated their willingness to enter into negotiations on all forms of leave mentioned in the first-stage consultation. CESI also indicated that they would like the legislator to act in the case negotiations are not possible. The employers' organisations are not favourable to entering into negotiations at this stage.

Businesseurope has expressed particularly strong reservations about re-opening the discussion on parental leave. They also underlined that as the social partners have a framework agreement on parental leave, the Commission should respect the autonomy of the social partners in this area and not reopen the Directive. However, ETUC and CESI consider that this Directive should be revised and do not object to the Commission proposing to do so, declaring that, should discussions and negotiations between social partners not lead to any concrete outcome to improve work-life balance, the Commission should provide the necessary initiative and come up with legislative proposals.

Opinions on Non-legislative measures

Though the consultation did not request the social partners' views on possible non-legislative measures in the area of work-life balance, the social partners nevertheless discussed such measures.

Businesseurope was favourable to EU-level support in the area of childcare and long-term care services. ETUC indicated their desire for strengthened EU policy guidance, EU-level financial support, clearer guidance to national/regional/local authorities on how existing EU funds can be used, and further awareness-raising activities. UEAPME highlighted that the EU could play a role in promoting mutual learning and the exchange of good practices, especially in the area of childcare for children under 3 years of age.

CEMR, CESI, CEEMET, ECEG and EuroCommerce see the usefulness of further non-legislative actions to support work-life balance e.g. through the European Semester, policy guidance, awareness raising activities, tackling gender stereotypes and increased funding.

Finally, in terms of more general points, ETUC expressed criticism of the Commission's launch of a broader public consultation in parallel to the social partner consultation, arguing that this creates confusion among stakeholders and does not respect the autonomy of the social partners. Businesseurope reiterated their request for a dedicated meeting on work-life balance between the social partners and the Commission.

2.2 Results of the public consultation

The public consultation on possible action addressing the challenges of work-life balance faced by working parents and caregivers launched by DG Justice and Consumers together with DG Employment and Social Affairs received 785 contributions from across the EU. Between 18 November 2015 and 17 February 2016, 229 organisations and 557 individuals made online contributions. The table below shows the proportions of responses received from organisations, by type of organisation. Non-Governmental organisations account for 28% of organisations having expressed their views, employers' organisations for 17.5%, public authorities for 10.5% (including 10 Ministries at Member State level) and worker organisations for 9.7%. Responses were received from each EU Member State – the largest number of responses came from Belgium, followed by Germany, Italy, France and Portugal.

Table 1: Number of responses, by type of organisation

Responses by type of organisation	Number	Percentage
Non-Governmental Organisation (NGO)	64	28.07%
Employer organisation	40	17.54%
Public authority (Central govt., local, regional, equality body, etc.)	36	10.53%
Worker organisation / trade union	22	9.65%
European network	13	5.7%
International Organisation	11	4.82%
Large organisation / company	6	2.63%
Think-tank / Consultancy	3	1.32%
Small or Medium-sized Enterprise	1	0.44%
Researcher / academic	1	0.44%
Other	32	14.04%

An overwhelming percentage of the organisations (97.8%) agree with the description of the challenges laid out in the background document (either completely or partially), while 85% agree that the list of policy areas to focus on (childcare, long-term care services, family-related leave arrangements for both women and men, flexible working arrangements for both women and men, tax-benefit systems that make work pay for both partners) is accurate and wholly or partially complete.

When asked about the possible policy measures to improve work-life balance and female labour market participation in their country, organisations responded that the highest priority is the availability of childcare, followed by improving the possibilities and/or incentives for men to take up caring responsibilities and work-life balance measures and improving the possibilities and/or incentives for parents and others with dependent family members to take up caring responsibilities and work-life balance measures. Individuals responded that the highest priority is improving the possibilities and/or incentives for parents and others with dependent family members to take up caring responsibilities and work-life balance measures, and improving the availability and affordability of childcare.

77% of respondents replied that there is a need for further EU-level action to address work-life balance challenges. However, when more detailed questions are asked, 61% of respondents support legislative options and 71% support policy guidance. 72% support the development of EU-level benchmarks, 73% support increased monitoring by the EU and an overwhelming 94% support the idea of more sharing of good practices.

As for benchmarks, 72% say these could be helpful; each of the possible areas suggested (childcare, flexible arrangements, long-term care services, tax-benefit systems, family-related leave) are supported more or less equally – all received between a 15% and 20% share of the vote. 90% of respondents say that more awareness-raising would be good, particularly amongst employers, followed by national authorities.

As concerns the expected effectiveness of new EU-level measures in addressing the challenges of WLB, in each case there was large support for the measures, with them being labelled potentially effective or very effective.

Finally, when asked if the current EU-level funds and regulations are effective in supporting work-life balance, the majority of participants answered that they don't know (55%), followed by no (29.5%). The vast majority of participants (73%) of participants then responded that it would be useful for the EU to provide clearer guidance to national/regional/local authorities on how EU-funds could be used to financially support work-life balance.

2.3 Opinion of the Advisory committee on equal opportunities for women and men

The Advisory committee on equal opportunities for women and men was invited in December 2015 to provide an ad-hoc opinion on the new initiative to address the challenges of work-life balance faced by working parents and caregivers.

In its ad-hoc opinion, the Advisory committee stresses that work-life balance concerns both women and men. It highlights a need for strong policies and legislation to create optimal conditions, incentives and encouragement for giving women and men real choices and for men's equal participation in care-work and in other non-paid work. It makes considerations on the discriminatory treatment of women and men in relation to parenthood, care provision and use of work-life balance measures.

The Advisory committee emphasises the need to take a comprehensive approach to address the growing needs in terms of elderly and dependent care, including well-functioning public and private care services, improving working conditions and quality of personal home-based care services, developing respite services, providing a right to carers leave (that would include flexibility and protection against discrimination), and allowing flexible working arrangements.

The Advisory committee notes that most young people – both women and men – wish to equally share their employment and family responsibilities based on equal partnership. The wishes of many fathers, i.e. to spend more time with their children, requires suitable governmental and company-based framework conditions. Best policies to ensure that women and men share care responsibilities include incentives for men to take leave to care for their children in the form of non-transferable rights and pay as well as instruments such as gender equality bonus² or partnership bonus³. The Advisory committee acknowledges that, while respecting private choice in sharing responsibilities, gender stereotypes need to be challenged in order to encourage men to make use of work-life balance measures. Awareness raising campaigns at both EU and national level could alleviate the pressure felt by men in taking family leave, and help addressing unconscious gender bias, the role of company culture in reducing stereotypes, and employee rights. In particular, campaigns could emphasize the benefits of family-friendly work environments.

The Advisory committee acknowledges that so far the sharing of care responsibilities and domestic tasks between women and men is not part of the corporate culture in many companies. For this to change, a multi-dimensional approach is required which would also address leadership roles and prospects for women to become leaders at every stage of management. Knowledge should be developed on the costs and benefits of unequal versus equal sharing of care responsibilities between women and men for companies, economies and societies. Companies could propose training, in particular at management level, on the benefits of work-life balance measures and the way to implement them. It would be useful to create support mechanisms⁴ and incentives⁵ to companies providing

² For example, in Sweden a 'Gender Equality Bonus' (jämställdhetsbonus) offers an economic incentive for families to divide parental leave more equally between the mother and the father.

³ For example, in Germany where if mothers and fathers decide to work part-time simultaneously - both of them for four months at the same time and between 25 and 30 hours per week - they shall be granted four additional months of Parental Leave Plus

⁴ In the form of tax break for companies that create worker support care infrastructures, family support services or companies that create solutions that are likely to facilitate reconciliation and the full exercise of maternity and paternity rights. Other possibilities could be funding or grants to help SMEs implementing equality plans.

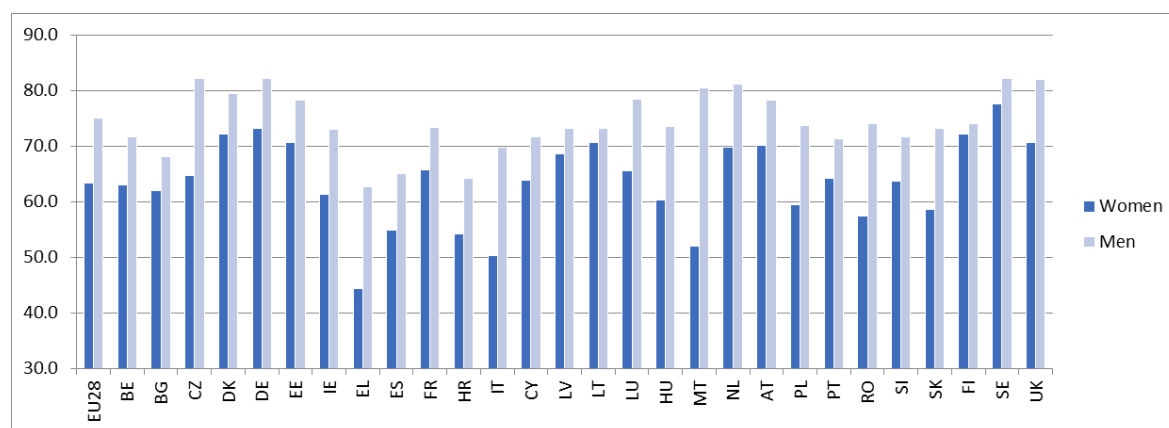
effective work-life balance policies to achieve an equal sharing of care responsibilities. The promotion of role model organisation, the collection of best practices and the organisation of peer reviews would also be important.

⁵ In the form of award and recognition for instance.

3. PROBLEM DEFINITION

The key issue that this initiative aims at addressing is the **low participation of women in the labour market, which is linked to the unequal distribution of caring responsibilities between women and men and to the lack of effective possibilities for men and women to balance those responsibilities with the demands of their working lives.** This would enable women to have a more effective role in the labour market. Women are increasingly well-qualified, even surpassing men in terms of educational attainment in Europe today⁶, yet remain considerably underrepresented in the labour market. In 2014 the employment rate of women (age 20-64) in the EU28 reached 63.4%, compared to 75% of men in the same age group. Women's participation has not increased very significantly since 2006, where it stood at 62.2%. Female employment in the EU is on average below that of other major industrialised countries such as Switzerland (77.4%), Japan (67.6) and the United States (70.6%).

Figure 1: Employment rates (%) by sex, age 20-64 (2014)



Men are more likely than women to work very long hours⁷ and a substantially higher proportion of women also work part-time relative to men (32.9% vs. 9.9% of men), especially when having children (40.5% of mothers work part-time vs. 5.7% of fathers). When measured in full-time equivalents, the employment rate of women (age 20-64) in the EU28 stood at 54.6%, compared to 72.7% of men in the same age group. That being said, while the female employment gap stands at 11.6% on average across the EU, there are also considerable differences between Member States in terms of female employment outcomes – with the gender employment gap ranging from 1.9% (Finland) to 28% (Malta). Commission estimates have shown that at the current rate of change, female labour market participation will only reach 75%, the current employment rate of men, by the year 2038⁸.

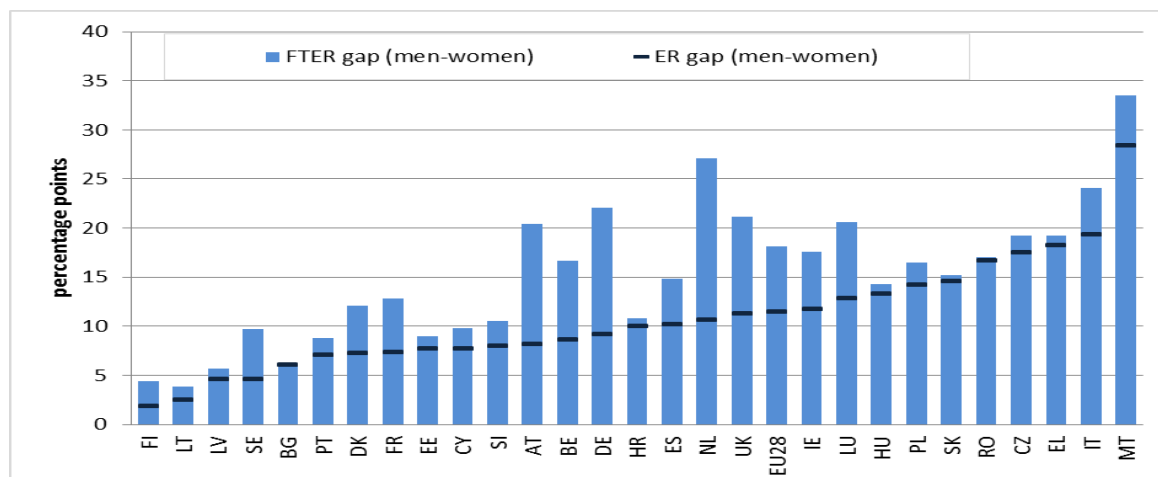
Addressing the drivers leading to women's greater economic inactivity and underrepresentation in full-time employment as well as addressing unequal use of occupational rights is a key concern, as inaction is leading to detrimental consequences for women themselves as well as their households, for firms, and for the EU economy.

⁶ In 2014, 42.3% of women (aged 30-34) had tertiary education or higher compared to 33.6% of men.

⁷ Overall, the percentage of male employees working very long hours (above 50 hours per week) across OECD countries is 17%, compared with 7% for women.

⁸ European Commission (2014) *Report on Progress on equality between women and men in 2013*.

Figure 2: Gaps between male and female full-time equivalent employment rates (FTEER) and employment rate (ER), age 20-64 (2014)



3.1 Drivers

3.1.1 Lack of adequate work-life balance policies and low take-up by men

Parenthood and other caring responsibilities are the largest reasons for the employment differences between women and men. The gender employment gap has been shown to widen substantially after having children. The younger the child, the lower the probability of staying in or joining the labour market. On average, the employment rate of women with young children is 9 percentage points (pp) less than women without young children, and in some countries this difference is over 30 pp (Czech Republic, Slovakia, Hungary). Conversely, parenthood has the opposite effect on the employment rates of men. In all EU Member States, fathers are more likely to be employed than non-fathers. In 2014, the employment rate of fathers was on average 11 pp higher than non-fathers, and in some countries this difference was as great as 18 pp. Fathers also tend to work more hours than non-fathers, despite the fact that many men report that they want to work fewer than their actual hours, and this is specifically related to the job interfering with family life⁹. While mothers tend to be less represented in the labour market than non-mothers across educational levels and household types, the employment gap is particularly strong for low-skilled women as well as single parents¹⁰.

Having an elderly relative who requires care has also been shown to negatively impact female employment. Women are much more likely to assume the role of informal carers¹¹ and drop out of the labour market or reduce their working hours accordingly, and this problem is likely to get worse due to the impacts of an ageing population.

Women tend to shoulder a disproportionate part of caring responsibilities when compared to men. While the total time spent on work (paid and unpaid) by women tends to exceed that by men (women account for 52 % of total hours worked, men 48 %), in terms of

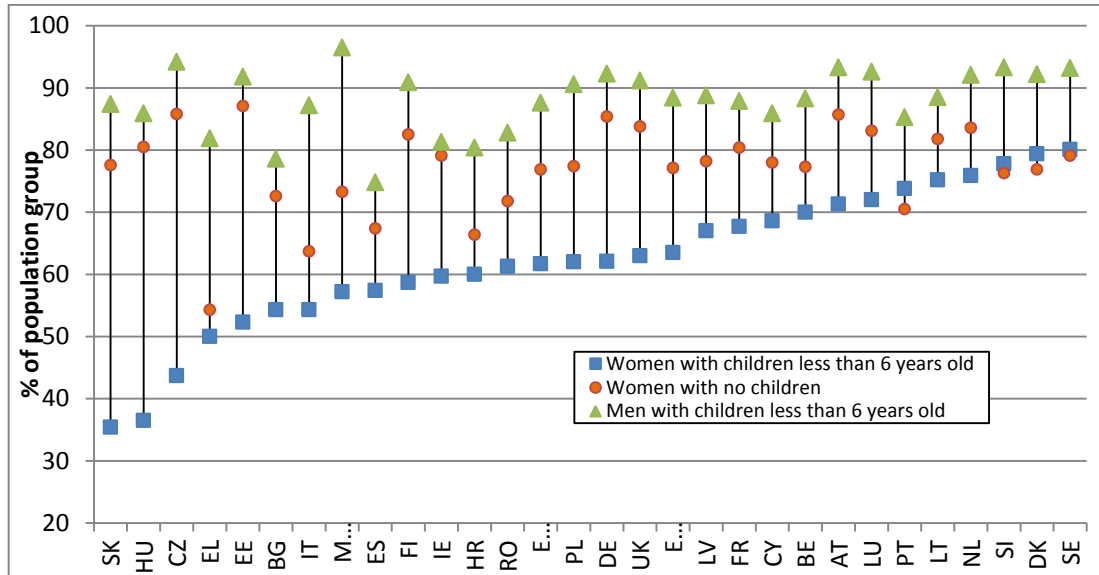
⁹ Kanji and Robin (2015) *Male Breadwinning Revisited: How Specialisation, Gender Role Attitudes and Work Characteristics Affect Overwork and Underwork in Europe*, available at: <http://soc.sagepub.com/content/early/2015/08/25/0038038515596895>.

¹⁰ See European Commission (2016) The efficiency and effectiveness of social protection systems over the life course, chapter 3.2. in *Employment and Social Developments in Europe 2015*

¹¹ See for instance European Commission (2013) *Long term care in ageing societies*; Eurofound (2016 – forthcoming) *The Gender Employment Gap: Challenges and Solutions*

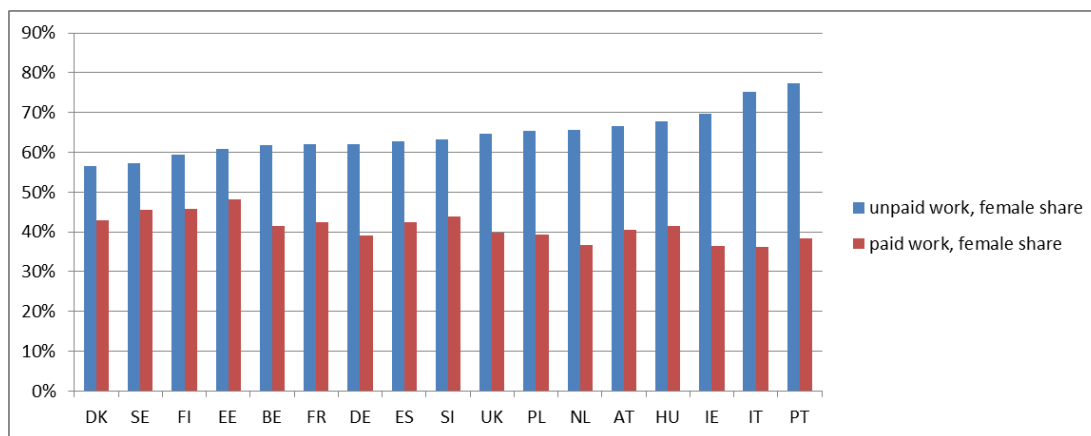
unpaid work women perform three times more than men.¹² The burden of unpaid work drives women to take long leaves of absences compared to men, reduce their working hours, and in some cases drop out of the labour market altogether. The reinsertion into full-time employment following a reduction of working hours for care reasons can also prove difficult.

Figure 3: Mothers' employment compared to other women and fathers (age 25-49), 2013



Source: Labour Force Survey, 2013

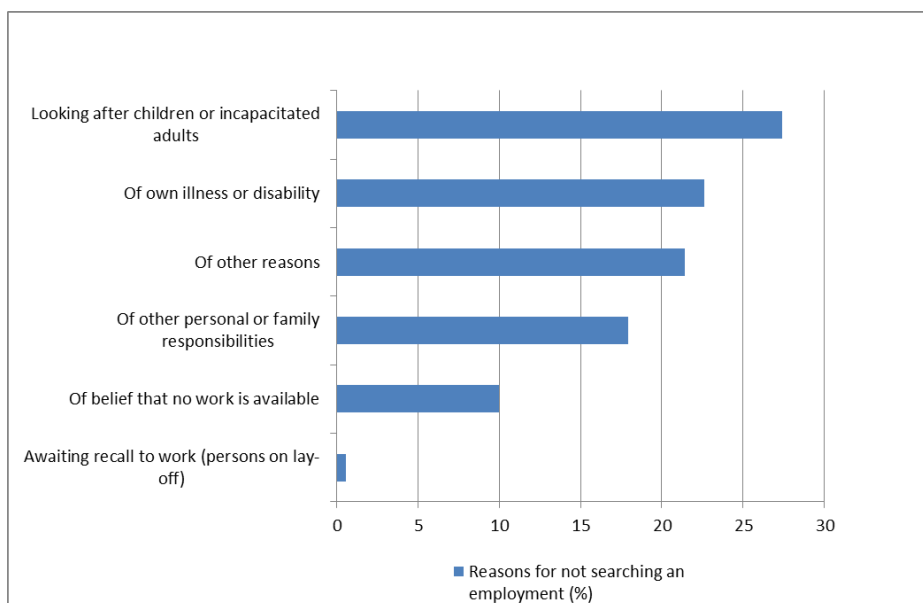
Figure 4: Share of paid and unpaid work performed by women



Source: OECD Gender data portal, accessed 2016

¹² United Nations (2015) *Human Development Report* 2015, available at: <http://hdr.undp.org/en/rethinking-work-for-human-development>

Figure 5: Reasons for women's inactivity, EU 28¹³



Source: EU Labour Force Survey 2013, Eurofound (2016) elaboration

While caring responsibilities have been shown to have a strong influence in female employment outcomes, **Member States' policies** have also been shown to have a strong impact in reinforcing or mitigating the influence of caring responsibilities on the employment outcomes of women. In many Member States, the persisting deficiencies of work-life balance policies are exacerbating the female employment challenge, while in other Member States, well-designed policies are serving to remove barriers to women's participation in the labour market. Such policies include care-related leaves for children and other dependents, flexible working arrangements, and formal care services. Their effects on the division of caring responsibilities between women and men, and on female employment are summarised below.

The availability, or lack thereof, of leave arrangements has been shown to have a strong influence on female employment. Inadequate leave arrangements can make it harder for women to reconcile work and caring responsibilities, leaving many women to drop out of the labour market entirely in order to care for children or other dependents, rather than return to work too early¹⁴. Conversely, the provision of paid maternity/parental leave tends to boost female labour market participation, by helping women to reconcile work and family life, by allowing them some time off with a young child to care for and/or breastfeed, and by strengthening their attachment to the labour market through a job guarantee¹⁵. Evidence also shows that effective protections against dismissal for pregnant workers or workers returning from leave can be important for retention in the labour market.¹⁶ That being said, excessively long leaves have been shown to create scarring effects on women's careers, and make it more difficult for them to re-enter employment after very long leaves of absence¹⁷. The duration of what constitutes excessively long leave is subject to some academic debate. Some academic

¹³ Inactive women aged 20-64, excluding reasons of retirement and education or training.

¹⁴ See OECD (2012) *Closing the Gender Gap*

¹⁵ OECD (2004) Economic Studies No. 37 2003/2

¹⁶ EuropeanNetwork of Legal Experts in the Field of Gender Equality (2012) *Fighting Discrimination on the Grounds of Pregnancy, Maternity and Parenthood*

¹⁷ See Thevenon (2013) *Labour market effects of parental leave in OECD countries*

research¹⁸ has found that the positive effects of parental leave tend to diminish after 20 weeks. Other academics¹⁹ have found that there is a fairly strong case for parental leave for approximately six months, after which leave may begin to have an adverse effect on women's return to the labour market, a negative impact on wages, and on career prospects²⁰. The OECD has cautioned against leaves longer than two years because of skill deterioration and large gaps in women's CVs which make it more difficult for them to re-enter employment²¹. In this context, the provision of breastfeeding breaks and/or facilities could support the transition of mothers back into the workplace rather than taking longer leaves than they would like to, or even dropping out of the labour market altogether.²²

The availability of leave arrangements for fathers in addition to mothers has equally been shown to have a considerable impact on female employment. The use of leave arrangements by fathers reduces some of the burden of care on mothers, and thus allows for a faster return of women to the labour market. Moreover, fathers' take-up of leave arrangements has been shown to have a positive impact on their involvement in bringing up children later on, reducing the relative amount of unpaid 'family' work undertaken by women and leaving women more time for formal employment. That being said, the opportunities and incentives for fathers to take leave range considerably across Member States. While all Member States provide at least four months of parental leave, for seven countries this entitlement is unpaid, and in many other countries it is paid at a low level, making it less likely that fathers make use of these entitlements. Overall, fathers' take-up of parental leave is very low and, when fathers take leave, periods of leave are usually very short.²³ In contrast, mothers generally make much wider use of parental leave options. Moreover, in several Member States, fathers have the possibility to transfer a considerable portion of their parental leave entitlements on to mothers, which contributes to longer absences of women from the labour market and creates difficulties for their labour market reintegration later on. Finally, the flexibility of leave arrangements – i.e., whether leave can be taken in chunks over a period of time, rather than all at once - ease of access, employer support, and the availability of information on entitlements all impact the take-up of these measures and their effectiveness²⁴.

¹⁸ Jaumotte (2003) *Female labour force participation: Past trends and main determinants in OECD countries*

¹⁹ Akgündüz and Plantenga (2013) *Labour market effects of parental leave in Europe*; Mandel and Semyonov (2005) *Family Policies, Wage Structures, and Gender Gaps: Sources of Earnings Inequality in 20 Countries*

²⁰ Plantenga (2015) *Searching for welfare, work and gender equality*

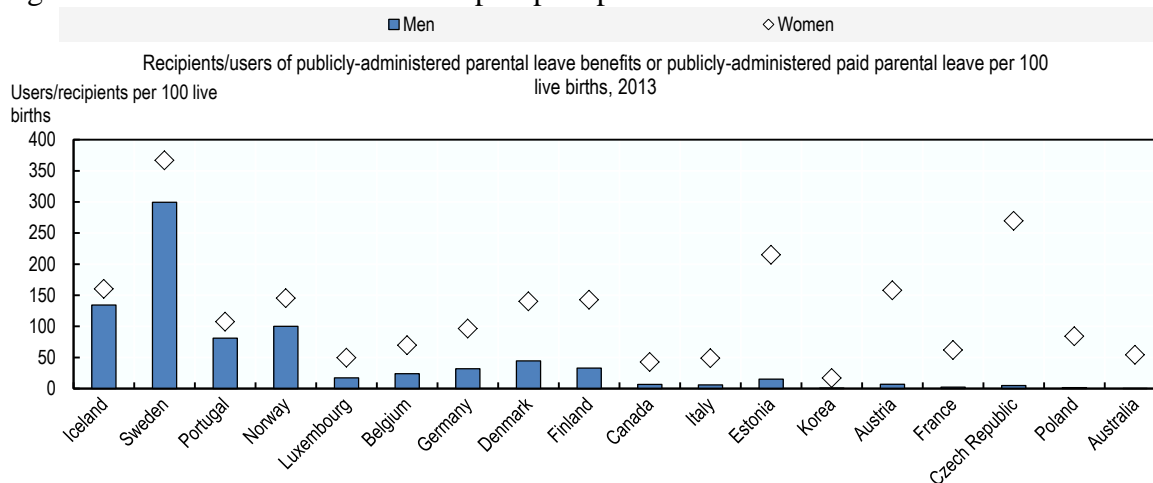
²¹ OECD (2012) *Closing the gender gap*

²² Vaganay, Canónico, Courtin (2016) *Challenges of work-life balance faced by working families: review of Costs and Benefits, LSE Evidence Review*

²³ OECD (2012) *Closing the gender gap*

²⁴ Eurofound (2016 – forthcoming) *The Gender Employment Gap: Challenges and Solutions*

Figure 6: Mothers and fathers' take-up of paid parental leave²⁵



Source: OECD Family Database, 2016

The **availability of flexible working arrangements** – such as telework and flexitime – **and of reduced working hours (part-time work)**, also influence female employment. Although flexible working arrangements are easier to provide thanks to modern technology and could accommodate the needs of people with caring responsibilities, the organisation of work tends to remain fixed around on-the-job presence for full working hours or more. Insufficient availability of flexible working arrangements and/or of possibilities to reduce working hours can lead to people with caring responsibilities, particularly women, to drop out of the labour market altogether²⁶. Eurofound has reported that, given that a significantly higher proportion of women work short part-time hours while a significantly higher proportion of men work long hours, male and female employees aspire to some convergence of working time: shorter full-time hours or longer part-time hours for both; moreover an overwhelming share of mothers would be willing to work if they could better choose working hours, and more than half of the inactive mothers would prefer to work part-time²⁷. Such insufficient availability of flexible working arrangements or of possibilities to reduce working hours can also lead to women changing their job to one that is perceived as offering more flexibility or reduced working hours, which is often below their skill level or for less pay. This consequently can lead to or foster gender wage gaps. The main drivers of effective flexible working arrangements are the presence of underlying consensus amongst the social partners or employers that flexibility is valuable, a workplace culture supportive of flexible working, and responsiveness to changing needs over the life course²⁸. The design of flexible working arrangements is also central. Ensuring the quality of flexible work and a gender balanced take up of these arrangements is key to ensure work-life balance for all and equal economic independence of men and women, avoiding reinforcing gender inequalities in the labour market.

Childcare and long-term care are also important tools to remove obstacles to the participation of parents, especially women, in employment, as well as in entrepreneurship. However the availability and affordability of these services have been shown to influence the use of these services, with negative impacts on women's

²⁵ Note: Data refer to recipients/users of publicly-administered parental leave benefits or publicly-administered paid parental leave, and do not include users of maternity or paternity leave unless the country in question does not make a distinction between the different leaves (e.g. Iceland, Portugal).

²⁶ Plantenga, J. and Remery, C. (2009) *Flexible working time arrangements and gender equality*

²⁷ Eurofound (2014) *Quality of life in Europe: Families in the economic crisis*

²⁸ Eurofound (2016 – forthcoming) *The Gender Employment Gap: Challenges and Solutions*

employment prospects²⁹. 53% of mothers who declare that they do not work or that they work part-time for reasons linked to formal childcare services consider the costs to be an obstacle, and this figure is higher than 70% in some Member States³⁰. Moreover, the accessibility of these services (physical distance), perceived low quality of these services, and the lack of opening hours that are compatible with parental employment have all been shown to present obstacles to female employment³¹. For older children, school hours are often incompatible with parents' full-time employment: a lack of care services for out-of-school hours³² may also lead to women dropping out of the labour market or working fewer hours.

3.1.2 Gender stereotypes

In addition to work-life balance policies, **gender stereotypes are also important to take into consideration**. Part of the reason for why parenthood and caring responsibilities affect the employment of women and men differently is due to expectations and stereotypes of which gender should be engaged in caring/household work and which gender should be in formal employment. In a 2014 Eurobarometer survey on gender equality³³, 60% of respondents agreed that 'on the whole, family life suffers when the mother has a full-time job', with 25% saying that they 'totally agree' with this statement. Women can also face various forms of discrimination at different stages throughout their career, which can act as a barrier for women trying to enter a certain sector or job³⁴. Yet, there are debates regarding the impact of gender stereotypes on female labour force participation in comparison to policy variables. Fortin (2005) has found that attitudes and values undermine the effects of policy measures to promote female employment such as childcare policies³⁵, while Giavazzi et al. (2009) has argued that policies matter more than gender norms³⁶.

The effects of policies and stereotypes are also interrelated. For instance, the design of work-life balance policies can reinforce gender stereotypes on who should care. Inadequate formal care services reinforce the expectations of women staying home to look after children/relatives. Fagnagni (2002) suggests that the shortage of formal childcare for young children can reinforce parents' attitudes towards employment and care and the role of mothers, and not fathers, to care for children³⁷. Unavailable or relatively little paid leave for fathers, relative to mothers, also reinforces the expectation for women to stay at home and care, and for fathers to work. It may also lead to employers discriminating against women for fear that they will take leave after giving birth, as opposed to fathers who can be expected to stay in employment after having a child and possibly even increase their work effort. Gender stereotypes are not just limited

²⁹ The incidence of providing informal care to elderly relatives is highest among the 50 to 64-year-olds. Working women are up to 1.6 times more likely to be informal carers than working men.

³⁰ European Commission (2016) The efficiency and effectiveness of social protection systems over the life course, chapter 3.2. in *Employment and Social Developments in Europe 2015*

³¹ See for instance the 2012 Eurofound Quality of Life Survey

³² These services provide a range of activities to children in pre-schools and primary schools before, between (lunch) and after school hours, as well as during school holidays.

³³ European Commission (2014) *Special Eurobarometer 428: Gender Equality*
http://ec.europa.eu/justice/gender-equality/files/documents/eurobarometer_report_2015_en.pdf

³⁴ Eurofound (2016 – forthcoming) *The Gender Employment Gap: Challenges and Solutions*

³⁵ Fortin (2005) *Gender Role Attitudes and the Labour-market Outcomes of Women across OECD Countries*

³⁶ Giavazzi et al. (2009) *Culture, Policies and Labor Market Outcomes*

³⁷ Fagnani, J. (2002), *Why do French women have more children than German women? Family policies and attitudes towards child care outside the home*, Community, Work & Family, Volume 5, Issue 1.

to the expectation of women as primary carers, but also concern the perceived role of men. Even in cases where fathers have access to paid leave arrangements or flexible working arrangements, employer attitudes as well as personal attitudes can lead fathers not to take up these measures³⁸. This, in turn, can reinforce the expectations of women being the main carer, and can negatively impact their return to employment.

3.1.3 Tax-benefit disincentives

Finally, beyond work-life balance and gender stereotypes, **tax-benefit disincentives** can discourage women from entering the labour market or working more hours. Some Member States have tax-benefit systems - through joint taxation systems, transferable tax credits or deductions for single earner households - that create high marginal effective tax-rates on the second earner in a household, often the woman, thereby discouraging the second earner from entering employment or increasing working hours³⁹. While tax-benefit disincentives are not limited to those with care responsibilities, they tend to be more acute for them, as such disincentives can interact with work-life balance policies. For instance, high out-of-pocket costs for childcare and long-term care services coupled with high marginal effective tax-rates for a second earner in a household can magnify the financial disincentives for women to enter work⁴⁰.

3.2 Consequences

Women's lower participation in employment, higher concentration in part-time work, and greater gaps than men in their careers due to care have negative consequences at the individual, firm, and societal levels.

For women themselves, these problems **reduce their economic independence and their career progression opportunities**. When women return to the labour market after having children, their longer leaves of absence due to care relative to men can lead to wage penalties as well as women's reduced career progression opportunities⁴¹, which also exacerbates the **gender pay gap** (standing at 16.3% in the EU). In turn, the gender pay gap reinforces the drivers, as it constrains the individual choice to take parental leave: economically speaking, it often simply makes more sense for fathers to continue working, especially if parental leave is paid at much lower rates than previous earnings, or is unpaid. If it is women who take parental leave, the impact on the household budget is often more moderate. This is compounded by the fact that the period around childbirth is often a time of considerable stress on household budgets.

Women's underrepresentation in the labour market also results in their **higher risk of poverty and social exclusion, especially in old age**. Their reduced earnings, higher concentration in part-time work and gaps in careers lead to lower social security contributions, translating into reduced or non-existent pension entitlements. On average, women's pensions are 40% less than those of men (**gender pension gap**⁴²). Women in old age are consequently at a much higher risk of poverty and social exclusion (20.3% of women 65+) as compared to men (14.6%). Women's underrepresentation in the labour market also has negative consequences on their children – as children living in jobless

³⁸ Eurofound (2015) *Promoting uptake of parental and paternity leave among fathers in the European Union*

³⁹ Plantenga (2015) *Searching for welfare, work and gender equality*

⁴⁰ European Commission (2015) *Secondary earners and fiscal policies in Europe*

⁴¹ Mandel and Shalev (2009) *How Welfare States Shape the Gender Pay Gap: A Theoretical and Comparative Analysis*

⁴² European Commission and Social Protection Committee (2015) *Pension Adequacy report: current and future income adequacy in old-age in the EU*

and single earner households are at a much higher risk of poverty than in dual-earner households⁴³.

Beyond women's economic independence, there are also **negative consequences on women's personal wellbeing**. Without adequate policies to help women to remain in the labour market after having children, some women or families choose not to have children or have fewer children than desired. Literature also exists on the fact that the lack of arrangements to help women reconcile work and care commitments for children and other dependent relatives place substantial stress on women and their families⁴⁴ and can also have adverse impacts in terms of physical and psychological health⁴⁵. Moreover, evidence shows that women's greater hours of unpaid care/household work contribute to women experiencing substantially greater stress than men. Of that work, the hours spent on caring for elderly relatives are among the most stressful⁴⁶.

Women's underrepresentation in the labour market also has **negative consequences on business**. Especially as women tend to be higher educated than men, their drop-out of the labour force reduces the available talent pool, which can make it difficult for employers to find skills needed⁴⁷. It may also lead to a difficulty retaining workers who make a positive contribution to a company, leading to costly staff turnover⁴⁸ and reduced productivity. Productivity can also be compromised due to increased workers' stress and/or lack of motivation due to lack of adequate solutions in place to balance work and care⁴⁹. Finally, women's underrepresentation in employment can lead to less efficient business decisions because of fewer women in decision-making positions⁵⁰.

Women's lower labour market participation also has **larger economic consequences for the society as a whole**. Women's underrepresentation in the workforce represents a sub-optimal allocation of skills and competences acquired by women, leading to an insufficient return on education, which is often publicly subsidised, and thus a waste of public resources.

It also translates into increased pressure on public finances due to lower available labour supply, reduced tax-revenue, and increased social transfers in order to address female and child poverty. Teignier and Cuberes (2014) have sought to estimate the effects of the gender employment gap in terms of aggregate productivity and income per capita, finding that in Europe, the average income loss represents around 10%⁵¹. Eurofound has sought to calculate that the total cost of women's lower employment in terms of foregone earnings and tax revenue as well as spending on social transfers, which amounted to an estimated €370 billion euros in 2013, equivalent to 2.8% of the EU GDP⁵². The research also estimates that the lifetime cost of a woman's excluded from employment is estimated between €1.2 million and €2 million depending on her educational level, with the cost being higher for women with higher educational attainment.

⁴³ OECD (2011) *Doing better for families*

⁴⁴ See for instance, Harper and Leicht (2007) *Exploring Social Change: America and the World*

⁴⁵ OECD (2007) *Babies and bosses: Reconciling work and family life*

⁴⁶ MacDonald, Phipps and Lethbridge (2005) *Taking Its Toll: The Influence of Paid and Unpaid Work on Women's Well-Being*

⁴⁷ IMF (2013) *Women, Work, and the Economy: Macroeconomic Gains from Gender Equity*

⁴⁸ Australian Workplace Gender Equality Agency (2013) *The business case for gender equality*

⁴⁹ OECD (2007) *Babies and bosses: Reconciling work and family life*

⁵⁰ IMF (2013) *Women, Work, and the Economy: Macroeconomic Gains from Gender Equity*

⁵¹ Cuberes and Teignier-Baqué (2014) *Aggregate Costs of Gender Gaps in the Labor Market: A Quantitative Estimate*, available at: http://www.marcteignier.com/research_files/GGLMAP_CT.pdf

⁵² Eurofound (2016 – forthcoming) *The Gender Employment Gap: Challenges and Solutions*

Reduced productivity at business-level also translates into reduced competitiveness, reduced productivity for the overall economy, as well as reduced growth. Moreover, lower fertility, due to women choosing to delay or forsake having children altogether because of difficulties reconciling work and care, **exacerbate the demographic challenge** of increased ageing and puts even further pressure on the sustainability of public finances⁵³.

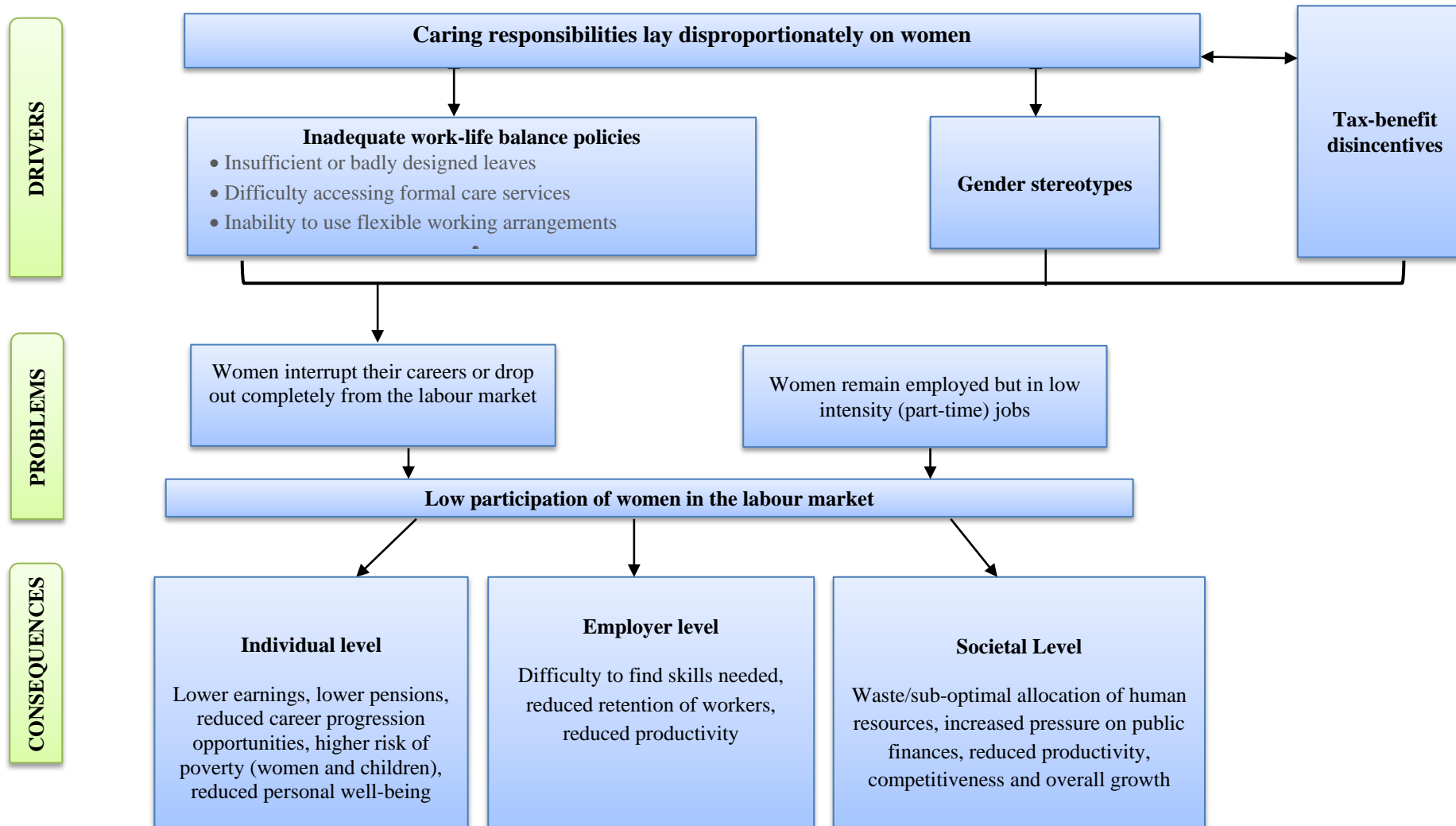
Conversely, addressing the gender employment gap would have major benefits for economic growth. This has been recognized by many international organisations, such as the OECD, International Monetary Fund, ILO and World Bank⁵⁴. The OECD, for instance, has shown that increasing women's labour market participation would drive productivity, reduce the economic drag of adverse demographics and substantially improve the skill mix of the global economy⁵⁵. They estimate that halving gender gap in labour market participation would lead to an additional gain in GDP of 6% by 2030, and a 12% gain if complete convergence is achieved⁵⁶.

⁵³ See for instance, Del Boca D., Aaberge R., Colombino U., Ermisch J., Francesconi M., Pasqua S., Strøm S. (2005) 'Labour Market Participation of Women and Fertility: the Effect of Social Policies' in Boeri T, Del Boca D, Pissarides C (eds). *European Women at Work: an Economic Perspective*. Oxford University Press, Oxford.

⁵⁴ OECD (2014) *Promoting inclusive labour markets in G20 countries: potential returns and obstacles*, background report prepared by the OECD for the G20 Task Force on Employment, in collaboration with the ILO and the World Bank Group; IMF (2013) *Women, Work, and the Economy: Macroeconomic Gains from Gender Equity*

⁵⁵ See OECD (2012) *Closing the Gender Gap*

⁵⁶ OECD (2012) *Effects of Reducing Gender Gaps in Education and Labour Force Participation on Economic Growth in the OECD*



4. DESCRIPTION OF CURRENT EU-LEVEL LEGISLATIVE INSTRUMENTS IN THE AREA OF WORK-LIFE BALANCE

At EU level, several directives address some of the issues that are relevant for work-life balance and set minimum standards in areas such as parental leave and maternity leave. The social partners have special prerogatives in the social policy field, including in relation to working conditions, and equality between men and women with regard to labour market opportunities and treatment at work, under Articles 154 and 155 TFEU. In addition to consultation rights, social partners can negotiate agreements in these areas and request their implementation by a Council decision. Important parts of the legislative framework in the area of work-life balance, notably the Parental Leave Directive and the Directive on Part-Time Work, are based on social partner agreements.

The **Parental Leave Directive (2010/18/EU)**⁵⁷ provides workers with an individual right to parental leave of at least four months on the grounds of birth or adoption of a child, until the child reach a given age up to eight years (leaving Member States the possibility to specify a lower maximum age). At least one month shall be provided on a non-transferable basis, i.e. it cannot be transferred to the other parent and is thus lost if not taken by the mother or the father respectively. The Directive does not impose any obligations in relation to pay during parental leave. It leaves it to Member States, or where implemented through collective agreements, to social partners, to define the detailed conditions and rules for parental leave – they are free to decide whether this leave can be taken on a full-time or part-time basis or whether it can be taken in a piecemeal way, i.e. in several blocks. When returning from parental leave, parents have the right to request changes to their working hours and/or patterns for a certain period of time. However, they are not entitled to such changes; employers are only obliged to consider and respond to such requests taking into account both employers' and workers' needs. The Directive provides protection against dismissal and less favourable treatment on the ground of applying for or taking parental leave. It also provides that workers have to be entitled to limited time off work for urgent family reasons (*force majeure*) in case of sickness or accident making the immediate presence of the worker indispensable.

The **Pregnant Workers (Maternity Leave) Directive (92/85/EEC) Directive** sets out the basic rights of all women before and after pregnancy in the European Union. It provides for maternity leave paid at least at the level of sick pay for at least 14 weeks⁵⁸. A minimum of two of those weeks are compulsory for health and safety reasons. The Directive also grants special protection against dismissal from the beginning of the pregnancy until the end of the maternity leave. During that period dismissals are prohibited in principle and admissible only in exceptional cases not connected to pregnancy or maternity leave which are permitted by national legislation and/or practice. In the event of any such dismissal the employer has to cite duly substantiated grounds in writing.

Relevant EU legislation also exists in the area of equal treatment between women and men in employment and occupation. The **Gender Equality Recast Directive**

⁵⁷ Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC, OJ L68, 18.3.2010, p.13-20.

⁵⁸ Directive 2010/41/EU on self-employed workers and assisting spouses also grants a maternity allowance that is sufficient to enable an interruption of occupational activities for at least 14 weeks for female self-employer workers or female spouses of self-employed workers.

(2006/54/EC)⁵⁹ guarantees the right to return to the same job or an equivalent job after maternity leave, as well as protection for workers taking paternity or adoption leave, where such leaves are provided under the law of Member States. It further clarifies that any less favourable treatment of a woman related to pregnancy or maternity leave within the meaning of the Maternity Leave Directive constitutes prohibited discrimination.

In relation to flexible working arrangements, EU legislation is more limited compared to leaves. The Directive on Part-Time Work (97/81/EC) has the purpose of eliminating discrimination against part-time workers, the vast majority of which are women, and improving the quality of part-time work. The Directive provides that employers should give consideration, as far as possible, to requests by workers to transfer from full-time to part-time work that becomes available in the establishment and to requests by workers to transfer from part-time to full-time work or to increase their working time should the opportunity arise. It also provides for protection against the termination of employment due to the refusal to transfer from full-time to part-time or vice versa. The Directive does not, however, provide any explicit rights for workers to request changes in working hours. As stated above, the Parental Leave Directive does provide for the right to request flexible working arrangements, including changes to working hours and/or patterns, for parents returning from parental leave.

At EU level, there is currently no legislation on paternity leave or carers' leave.

In addition to the legal instruments set out above, the EU has been addressing work-life balance issues through complementary support measures. These include guidelines on work-life balance for Member States' employment policies⁶⁰, policy guidance⁶¹, country-specific recommendations in the European Semester⁶², financial support⁶³, analytical support⁶⁴, awareness-raising activities⁶⁵, and quantitative targets to improve the provision of childcare⁶⁶.

⁵⁹ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) [Official Journal L 204 of 26.7.2006].

⁶⁰ The new guidelines for the employment policies of the Member States highlight the importance of increasing female labour market participation and ensuring gender equality including equal pay, and refers specifically to the reconciliation of work and family life.

⁶¹ The 2013 Social Investment Package (SIP) and accompanying Recommendation on Investing in Children called on Member States to support the employability and participation of parents in paid work and provide accessible quality early childhood education and care (ECEC) services.

⁶² The Commission has been monitoring female labour market participation and identifying obstacles to participation due to lack of work-life balance policies. In the 2015 European Semester 8 Member States received CSRs to remove obstacles to women's labour market participation, notably through improving the provision of childcare.

⁶³ The European Structural and Investment (ESI) Funds, in particular the European Social Fund (ESF) and the European Regional Development Fund (ERDF), have been providing financial support investments to improve access and quality of childcare services.

⁶⁴ For instance, the Working Group on ECEC delivered the Proposal for key principles of a Quality Framework for Early Childhood Education and Care (2014) supporting Member States to improve these services.

⁶⁵ For instance, dedicated seminars were organised in those Member States who received country-specific recommendations on improving the provision of early childhood education and care.

⁶⁶ Common targets to improve the provision of childcare, the 'Barcelona Targets', were set by the European Council in 2002. The Commission also sets targets in the area of early childhood education and care within the framework of Education and Training 2020.

5. DESCRIPTION OF CURRENT LEGISLATIVE AND POLICY INSTRUMENTS IN THE MEMBER STATES

Member States have put in place different measures that have an impact on the participation of women in the labour market, as they enhance the ability of parents and caregivers to manage work and family responsibilities, including:

- family-related leave arrangements for taking care of children or elderly, ill and dependent relatives;
- flexible working arrangements and reduced working hours;
- childcare and care for elderly, ill or disabled persons; and
- tax and benefit systems.

The general approaches chosen by Member States and the content of such measures vary considerably across Member States.

EU legislation requires Member States to provide for maternity leave and parental leave, as described in the previous section. Beyond those requirements, it is currently up to Member States to provide, or not, for measures to facilitate work-life balance and female labour market participation. This is particularly relevant in relation to paternity leave, carers' leave and flexible working arrangements.

5.1 Family-Related Leave

Member States provide for several types of leave including maternity, paternity, parental, and other care-related leaves. In some Member States the distinction between the types of leaves is clearly established. In other Member States, only some of these types of leaves are established, or there is a comprehensive "parental" leave which incorporates some or most of the other leaves.

The nature of these entitlements varies across Member States, in particular as to their length, remuneration and the flexibility with which they may be used (e.g. in several blocks or on a part-time basis) as well as the conditions attached to these leaves. Terminology also varies. Many Member States also provide for the possibility to request flexible working arrangements, including reduction of working time.

5.1.1 Maternity leave

As required by the minimum standards in Directive 92/85/EEC⁶⁷, all Member States have at least 14 weeks of maternity leave, of which at least 2 weeks are mandatory, and remuneration during that period which is at least equivalent to sick pay level.

The length of maternity leave ranges from 14 to 52 weeks, with a duration above 18 weeks in half the Member States. The rest allow for a period of maternity leave between 14 and 18 weeks⁶⁸. The right to maternity leave contains a mandatory and a non-mandatory part. As regards the mandatory part, most Member States go beyond the 2-

⁶⁷ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC).

⁶⁸ LT, LI, DE, FR, IT, FI, EL, CY, SE, RO, LU, IS, MT and AT.

week period stipulated in the Directive. In those cases, the durations range from 4 to 22.5 weeks⁶⁹.

In addition to the prohibition of dismissal required by the Maternity Leave Directive from the beginning of the pregnancy until the end of the maternity leave, some national laws provide for improved protection against dismissal that goes beyond the requirements of the Directive. More than half the Member States prohibit dismissal for a certain period after the end of the maternity leave⁷⁰. Several Member States prohibit preparatory measures for dismissals until the end of maternity leave⁷¹. Whilst more than half of the Member States require the substantiation of the grounds for dismissal in writing up until the end of maternity leave, only a few maintain such maternity-specific requirements for a certain period after the end of the maternity leave⁷². However, many Member States have obligations under general labour law in place that dismissals need to be provided in writing and that reasons⁷³ for dismissal are to be stated.

A small number of Member States (currently the United Kingdom, Bulgaria, Poland, Portugal, Hungary, and Spain) allow some kind of sharing of maternity leave. For example, the United Kingdom allows for the mother to transfer part or all of her maternity leave to the other parent as of two weeks after birth⁷⁴.

The level of pay during maternity leave ranges from 65% to 100% of the previous salary. Two different groups can be distinguished. In most Member States the same level of allowance is paid during the entire duration of maternity leave and amounts to either full pay or a percentage of previous earnings⁷⁵. In some Member States, there is a system of decreasing allowances with a higher allowance paid for the first weeks of the leave and (as in the case of sick pay) the allowance is then reduced to a lower level. Malta, for instance, pays at the level of 100% for 14 weeks, and a flat rate for the remaining 4 weeks. Finland pays 90% during the first 56 days, while the United Kingdom pays 90% for the first 6 weeks and then a flat amount.

In addition, roughly half of the Member States have established ceilings and/or floors for the entitlements during maternity leave. These floors have been either established on the basis of the applicable minimum wage in the country or as a percentage of insurable income. Ceilings are more common and are often linked to thresholds applicable for social security contributions. The benefits during maternity leave are usually paid for by employee's social security contributions, and sometimes also by the employer.

5.1.2 *Paternity leave*

Paternity leave is designed as an individual right of the father, to a short period of leave around the time of the birth of a child, that cannot be transferred to the other parent.

⁶⁹ While Lithuania and Estonia do not provide such a mandatory period, the longest mandatory period of 22,5 weeks is in Italy.

⁷⁰ For details see the information provided in the table.

⁷¹ BE, CY, CZ, DK, EE, IE, LT, LV, SI. Preparatory measures can include formal consultation processes or commencing recruitment procedures for the replacement of the woman about to be dismissed.

⁷² BE, CY, EL, FR,

⁷³ For instance CY, CZ, DK, EE, FI, FR, HU, LT, LU, PL, RO.

⁷⁴ <https://www.gov.uk/shared-parental-leave-and-pay/overview>. This also applies to adoptive parents.

⁷⁵ AT, HR, DK, EE, FR, DE, LT, LU, NL, ES. In PL and PT full pay is granted over the entire period if the "shorter" period of maternity leave is chosen.

There is no EU legislation in the area of paternity leave. While the majority of Member States have leaves specifically designed for and reserved to fathers, a number of them⁷⁶ do not.

In Member States where paternity leave is available, fathers are usually entitled to only short periods of leave which are always non-transferable. The length of the period varies between 1 day and 90 days⁷⁷. While Italy provides only 1 day and Greece, Spain, the Netherlands and Luxembourg 2 days of paternity leave, Portugal, Lithuania, Finland and Slovenia provide for relatively long periods of paternity leave⁷⁸. However, in the majority of Member States the length of paternity leave is a period ranging from 1 day to 2 weeks and only a few Member States provide for a period of leave of more than 2 weeks.

Where it exists, paternity leave is always paid. The level of pay ranges from 70% to 100% of the previous salary; in the majority of cases it is 100%, but a ceiling is in place in some countries⁷⁹.

In terms of flexibility and timing, in most Member States the leave needs to be taken within a fixed period of time after the birth of the child. The length of that period varies and in some Member States the leave needs to be taken within a rather short period of a few months after the birth (in close vicinity to or at the same time as maternity leave)⁸⁰.

In terms of sources of funding, the benefits during paternity leave are either paid by general taxation, employee social security contributions⁸¹, the employer or a combination of sources.

Current developments:

Ireland is considering plans to introduce 2 weeks of paid paternity leave⁸².

Cyprus is considering introducing 4 weeks of paternity leave and a draft bill was discussed in the labour committee of the Parliament in November 2015⁸³.

5.1.3 Parental leave

All EU Member States have statutory parental leave provisions guaranteed by the minimum requirements set out in Directive 2010/18/EU. However, there are marked variations across Member States in terms of the nature of the entitlement, the duration of parental leave, whether allowances are payable, options for flexibility in terms of how parental leave can be taken and incentives to take parental leave..

⁷⁶ DE, AT, CY, CZ, SK, IE, HR

⁷⁷ SI

⁷⁸ PT 20 days, LT 30 days, FI 54 days and SI 90 days

⁷⁹ For instance countries such as DK, EE, FR in the private sector, LV, LT, SE, SI

⁸⁰ For instance FR, HU, NL, SE, SI and the UK

⁸¹ The majority of the countries pay the paternity leave benefits via social insurance.

⁸² <http://www.justice.ie/en/JELR/Pages/Equality-Minister-welcomes-commitment-for-two-weeks-paid-Paternity-Leave>

⁸³ The proposal on paternity leave is Article 3 of the draft law which is entitled "Law Proposal with the Title: Law for the Regulation of Issues relating to the Protection of Paternity" found at Cyprus Government Gazette 4167 of Monday 30th November 2015, Vol. 875, no 203, p.973 and the proposal for a paternity allowance is in Art. 29A of the "Law Proposal with the Title: Law which amends the Social Insurance Laws of 2010 to (2) 2014 found at Cyprus Government Gazette 4167 of Monday 30th November 2015, Vol. 875, no 202, p.971.

Concerning the duration of parental leave, all Member States have at least 4 months of parental leave per parent, in line with Directive 2010/18/EU. Only a few Member States had to change the duration of parental leave to comply with the minimum of four months when it was increased at EU level from three to four months under the revised Directive adopted in 2010⁸⁴. In most Member States, the national legislation provides for a longer overall bank of leave. However, the length of this bank of parental leave varies greatly from one Member State to another. It ranges from 17 weeks⁸⁵ to 156 weeks⁸⁶. The average duration is 86.9 weeks⁸⁷.

In some Member States⁸⁸, the duration of parental leave depends on the take-up of both parents, and the number of weeks of parental leave available increases if both parents take parental leave⁸⁹.

Concerning the individual nature of the right to parental leave, Member States provide parental leave either as: (i) non-transferable individual rights (i.e. both parents have an entitlement to an equal amount of leave); or (ii) an individual right that can be transferred to the other parent, in total or in part; or (iii) a 'family' right that parents can divide between themselves as they choose.

Most Member States provide for parental leave as a specific right granted to each parent separately, generally with a possibility to transfer parts of the leave to the other parent. In some Member States⁹⁰ the duration of the leave is specified for both parents combined and it is up to the parents to divide the period of the leave between them (within certain limits).

Concerning the possibility for one parent to transfer their leave entitlements to the other parent, the Directive requires at least one of the 4 months to be non-transferable. The rationale behind this is to incentivise fathers to make use of their parental leave entitlements, in particular of the one month (at least) that is lost if they do not take it. Member States have addressed this issue in different ways. Some Member States have provided that each individual leave entitlement is non-transferable⁹¹. Of the others, part of the leave or the entire leave is transferable. While some Member States depart from a general principle of transferability of leave entitlements to the other parent and exclude the transfer for a certain period⁹², others take the opposite approach and the general principle is the non-transferability of the right to the leave⁹³, only allowing for the

⁸⁵ BE

⁸⁶ AT, CZ, DE, EE, ES, FR, HU, LT, LV, PL, SK

⁸⁷ According to European Parliament study for the FEMM Committee, Maternity, paternity and parental leave: data related to duration and compensation rates in the EU.

⁸⁸ For example, in AT, BE, HR, DK, EL, IE, LV, LU, MT, PT and UK the number of weeks for parental leave increases if the other parent (in most cases the father) takes up parental leave.

⁸⁹ European Parliament study for the FEMM Committee, Maternity, paternity and parental leave: data related to duration and compensation rates in the EU.

⁹⁰ CZ, EE, FR, LT, SE, UK

⁹¹ BE, FR, DE (however 12 out of 14 months of paid parental leave can be freely distributed between parents but two additional months become available only if the second parent takes at least those two months), EL, ES, LV, LU, MT, NL, PT, SK

⁹² BG, IE, PL or RO for one month, 60 days in SE, 6 weeks in FI

⁹³ BE, FR, DE, EL for private sector, LV, LU, MT, NL, PT, SK, ES and the UK

transfer of parts of it⁹⁴. Only in a few Member States⁹⁵ does the entire period appear to be transferable.

Concerning flexibility in relation to how parental leave can be taken, while in some Member States full-time parental leave is the default pattern⁹⁶, in others it is up to the worker to choose to take the leave on a full-time or a part-time basis⁹⁷ and in a third category, the default pattern of the leave is part-time⁹⁸. In some Member States, it is also possible to divide the leave into more than one period and take it in different blocks, according to the worker's choice⁹⁹. Some Member States allow the leave or part of the leave to be taken by both parents simultaneously¹⁰⁰ while others allow for the parents to enjoy alternating periods of the leave¹⁰¹.

As to the worker's **right to request changes to their working hours and/or patterns** for a set period of time after the return from parental leave, most countries seem to provide for specific working-time arrangements that the worker may apply for. In some Member States¹⁰², this is to be provided by agreement between the employer and the worker, or by collective agreement. In some Member States, the request for job adaptations when returning from parental leave depends upon an agreement with the employer, either in all cases¹⁰³ or in specific situations, for example with regard to small companies, or depending upon the duration of the changes required.

As to the maximum age of the child in relation to parental leave, the situation differs according to the relationship between maternity and parental leaves. In the Member States where parental leave is conceived as a leave that immediately follows maternity leave, the maximum age of the child for whom parental leave can be taken tends to be lower, between 2 and 5 years¹⁰⁴, while in some of these countries, it is also possible to postpone part of the leave to a later stage, with higher age limits fixed for the child¹⁰⁵. In Member States where the link between parental leave and maternity leave is not so close, the age limit of the child is generally fixed around 8 years,¹⁰⁶ but is higher in some others, for example up to 18 years in the UK.¹⁰⁷

Concerning the remuneration of parental leave, Directive 2010/18/EU stipulates no obligation for Member States to provide for remuneration during the period of parental leave taken. A majority of Member States nevertheless provide income replacement during parental leave, calculated on the basis of a percentage of the previous income of

⁹⁴ CY, IT, SI

⁹⁵ AT, CZ, EE, and LT -raising potential issues of compliance with the Directive

⁹⁶ AT, CY, EE, IE, IT, LV, LT, LU, RO, SK and the UK

⁹⁷ BE, BG, DK, FI, FR, DE, EL, ES

⁹⁸ NL where part-time parental leave is a right of the worker while the full-time alternative requires the agreement of the employer

⁹⁹ AT, FI, DE, EL

¹⁰⁰ CZ, FR, ES, AT (but only as regards one month of the leave)

¹⁰¹ EE, IT and PL

¹⁰² FR, EL, IT, LT, RO and ES

¹⁰³ BG, EE, LU, MT, SK, UK, IE

¹⁰⁴ AT, CZ, EE, FR, DE, HU, LT, LU, ES, SE and the UK

¹⁰⁵ AT, BG, DK, DE or SE

¹⁰⁶ BE, HR, CY, DK, IE, IT, LV, MT, NL or SI

¹⁰⁷ European network of legal experts in the field of gender equality (2015) *The implementation of the parental leave directive 2010/18/EU in 33 European countries*, available at http://ec.europa.eu/justice/gender-equality/files/your_rights/parental_leave_report_final_en.pdf

the parent, while some Member States¹⁰⁸ do not provide for any allowances. That percentage varies between 25% and 100%, with or without ceilings, and the average parental leave allowance stands at 50% of previous income, albeit with different ceilings¹⁰⁹. Some Member States pay a flat rate during parental leave¹¹⁰. The differences between the amounts of the flat rates are significant¹¹¹. The average flat rate amount is 653.3€¹¹². In some Member States¹¹³, the maximum duration of the leave established by the law is longer than the period during which the parent has the right to an allowance attached to it¹¹⁴ (i.e. only part of the leave is paid). The availability of remuneration and its conditions are of considerable importance for the take-up of the leave.

In general, parental leaves are predominantly taken by mothers. The take-up of parental leave by fathers varies considerably across Member States¹¹⁵. The average percentage of fathers who take parental leave in the EU is 10.1%, and in half the Member States fathers take up less than this¹¹⁶. Furthermore, available evidence suggests that the fathers who take parental leave usually take only a much shorter period than mothers¹¹⁷. The availability of allowances generally has a positive impact on the take-up rate¹¹⁸. In particular, the combination of pay with non-transferability¹¹⁹ has been proven to have a tangible impact on the take-up by fathers¹²⁰. The potential loss of a paid period of parental leave acts as a strong incentive to take at least that period¹²¹.

¹⁰⁸ CY, EL, IE, MT, NL, ES and the UK

¹⁰⁹ European Parliament study for the FEMM Committee, Maternity, paternity and parental leave: data related to duration and compensation rates in the EU.

¹¹⁰ AT, BE, FR, LU, PL, SK

¹¹¹ The lowest amount can be found in PL which grants 139 € to parents on parental leave whereas Luxembourg provides for the maximum amount of 1 778€.

¹¹² European Parliament study for the FEMM Committee, Maternity, paternity and parental leave: data related to duration and compensation rates in the EU.

¹¹³ BG, DK.

¹¹⁴ For example, in BG, the leave can be taken until the child reaches the age of 8 years but it is only paid until the child reaches the age of 2¹¹⁴.

¹¹⁵ The lowest take-up of parental leave by fathers can be observed in EL with only 0,02% while SE has a 44% take-up rate.

¹¹⁶ European Parliament study for the FEMM Committee, Maternity, paternity and parental leave: data related to duration and compensation rates in the EU.

¹¹⁷ E.g. in Denmark, fathers on average only took 7.2 per cent of the parental leave period in 2010 and 2011.

¹¹⁸ As highlighted in the Eurofound study on "Promoting uptake of parental and paternity leave among fathers in the EU", the Austrian example regarding the parental leave take-up rate of fathers and the studies of Eurofound (2004 and 2007) illustrate that the level of compensation is an important factor influencing the parental leave take-up of fathers: leave systems with high income-dependant replacement rates lead to a greater number of fathers on parental leave.

¹¹⁹ It is the combination since take-up rates for men are very low even for the non-transferable period if it is not paid. If parental leave is paid there is still a very strong tendency to transfer the maximum to the mother but fathers tend to not want to lose the entitlement to paid leave that they cannot transfer.

¹²⁰ For example, in SE, an equality cash bonus on top of the daily allowance is granted if parental leave is equally distributed between both parents. The total duration of parental leave for parents in SE is 480 days and for each parent, 2 months of that period are reserved and non-transferable. The bonus is only granted if both parents take up to 240 days of leave each and not only their reserved time. The introduction and extension of these incentives has led to a tangible increase in take-up and also in the length of parental leave taken by fathers. In 1989, fathers took about 7% of all parental leave days used in that year; in 2013, fathers took 24.8% of the total parental leave measured in days.

¹²¹ In 2007, Eurofound published a study looking at company practices and attitudes towards parental leave across the EU based on the European Survey on Working Time and Work-Life Balance 2004-2205. It found that only 7 out of 21 countries had specific incentives for fathers to take up parental leave. The most commonly used incentives were high compensation rates for fathers or part of leave

5.1.4 Carers' leave

Despite a lack of EU provisions on carers' leave (apart from a right to take time off for urgent family reasons ("*force majeure* leave"¹²²), a number of Member States already have provisions in place to allow workers to take care of or make arrangements for care of ill, disabled, elderly, frail or dependent relatives¹²³. The existing national provisions to care for dependant relatives can be classified into these main groups:

- very short leave for urgent family reasons on grounds of *force majeure* (up to 7 working days);
- leave to care for sick or disabled children (under 18 years old) only;
- leave to care exclusively for terminally ill relatives; and
- leave to care for dependent relatives, including children of any age (longer than *force majeure* leave).

Several Member States provide for carers' leave measures falling under one or more of the above mentioned groups.

In some Member States, only short term provisions exist, providing for a very short few days **leave for urgent family reasons** (*force majeure* leave)¹²⁴, in order to attend to relatives in the case of an emergency or to accompany them to medical appointments¹²⁵. There is only leave on grounds of *force majeure* in three of those Member States (MT, CY and UK), which do not provide for any other carers' leave arrangements.

A number of Member States¹²⁶ go beyond this to provide for **leave to care for sick or disabled children** (other than maternity, paternity and parental leave). Three out of those Member States¹²⁷ grant leave to care for children only, and therefore do not provide for any leave to care for dependant adult relatives. The entitlement for leave to care for sick or disabled children in Member States is limited to children between the ages of 7 to 15 in cases where a child is sick, while in cases where a child is disabled or very seriously ill or injured the age limit is extended to 18 years and in France to 20 years.

Some Member States also provide for special **leave to care for terminally ill relatives**¹²⁸. This type of leave can be taken to care for relatives affected by a terminal/incurable illness and are approaching the end of their lives. It is a longer leave paid at sick pay or unemployment benefit rate in the Member States where it currently exists. The length of palliative leave varies from 2 to 6 months¹²⁹ and is unlimited in Denmark.

Leave to care for dependent relatives, including adult relatives (longer than *force majeure* leave) varies from 10 calendar days to up to two years and is even unlimited in some cases. This type of leave is not limited to caring for children, and includes among the persons to be cared for adult sick, disabled, impaired family members or relatives. This

entitlements being reserved for fathers, combined with a reasonable financial compensation. The same study also found that countries with leave systems providing a high earnings replacement rate also had the highest proportion of establishments with employees taking leave.

¹²² Under the Parental Leave Directive (clause 7).

¹²⁴ As required under the Parental Leave Directive

¹²⁵ BE, CY, FI, DE, LU, IE, MT, NL, ES, SE, UK

¹²⁶ FI, CZ, FR, IT, LT, PT, ES, SE, LV, LU, PL, RO

¹²⁷ LU, LV, RO.

¹²⁸ E.g. AT, BE, DK, FR, SE

¹²⁹ AT, BE, FR, SE

type of leave is especially relevant in meeting the challenges that working families in Europe are facing due to an ageing population, longer life expectancies and extended working lives.

In addition to diversity in the types of leaves, the national measures on carers' leave vary significantly in terms of length, compensation rate, eligibility conditions related to such leave, possible frequency and flexibility of take-up.

Length of leave differs widely between Member States, with a relatively higher number of countries clustered towards the lower end of the spectrum. Some Member States¹³⁰ offer short-term leave up to two weeks, including *force majeure* leave, a third of Member States¹³¹ provide leave longer than three months, in some of those the leave reaches six months¹³² or even up to two years¹³³, and the rest lie in between. It should be noted that several of those Member States provide for more than one measure on carers' leave.

Flexibility with regard to how such leave can be taken also varies greatly between Member States¹³⁴. While in a number of Member States¹³⁵ carers' leave can be taken part-time, offering employees more flexibility in making care arrangements, the majority of Member States do not offer this possibility.

In relation to the possible **frequency of use**, carers' leave entitlements can be granted in various ways: 1) the full leave entitlement can be used once per year; 2) leave can be used once per month (in Luxembourg and Italy only); 3) the full leave entitlement can be used several times whenever the relative gets sick or seriously ill (per case of illness), or 4) the full leave entitlement can be used only once for a certain dependent relative (once per person to be cared for), but several times if the caregiving employee has more than one relative to care for during his working lifetime. In the majority of Member States¹³⁶, leave can be taken once per year or once per person to be cared for. In fewer cases, employees are entitled to take leave anytime a relative gets sick. Carers' leave options that can only be used once during one's working lifetime are provided only in Italy¹³⁷.

In all Member States where carers' leave is provided, first-line relatives¹³⁸ are **eligible** for leave entitlements. Most Member States also include second-line¹³⁹ relatives amongst eligible receivers of care, with several Member States¹⁴⁰ including other household members and non-related close persons as well. In most Member States, carers' leave legislation does not specify any qualification criteria for carers, other than to be employed at the time of taking leave. In a number of Member States¹⁴¹ carers' leave is granted on the basis of a certain period of previous employment and social security contributions by the carer. Such qualification criteria are primarily found in countries where leave is accompanied by an entitlement to an allowance.

¹³⁰ CY, EL, SI, MT, UK, SK, EE, LU

¹³¹ AT, BE, CZ, DK, FI, PT, FR, DE, HU, IE, IT, ES, LT

¹³² E.g. AT, FR, FI, DE, PT

¹³³ E.g. HU and IT

¹³⁴ It should be noted that due to its very short duration, no Member States offer flexibility of taking up *force majeure* leave part-time.

¹³⁵ AT, BE, DK, FI, FR, DE, NL, PT, ES, SE

¹³⁶ E.g. BE, DE, FR, HU, IE, AT, DK, ES, BG

¹³⁷ IT provides for a particularly long (two years) leave to look after relatives with a chronic illness or disability.

¹³⁸ Parent, sibling, offspring.

¹³⁹ E.g. grandparents, half-siblings, offsprings.

¹⁴⁰ E.g. FR, BE, DK, SE, NL

¹⁴¹ E.g. BG, CZ, EE, FR, IE, PL, PT, SK

There is variation in the level of **leave allowances**, which is generally lower than for other family leave measures such as paternity or maternity leave. Very short leave for urgent family reasons (*force majeure* leave) is fully paid in NL, ES, IE and SE, paid at sick pay level in DE, IE and MT and unpaid in BE, CY, FI and UK. For other than *force majeure* types of carers' leaves, some Member States¹⁴² provide full compensation to the employee in others partial compensation, a certain percentage of average salary or benefits at unemployment or sick pay rate¹⁴³, and in a number of Member States¹⁴⁴ no compensation is provided. From the countries providing partial compensation, half either provide low flat rates or modest compensation up to 60 % of average earnings. Shorter leaves are usually more generously compensated than the long ones.

To sum up, there is a wide variety of national measures on carers' leave. Although most Member States provide for some form of carers' leave, a number of countries only offer a very short leave for urgent family reasons (*force majeure* leave), while several others have leave entitlements to care exclusively for children under the age of 18. The majority of Member States do not offer entitlement for a flexible take-up of carers' leave, which would for instance allow leave to be taken on a part-time basis. Some Member States¹⁴⁵ are particularly exemplary regarding the flexibility of take-up and the length of leave offered.

5.2 Flexible working arrangements

This section considers the different approaches across the Member States towards flexible working arrangements .

Flexible working arrangements can include:

- flexible working time schedules such as staggered hours, compressed working weeks, “flexi-time arrangements”, time-saving account arrangements (which are also known as “time banking”), and annualised hours arrangements (hours averaging);
- reduction in working hours (part-time work); and
- flexibility in the location of work, i.e. teleworking or remote working.

5.2.1 Use of flexible working arrangements in the Member States

Flexible working schedules

The majority of employees in Europe still have fixed working schedules. The only country where the majority of employees have flexible working time schedules is Finland¹⁴⁶

Although women bear the greater burden of care across countries they appear to have fewer possibilities to make use of family-friendly flexible working schedule. Evidence shows that a gender gap exists in employee's perceived possibility to vary start/ stop of

¹⁴² AT, LU, IT

¹⁴³ AT, BE, BG, CZ, DK, EE, FI, FR, HR, LV, NL, PL, PT, RO, SE, SK, SI. For DK, care leave is at 1.5 times the average sick pay for a terminally ill closely related person. Care for a close related with a significant and lasting disability is paid

¹⁴⁴ CY, DE, EL, IE, HU, LT, UK. EL provide for compensation for leave to care for ill or disabled children or spouse in public sector only

¹⁴⁵ AT, BE, DK, FI, FR and DE

¹⁴⁶ Employees by flexibility of their working schedule, Eurostat LFS data 2010

the working day for family reasons. In seventeen Member States men enjoy an advantage over women when it comes to the possibility of varying the start/end times of their working days.¹⁴⁷

Teleworking /working from home

Forms of work organisation where work does not have to be performed on the employer's premises all of the time, such as teleworking and homeworking, continue to be developed across Member States. Homeworking is widespread throughout western and central Europe and is especially high in Scandinavian countries¹⁴⁸.

The Nordic countries (Sweden, Denmark and Finland) have the highest percentage of all fathers and mothers who usually work from home, followed by Luxembourg and the UK. Belgium and France also appear to have a relatively high proportion of fathers working from home (one out of five). At the other extreme, parents working from home seems to be rather infrequent the south European countries (Spain, Greece, Cyprus and Italy), as well as in the Czech Republic and in Croatia.

Reduced working hours

The share of part-time employment varies significantly throughout Europe. In the Netherlands more than 50% of total employment is on a part-time basis, followed by Austria, Germany, the United Kingdom, Sweden and Denmark at more than 25%. On the contrary, the part-time rate is below 10% in the Baltic countries, Bulgaria, Slovakia, Croatia, the Czech Republic, Poland, Greece and Romania.

Women are much more likely to work part-time than men, and the difference is wider between women and men with young children. Indeed, men are more likely to work part-time when they are younger or older, either in combination with education and training or in the transition towards retirement. In contrast, women are more likely to work part-time when they have children.

Focusing on women's (overall) and on mothers' part-time rates, the clustering of the 28MS does not alter significantly compared to the one described above. However, what appears to be different is the higher incidence of part-time work in the case of women (overall) and on mothers with a child aged less 11 years mainly in these countries where part-time employment is rather widespread. Part-time employment is by far the most dominant pattern of employment of mothers in the Netherlands (with 87,7% of mothers with a child aged less 11 years working part-time), Germany (70,9%), Austria (68,3%) and the United Kingdom (55,3%) the gap with fathers reaching respectively 74.1, 65.1, 63 and 45,9 percentage points¹⁴⁹.

¹⁴⁷ Employee's perceived possibility to vary start/ stop of the working day for family reasons, Eurostat LFS data 2010

¹⁴⁸ Percentage of employed adults working at home, Eurostat, LFS data 2014

¹⁴⁹ Percentage of part-time employment of adults (aged 15-64) with one child or more and whose youngest child is aged from 6 to 11 years - Eurostat LFS data 2014

5.2.2 Regulatory framework in the Member States

The picture across Member States in relation to flexible working arrangements is varied. The most common measures are the reduction of working hours, the flexibility in the organisation of working time and the choice of where to work (e.g. from home)¹⁵⁰.

Flexibility in the organisation of working time and remote working

Around half the Member States provide for workers to have flexibility in the organisation of their working hours or the choice of where to work (most commonly from home). In those Member States flexible working often features not in statutory legislation but in collective agreements. The table below outlines the position in each Member State.

There are various ways in which working hours can be organised such as the distribution of those hours across the day, week, month or year and the physical location (e.g. working from home).

In a small number of Member States there is a right to have this kind of flexible working and there it is linked to reconciliation purposes (i.e. it is only available to parents and/or carers)¹⁵¹. In some of those Member States it is a right subject to exceptions¹⁵². In other Member States there is a weaker “right to request” this kind of flexible working¹⁵³ and only in one of those Member States is it tied to reconciliation purposes¹⁵⁴. In other Member States there is no statutory legislation but collective agreements provide for flexible working commonly¹⁵⁵ or occasionally¹⁵⁶. In the remaining group of Member States (about half the Member States) there is no right to this kind of flexible working in any sector or in any group.

The scope of the right to flexible working and the way in which it operates varies considerably across Member States. For example in Austria, parents of children aged up to 4 or 7, depending on the size of the company, have the right to change their working schedules (as well as to reduce working hours). In Sweden, employees who are working reduced hours can generally organise those hours in any daily or weekly pattern. In Sweden a "flexi-time" system is the norm in office work. This type of system generally allows for workers to choose when they start and end the working day within certain limits and with a certain room for adjustments over the working week or month. In Spain, workers may request to change their working schedules where they work reduced hours. In the Netherlands, workers have a right to changes in the organisation of working time, subject to the employer's right to refuse where it is reasonable to do so. In the Netherlands, collective agreements increasingly provide for the determination of working hours and patterns over an annual rather than a weekly period. In Germany, collective agreements cover the organisation of working time and the place of work and generally

¹⁵⁰ The information on the position in Member States in this part is taken from the European network of legal experts in gender equality and non-discrimination's report on measures to address the challenges of work-life balance in the EU Member States, Iceland, Liechtenstein and Norway: http://ec.europa.eu/justice/gender-equality/files/your_rights/11-1-2016_reconciliation_final.pdf

¹⁵¹ AT, PT, ES and SE

¹⁵² PT, ES and SE

¹⁵³ BG, MT, NL and the UK (and in the NL this right is also found in collective agreements)

¹⁵⁴ MT

¹⁵⁵ FI, FR, DE and LU

¹⁵⁶ CY and IE

provide for flexibility. In France, collective bargaining has to include negotiation on equality issues (which may include work-life balance issues) and working time arrangements are partly regulated by collective agreements. In Luxembourg, one of the mandatory items for negotiation for collective agreements is the organisation of work, including working patterns.

Regulation on access to remote working (most commonly working from home) is less common in Member States than regulation on flexibility in the organisation of working time. Only the United Kingdom and the Netherlands provide for a right to request to work remotely. However, in Finland and Germany many collective agreements provide for this and in Cyprus and Ireland some collective agreements do so.

In addition to collective bargaining, the company is an important level on which to agree flexible working arrangements. In some countries where state regulation is limited, individual arrangements by firms may constitute the main framework for work-life balance provisions including flexible working arrangements. A European company survey on reconciliation of work and family life¹⁵⁷ carried out in 2010 over 5000 companies in six European countries¹⁵⁸ reveals that significant variation between Member States, with flexible working being more likely to be made available by employers in some Member States than in others.¹⁵⁹

In conclusion, the nature of the entitlement to request flexible working and the nature of the employer's obligation in how they should respond to such requests varies between Member States, as do the criteria for making such requests and the types of flexible working arrangements available. In many Member States, the availability of flexible working arrangements for parents and carers as a way to manage their professional and family responsibilities is not sufficient to enable their participation in the labour market, particularly for women.

Reduced working hours

Almost all Member States¹⁶⁰ have regulated access to reduced working hours (for a temporary or permanent period), albeit in some few cases only with a limited scope¹⁶¹. Factors such as the strength of the right, who has the right (e.g. parents, carers, all workers or workers in particular sectors) and for how long, vary considerably between Member States.

In the majority of Member States the right is tied to balancing professional and caring responsibilities¹⁶². In some Member States the right is available to all workers and not

¹⁵⁷ Institute for Economic Research Cologne (2010) *European Company Survey on Reconciliation of Work and Family Life*, available at http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/Europ_C3_A4ischer-Unternehmensmonitor-Familienfreundlichkeit-englisch.property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf

¹⁵⁸ DE, FR, UK, IT, SE and PL

¹⁵⁹ In Sweden and the UK flexible working time arrangements are more widespread than in Germany, but they are less common in Italy and Poland.

¹⁶⁰ All MS with the exception of HR

¹⁶¹ For example, in LU there is a right to reduce working hours but only in the public sector. In PL there is a right to reduce working hours but only during the extended period of additional maternity or parental leave. In EL private sector workers have the right, by collective agreement, to reduce their working hours by one hour per day.

¹⁶² AT, BE, CZ, EL, DK, EE, FI, HU, IE, LU, LV, LT, MT, PO, PT, RO, SK, SI, ES and SE

only parents and/or carers¹⁶³. In one Member State there are no provisions relating to rights to or requests for reduced working hours¹⁶⁴.

Most of the Member States which provide for a right to reduce working hours provide for an absolute right, provided certain conditions are met, but in some it is only a “right to request”. In Member States in which there is a right to reduce working hours¹⁶⁵, some make the right subject to the employer's ability to refuse for serious business or operational reasons¹⁶⁶. In some Member States there is only a “right to request” rather than a right to reduce working hours, but the strength of this right to request varies¹⁶⁷. In a very small number of Member States there is no statutory legislation, but some collective agreements allow for workers to request reduced hours in particular circumstances¹⁶⁸.

Some Member States provide for a right to reduce working hours for up to a maximum period¹⁶⁹. In some Member States the right to reduce working hours is linked to the age of the child¹⁷⁰. In some Member States the right to reduce working hours (or to request such reduction) is a permanent change to the employment contract¹⁷¹. Some Member States provide that part-time workers who wish to increase their working hours have preferential access to any available additional hours¹⁷². Others provide that part-time workers have preferential access to available full-time posts¹⁷³.

5.3 Childcare and care services to care for elderly, ill and dependent relatives

5.3.1 Childcare and out-of-school care

The share of children under the age of 3 in formal childcare reached the Barcelona target of 33% in a third of Member States (irrespective of the hours of attendance)¹⁷⁴ while this share is below 33% in the other Member States¹⁷⁵. The proportion of children between 3 years old and the mandatory school age who attend formal childcare is much higher than for children under 3 years, but it reached the Barcelona target of 90% in only a third of Member States (also irrespective of the hours of attendance)¹⁷⁶ while it did not in two-

¹⁶³ BG, CY, FR, DE, IT, NL and UK

¹⁶⁴ HR

¹⁶⁵ AT, BE, HU, LV, LT, SI, ES, SE, CZ, FI, DE, PT and SK

¹⁶⁶ CZ, FI, DE, PT and SK

¹⁶⁷ BG, CY, DK, EE, FR, IE, MT, NL and UK

¹⁶⁸ IT, EL and RO. In IT some collective agreements allow workers to temporarily reduce their working hours subject to the employer's right to refuse where it conflicts with other interests or the functioning of the enterprise; in RO such agreements are unusual; in EL national general collective agreements applying to the private sector give the right to one hour's reduced working time per day for breastfeeding and childcare for 2.5 years after maternity leave and this is transferable between parents.

¹⁶⁹ LU and PT

¹⁷⁰ SE, FI, AT and SI

¹⁷¹ NL, UK, LT, LV, CZ and IE

¹⁷² ES and FI

¹⁷³ DE and FR

¹⁷⁴ DK, SE, LU, NL, BE, SI, FR, PT, and ES

¹⁷⁵ The attendance rates for children younger than three vary from less than 5% in PL, SK and CZ and over 60% in DK. Attendance rates are below 25% in 14 Member States.

¹⁷⁶ DK, BE, SE, MT, FR, SI, EE, IT and ES

thirds of Member States¹⁷⁷. In relation to the Education and Training 2020 targets, although the EU as a whole is close to meeting the target, some Member States still have some way to go to meet the objective¹⁷⁸. The latest data (2013) shows no significant change in participation across the EU, while ten Member States have recently even seen a decrease in participation. In 25 Member States, the demand for childcare places is higher than the available supply, especially for children below 3 years of age¹⁷⁹. This is even if 23 Member States¹⁸⁰ have committed to providing a childcare place by establishing a legal entitlement to formal childcare services or by making attendance compulsory for at least the last pre-primary year, but in most cases – fifteen Member States¹⁸¹ – this is only from three years of age or later, and entitlement in this group is often limited to a part-time place¹⁸². Only nine Member States have an entitlement before three years¹⁸³. It is only in Denmark, Finland, Sweden and Slovenia (with early entitlement and where supply met demand) that policies are designed to ensure no gap between the end of well-paid leave and the start of an ECEC entitlement¹⁸⁴. There are also wide geographical imbalances in the availability of childcare services, notably in Austria, Belgium, Italy, Portugal, or Germany.

The average number of weekly hours of childcare is well below the average number of weekly hours of full-time employment in several Member States in all Member States except in Denmark, Slovenia, Portugal and Latvia as well as in a few countries where, however, coverage is low (Bulgaria, Croatia and Lithuania)¹⁸⁵. Moreover, figures do not reveal the opening hours of services and how far they are suited to the needs of working parents, and at least in some cases, they will not be. Limited opening hours that are not compatible with parents' employment has also been shown to be a barrier for the use of these services¹⁸⁶.

The funding of childcare services varies significantly across Europe. Many countries consider it an essential public service and provide substantial amounts of public funding. Some countries leave childcare provision for younger children (under 3 years old) to the private sector and parents are expected to bear all the costs of these services; while in others, children may attend childcare free of charge from the earliest age. In a few countries, parents pay fees throughout the early years until the beginning of primary

¹⁷⁷ The attendance varies between 38% in PL and close to 100% in BE, DK and SE. EU SILC data measure the proportion of children cared for by formal services. The most recent data are for the year 2013.

¹⁷⁸ ET2020 aims at having 95% of children between 4 years old and the age of starting primary education participating in early childhood education across the EU by 2020.

¹⁷⁹ Eurostat & Eurydice Key data on ECEC

¹⁸⁰ No such commitment in IE, IT, LT, RO and SK.

¹⁸¹ HU, IE, BG, CZ, LV, PL, CY, AT, RO, UK, HR, LT and EL.

¹⁸² Moss (2012) *Caring and Learning Together: Exploring the Relationship between Parental Leave and Early Childhood Education and Care*

¹⁸³ At 12 months or younger or at the end of parental leave in Estonia, Germany, Malta, Slovenia, Denmark, Finland, and Sweden, with full-time places available for the 4 latter.

¹⁸⁴ Eurostat & Eurydice Key data on ECEC

¹⁸⁵ Data on average number of weekly hours of formal childcare care for children aged from compulsory school age to 12 years, vis-à-vis the average number of week hours in part-time and full-time employment.

¹⁸⁶ Eurofound (2012) *Third European Quality of Life Survey- Quality of life in Europe: Impacts of the crisis*

education. Childcare may, however, be subsidised (through tax relief, allowances or vouchers), via payments to childcare providers, or through a combination of both¹⁸⁷.

The average out-of-pocket expenses for two children in full-time care are less than 8% of average earnings in Austria, Hungary, Greece, Portugal, Sweden, Poland, Estonia and Spain (corresponding to less than 5% of family net income). In marked contrast, childcare is far more expensive for working couples in Ireland and the United Kingdom where net costs exceed 40% of average wage (and almost to one third of family income). The cost of these services has to be considered in relation to the other social and fiscal policies that have an impact on family incomes, as even with heavily subsidised childcare services there can be few advantages for parents, and in particular the lower earner, to work if the work is heavily taxed (see section on tax and benefits).

Perceived quality also remains a major concern for parents. It is a problem for 27% of respondents on average in Europe, after cost (59%), availability (58%) and access–distance and opening hours (41%)¹⁸⁸. Concerning the main dimensions related to the quality of childcare provision, most countries have regulations specifying the child-to-staff ratio, which typically increases with the age of children, as well as the size of the groups. The variation across European countries is significant¹⁸⁹. The Commission (2011) stresses that staff competences are key to high quality ECEC¹⁹⁰. However, not all European countries have educational staff in ECEC, especially as regards children under three.

Finally, limited accessibility of childcare services can result in their lower use. Large geographical distances can pose obstacles to accessing these services¹⁹¹. Moreover, excessively strict eligibility criteria (e.g., available only for parents in employment, and not for unemployed parents or those in school) have been shown to pose barriers to the use of these services¹⁹².

The difficulties of working parents in managing work and family life continue when children enter school. In most countries, school hours are generally not compatible with a full-time working week for both parents, in particular when school finishes at lunchtime or early in the afternoon. In addition, school holidays are longer than holidays available to employees and, as a result, working parents do not only face difficulties to balance their work and care responsibilities during the week, but also over the year. On the basis of national information, the variation in out-of-school services is rather large, partly as a result of the diversity in educational systems. Only in a few countries is the school system organised on a rather full-time basis, with out-of-school hours care provided in the school (Sweden, the United Kingdom, Malta, Portugal, Belgium, Italy, Latvia, Denmark and Slovenia)¹⁹³.

¹⁸⁷ Eurodyce (2014) *Early Childhood Education and Care*, policy brief

¹⁸⁸ Eurofound (2012) *Third European Quality of Life Survey- Quality of life in Europe: Impacts of the crisis*

¹⁹⁰ Communication from the European Commission (2011) *Early Childhood Education and Care: Providing all our children with the best start for the world of tomorrow* (COM (2011) 66 final).

¹⁹¹ Eurofound (2013) *Third European Quality of Life Survey- Quality of life in Europe: Impacts of the crisis*

¹⁹² Eurodyce (2014) *Early Childhood Education and Care*, policy brief

¹⁹³ EU Expert Group on Gender and Employment (2013) *Childcare services for school age children - A comparative review of 33 countries*, available at http://ec.europa.eu/justice/gender-equality/files/documents/130910_egge_out_of_school_en.pdf

5.3.2 Long-term care services for elderly/dependent relatives

All EU Member States are to some degree involved in the provision and/or financing of long-term care services, although the extent and quality of formal long-term care arrangements vary widely across countries. Some Member States offer extensive medical and social services to older people in need of long-term care and devote a significant share of GDP to this (European Commission, 2015).¹⁹⁴ Other Member States rely heavily on the informal provision by families and have little public spending. Member States with well-developed long-term care services may also offer support for informal carers in the form of cash allowances, training, practical help, respite services and physiological support.

In general, formal care service provisions are less developed in Southern Europe, while several Northern European Member States like Denmark, Finland, the Netherlands and Sweden have built extensive long-term care systems based on public provision. Germany relies on mandatory social insurance against long-term care needs with services provided by non-profit welfare associations. Several Member States in Central and Eastern Europe come from a tradition with emphasis on family care supplemented by institutional care provisions and are still in the early stages of a transition to community- or home-based services. Some Member States like Italy and Austria rely largely on cash benefits which older people can use to organise or purchase long-term care services including informal care from family members. Finally there are Member States that outsource a part of their care services to for-profit organisations. In United Kingdom, Belgium and France, private for-profit services are becoming a major supplementary source of long-term care¹⁹⁵.

5.4 Tax and benefit systems and financial incentives to work

Member States' tax-benefit systems also vary in terms of the financial incentives of disincentives existing for second earners to enter employment or work more hours. Across the EU, women are the vast majority of second income earners (or those earning less in the couple¹⁹⁶).

Comparing average tax wedges (i.e. the difference in a person's pay before and after tax faced by single individuals and second earners with children earning the same income shows that average tax wedges are significantly higher for second earners than single individuals in all Member States for which data are available. As regards marginal tax wedges, second earners with children face higher tax wedges than single individuals in five Member States.

Rastrigina and Verashchagina (2014) estimate Participation Tax Rates (PTR)¹⁹⁷ for women who are potential labour market entrants (women who are out of work and may be willing to enter gainful employment or to return to it). The highest PTR on secondary earners with two children are in Germany, Slovenia, Belgium and Denmark, where more than 40% of additional earnings would be lost on entry into work, as well as Slovakia,

¹⁹⁴ European Commission (2015) *Ageing Report: Economic and budgetary projections for the EU28 Member States (2013-2060)*

¹⁹⁵ See, for instance, Social Protection Committee (2015) *Adequate social protection for long-term care needs in an ageing society*

¹⁹⁶ According to EU-SILC data, women earn less than their partner in nearly 44% of households; in a fifth of households, women have no earnings.

¹⁹⁷ The Participation Tax Rates measure the share of additional earnings which is taxed away when a person enters work due to the increase in taxes or benefits withdrawal.

the Czech Republic, Latvia, Hungary and Poland, where over a third of additional earnings would be lost. The higher the PTR, the lower is the probability that the person enters work.

When out-of-pocket child care costs are included in the calculation, then the values exceed 66% (two thirds of additional earnings) in seven Member States (United Kingdom, Ireland, Germany, Slovakia, Luxembourg, Slovenia, and the Czech Republic), above 40% in another nine Member States (Belgium, Latvia, Denmark, Malta, Hungary, Lithuania, France, Bulgaria and Poland), while the values remain below 40% in the remaining six Member States (Sweden, Spain, Portugal, Austria, Netherlands and Greece).

The Marginal Effective Tax Rate (METR) is expected to influence the decisions taken by second earners about how many hours to work [and would face an increase in earnings (e.g. due to increased hours of work or greater effort)]. METR are particularly high, ranging from over 34% to more than 50%, in 10 Member States.

The main elements of tax systems that distort the incentives of the second earner are: the choice of the tax unit¹⁹⁸, eligibility to benefits and presence of tax allowances for dependent spouse¹⁹⁹ (OECD, 2011). In particular, having the family as the tax unit tends to reduce second earner work incentives relative to those of single individuals, particularly for those with high income partners (OECD, 2011) and thus favour single-earner couples.

¹⁹⁸ Countries with joint taxation, or with options for joint taxation, are the Czech Republic (for couples with children), France (families), Germany (married couples), Ireland (married couples), Luxembourg (married couples), Poland (married couples), and Spain (optional).

¹⁹⁹ Single-earner households in 10 Member States are entitled to fiscal allowances for the dependent spouse.

6. EU COMPETENCE AND ADDED VALUE

6.1 Political foundations of the right to act

The first priority for the Juncker Commission, as stated by the President in his Political Guidelines presented at the beginning of the mandate, is to strengthen Europe's competitiveness and give a new boost to jobs, growth and investment. This initiative will update the regulatory environment in order to facilitate the growth that will be delivered by the employment of working parents and caregivers, particularly women. This initiative has particular importance for the growth agenda, given the clear demographic challenges facing Europe, the scale of the skills shortages facing Europe's employers, and the aim for Europe to maintain its global leadership in strategic sectors with high-value jobs.

6.2 Legal right to act

The Union's specific right to act in this field is set out in detail in Title X of the TFEU. Article 153 empowers the European Parliament and the Council to adopt minimum requirements in the field of equality between men and women with regard to labour market opportunities and treatment at work.

Article 157(3) TFEU further provides that the European Parliament and the Council shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

6.3 Compliance with the principles of subsidiarity and proportionality

The principle of subsidiarity requires that the Union shall act only and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of scale or effects of the proposed action, be better achieved at Union level (Article 5(3) TEU).

6.3.1 Necessity of Union action

There is already an EU legislative framework in place in relation to family-related leave and working arrangements, illustrating the common agreement that EU action in this area is necessary and in principle in line with the principle of subsidiarity. One of the drivers of the problem is that this legislative framework, which has laid the groundwork for protecting not only the health and safety of pregnant workers and mothers but also for facilitating female labour market integration (maternity leave and parental leave) is not adequate and complete for dealing with the challenges of managing work and family life in today's economic, social and demographic situation. Inefficiencies in the labour market continue to persist, with many women, especially those with caring responsibilities, either not in paid work or working in jobs below their skill level because of difficulties in balancing work and family life.

The existing legislative framework (which can only be modified and developed further by Union action) demonstrates that it is only where Union legislation is in place that there are effective measures in place across the whole of the EU. In relation to maternity leave and parental leave, where there is EU legislation, there is legislation in place in every Member State. In relation to paternity leave, carers' leave and flexible working

arrangements for parents and other people with caring responsibilities, there are many Member States where there are either no measures, or measures that are less effective than they could be for achieving the objectives. This is despite the fact that problems have substantially increased in recent years. This is true not only for solutions in relation to the individual issues of paternity leave, carers' leave and flexible working arrangements, but also and even more so in relation to the mix of measures that is necessary in order to address the complex and multi-faceted issue of work-life balance in such a way as to ensure a sustainable positive effect on female labour market integration and harness the benefits of female employment for the EU economy.

The baseline scenario shows that no considerable change in the situation can be expected to occur if the issue is dealt with at Member State level only, and that in spite of the current legislative framework at EU and national level, problems persist in all Member States; inequality in female labour market participation and demographic challenges remain. The structure of society has changed significantly within last 50 years. Children are increasingly raised in households in which their parents are in paid work or want to be in paid work. The organisation of labour markets has not followed this change in the nature of the workforce. The necessary adaptation is deferred by the inherent inertia of the labour market institutions. EU action would add value as a catalyst for change and encourage Member States to focus on the long-term bigger picture and the major socio-economic challenges that lie ahead. While some Member States have taken measures to try to address the issues, a high number of Member States have not taken effective action.

In principle, Member States could take measures to improve the situation, but the evidence is that they have not all done so, or not done so effectively, nor do they necessarily plan to do so. The Treaties intended to create a competitive level-playing field between Member States and introduced the principle of equal pay and of gender equality on the labour market, to avoid any downward competition between Member States in labour and equal treatment matters. Member States may hesitate to regulate in this area on their own, as they may perceive a risk of putting their own companies at a disadvantage with companies from other Member States, if the work-life balance benefits offered to employees are more generous than in other Member States or if they fear that this could be burdensome for employers. This perception represents a potential obstacle preventing Member States from taking adequate action. EU level action will take full account of the need to avoid additional burdens on businesses, particularly SMEs, including by addressing the costs and benefits of any proposed measures in a full impact assessment. Ensuring that all 28 Member States move in the same direction at the same time also mitigates such concerns, as a significant percentage of EU firms' trade is intra-EU.

No considerable change in the situation can be expected to occur if the issue is dealt with at Member State level only. In principle, Member States could take measures to improve the situation, however the track record to date shows that they have not all done so, or not done so effectively, leading to large variations in female employment outcomes and sub-optimal results in many Member States. There may indeed be in some cases a hesitation to act at national level, as the long-term benefits of work-life balance measures may not always be fully appreciated, perhaps due to perceived short-term costs in relation to their implementation or perceived risks of putting their own companies at a short-term competitive disadvantage.

Therefore, the question of whether Member States could potentially take action has to be distinguished from the question whether they actually and effectively do it or can be

expected to do it. The baseline scenario shows that Member States have not taken sufficiently effective measures in this area so far and cannot be expected to do so in the near future. Irrespective of the theoretical possibility for Member States to act effectively, the projections based on the available information clearly demonstrate that action by Member States individually will not achieve sufficiently significant progress in addressing the problem in the foreseeable future. There is a clear horizontal dimension to this issue. This can only be addressed by EU-level instruments, in view of the lack of effective measures taken by the majority of Member States. In this context, the existence of no more than a handful of Member States with encouraging developments is not a convincing argument in order to state that Member States can and do take equally effective measures to address the problem, nor can they be expected to do so any time soon.

Moreover, there is a need for Union action since Member States alone cannot tackle the problems. The problems do not concern only one or a few Member States. There are obstacles to the achievement of the Union's objectives in relation to equality and employment, in particular in relation to female labour market participation, and to the enjoyment of fundamental rights of all people in the EU as set forth in the Charter. The effects of the problem, in terms of economic, social, demographic and fiscal impacts, are felt across the Union. Women's under-representation in the labour market translates, across the EU, to their lower earnings, pension entitlements and fiscal contributions, as well as higher rates of poverty, with significant implications for the social protection systems and for public finances in the Member States. Moreover, higher economic inactivity rates of women also exacerbate the negative impact of an ageing population on the sustainability of public finances. In view of demographic ageing and the projected shrinking of the working age population, Europe needs to better harness its available labour supply for economic growth and fiscal sustainability now and in the future. Women are expected to be the largest group in terms of contribution to improved labour supply for Europe. This highlights the necessity of policies that support women and men to better balance work and family life.

Finally, in its aim to increase its global competitiveness Europe cannot afford not to use all its human capital. In particular, it cannot afford to waste the talent and skills of workers with children or other caring responsibilities by denying them reasonable opportunities as to how to organise their work-life balance. Unfavourable and very different national approaches can also be a barrier to the movement of labour within the internal market. As more and more couples are double-earning couples, in the absence of favourable conditions for both partners to reconcile professional and family responsibilities, it is difficult to move away from traditional support structures in the home country. This leads to inefficiency in the EU labour market as a whole which can be addressed by action at EU-level.

The substantial difference in women's employment rates between Member States today (from 40% to 75%) reflects the relative performance of their labour market and public services, that could put at risk the necessary economic and social convergence within the single market as a whole and the long-term stability of public finances. It also shows that the current set of rules and incentives do not have the effect of triggering a significant and sustainable change in the labour market patterns and individual behaviours of women and men as regards the participation of women in the labour market and better share of family responsibilities.

Finally, if no action is taken at EU level, since no comprehensive action at Member State level is anticipated, women will continue to face limitations on their involvement in the labour market despite their education and skills, which weakens their labour market position and has negative consequences for their economic independence and poverty rates, as well as for economic growth. Furthermore, when couples have to choose between being both in paid work or having children, many decide not to have children or to have only one, as the very low birth rates in most EU Member States illustrate. This will only exacerbate the demographic challenge and the problems facing the EU now and in the years to come.

The non-legislative dimension of EU policy making, including through the open method of co-ordination or through the European Semester and country-specific recommendations, are of great importance – including and in particular where there is no EU competence to legislate (e.g. in relation to childcare or elderly care) - and should be developed further; however in this field they have been proven to be inadequate to ensure alone that these issues are addressed. A comprehensive package that includes legislation is therefore needed, and the only way to ensure that these problems are addressed is through action at the level of the Union.

6.3.2 *EU added value*

Action at the Union level is the most efficient way of addressing the main problem which is obstacles to female labour market participation caused by the challenges of work-life balance for working parents and caregivers. Union action will add value by modernising and updating the existing regulatory framework so that it is adequate and appropriate to meet these challenges. Amending existing Union legislation cannot be done by the Member States acting alone. As indicated above, without a common framework guaranteeing a competitive level playing field, individual Member States may hesitate to regulate in this area on their own because of fears of their labour markets losing short-term relative competitiveness compared to other Member States. Moreover, the introduction of new legislative elements together with legislative amendments, complemented by supportive policy measures, would ensure that the problems are addressed and in a holistic way across the Union.

Because many employers may not have full information about the costs and benefits of workplace flexibility practices and because some of the benefits may extend beyond the individual employer and its workers, wider adoption of such policies and practices would benefit more firms and workers, and the EU economy as a whole. It should therefore be easier from an EU perspective to fight the misconception that work-life balance measures lead to greater costs for firms.

Enhanced productivity, reduced absenteeism and other more difficult to quantify benefits (e.g. greater staff loyalty) need also to be taken into account²⁰⁰. In a study of over 700 firms in the United States, United Kingdom, France and Germany, researchers found a significant positive relationship between work-life balance practices and total factor productivity. The authors argue that this correlation could be driven by a third factor—good management. Well-managed firms both have higher productivity and tend to embrace flexible workplace practices.

²⁰⁰ Vaganay, Canónico, Courtin (2016) *Challenges of work-life balance faced by working families: review of Costs and Benefits*, LSE Evidence Review

A study of the impact on profits of announcements of new work-life balance policies (such as dependent care or flexible work arrangements) by Fortune 500 companies found that on average, firms' stock prices rose 0.36 percent on the days following announcements of work-life balance initiatives. Such evidence indicates that flexible practices boost investors' perceptions of the value of a firm, which may derive from their beliefs about the impact of the policies on worker productivity. However, there is growing literature that suggests not all firms adopt the most efficient practices, especially in less competitive industries.

As explained above, Union action is the most effective way to ensure that action is taken. If no new elements are introduced, in particular in relation to supporting the labour market participation of women by facilitating the possibilities for men to take leave and work flexibly, the risk is that working families are deprived of choice, the burden of care continues to fall primarily on women, women are unable to participate in the labour market to the extent that they would like to and the objectives of the initiative are not achieved.

The underrepresentation of women in the labour market has an important EU cost in terms of missed economic growth. According to the OECD, a 50% reduction in the gender labour force participation gap could yield an additional gain in GDP in 21 EU countries, amounting to 6.2% by 2030, with a further 6.2% gain (12.4% in total) if complete convergence occurred. This analysis of growth potential is without any change in female labour market intensity (i.e. it is not necessary to increase the number of hours worked in order to achieve this order of growth). Bringing the labour market into full gender balance could increase the unweighted GDP for EU-27 by a quarter, with increases in Member States varying between 14% (Slovenia) to more than 40% (Malta, Greece, the Netherlands). Other studies estimate at 23% the GDP increase in 2025 (compared to the baseline scenario) for a scenario in which women participate in the market economy to an identical extent as men — closing the current gaps in labour participation rates, hours worked, and representation within each sector.

Addressing the challenges of work-life balance through improving choice for families in order to increase female labour market participation will, as has been set out above, have positive economic effects across the whole of the EU. It is therefore to be seen as a long-term investment. However, as a result of the recent crisis (and the fact that it affected more some Member States than others), priorities in Member States diverge and other issues (particularly those expected to produce short-term benefits) are focussing national authorities' attention. EU action can add value by delivering benefits in line with a more long-term vision.

The issues described in the problem definition have a clear negative impact on public finances (lost tax revenues, higher social security costs, pressure on the sustainability of pensions and social security systems more broadly, child poverty and its economic effects). National public finances are a matter of concern for other Member States (particularly in the euro-area). EU action will have clear added value for the long-term sustainability of the public finances in the EU.

The proposed rules, by creating a level playing field for economic operators in the internal market, will avoid short-term distortions of competition and ensure long-term enjoyment of the economic benefits throughout the Union. A coherent, adequate and complete legal framework at Union level will have positive economic effects and

facilitate the development and growth of cross-border businesses and the mobility of EU workers, thereby contributing to the growth and consolidation of the internal market.

6.3.3 Proportionality considerations

All the options will be assessed in terms of their compliance with the proportionality principle in a full impact assessment and options that are not in line with this principle will be discarded.

Any legislative initiative would be designed to respect fully the principle of proportionality and, in line with the approach of minimum harmonisation, the means it uses will be tailored to achieving the objective but no more than that.

Any proposed EU action would not exceed what is necessary to achieve the objectives. Any undue interference with the equilibrium of different national systems (some of which do not, for example, strictly differentiate between different forms of family leave such as maternity and parental leave) can be avoided through sufficiently flexible solutions taking account of these differences. Targeted interventions should be sufficiently flexible to be compatible with diverging domestic systems.

6.4 Impact on Fundamental Rights

An EU initiative improving work-life balance for working parents and people with caring responsibilities would have a direct positive impact on several rights laid down in the Charter of Fundamental Rights. In particular, it would facilitate the exercise of the rights recognised in Article 33 of the Charter, which specifically refers to the reconciliation of family and professional life and states that everyone shall have the right to protection from dismissal for a reason connected with maternity, as well as the right to paid maternity leave and to parental leave.

In addition, such an EU initiative would facilitate the exercise of the rights set out in the equality title of the Charter, particularly equality between women and men, which is to be ensured in all areas, including employment, work and pay (Article 23); the prohibition of discrimination based on sex (Article 21); and the rights of children to such protection and care as is necessary for their well-being (Article 24).

Regarding economic operators, an EU initiative would imply certain restrictions on the freedom to conduct a business (Article 16) and the right to property such as business assets (Article 17) due to obligations to grant certain leaves and to permit flexible working arrangements in appropriate circumstances. Such restrictions are admissible if justified by a legitimate objective. A legitimate objective certainly exists in the protection and promotion of other fundamental rights set out in the Charter, notably Article 23 - equality between women and men - and Article 33 - reconciliation of family and professional life. Moreover, the general interest in increasing labour market participation of women and the resulting increase in growth and competitiveness also contributes to the justification. Finally, by increasing the pool of available skilled workers, increasing their productivity and reducing overall costs, the initiative would also be beneficial for those exercising rights under Articles 16 and 17. Against that background, compliance with the Charter will be assured, provided that the restrictions are proportionate in nature, in particular by ensuring that the administrative and financial burden for employers remains limited to the extent that the restrictions are clearly outweighed by the benefits of EU-level action.

7. POLICY OBJECTIVES

A new initiative would contribute to the Treaty-based goals of eliminating inequalities and promoting equality between men and women, to ensure full equality in practice between men and women in working life and to promote a high level of employment.

The general objective is to promote equality between men and women with regard to labour market opportunities and treatment at work, addressing low female participation in the labour market and supporting the equal use of occupational rights.

The specific objective is to improve the provision, and incentivise the more equal use of work-life balance measures for women and men, thereby removing obstacles to the effective participation of women in the labour market.

These objectives link to the problems defined, as follows:

To a large extent, the differences in employment between men and women are the result of parenthood, as women continue to do the majority of unpaid household work, including childcare, and this has a negative effect on their supply of hours in paid employment (OECD, 2012). Men and fathers are discouraged to avail themselves of measures to improve work-life balance and many women drop out of the labour market altogether, often to care for their children, grand-children or elderly relatives.

Encouraging equal use of work-life balance measures between men and women would support increased women's labour market participation, by allowing for a more balanced division of caring responsibilities, and enabling women to remain in employment and/or to increase their hours of work. Moreover, it will have as a consequence to counter the stereotype that women are more costly than men to hire as they are more likely to take a leave of absence after having a child or to take care of a frail/ill/disabled relative as compared to men. Countering the stereotype will reduce the risk that employers discriminate against women, having a positive impact on women's employability and their participation in the labour market.

Further, encouraging equal use of work-life balance measures between men and women could enhance fathers' involvement in caring responsibilities, thereby increasing their well-being, with positive impact on the whole family, and mitigating the negative consequences of parenthood on women.

Finally, it could relieve a number of constraints to individual choice, and allow women and men to make real choices as regards employment and use of work-life balance measures.

8. POLICY COHERENCE

A possible work-life balance initiative to support women's employment is fully consistent with the existing EU acquis and other EU-level initiatives.

Jobs, growth and investment are the first priority of the European Commission²⁰¹ and higher participation of women in the labour market would increase GDP per capita. On average across the OECD, halving the gender gap in labour force participation would lead to an additional gain of 6% of GDP by 2030.

This initiative would also help to deliver on the Europe 2020 targets to increase employment and reduce poverty and social exclusion.

The 2016 Annual Growth Survey urges Member States *"to have a comprehensive approach to improving the work-life balance, including through care facilities, leave and flexible working time arrangements, as well as tax and benefit systems free of disincentives for second earners to work or to work more"*. Moreover attention is drawn to the needs of single parents and people with caring responsibilities. The 2016 draft Joint Employment Report stresses that: *"the gender employment gap remains especially wide for parents and people with caring responsibilities, suggesting the need for further action e.g. in the area of childcare, while the substantial gender gap in pensions in the EU stands at 40%, reflecting the lower pay and shorter careers of women."* and *"adequate pensions remain contingent on the ability of women and men to have longer and fuller careers (...)."*

The guidelines for the employment policies of the Member States for 2015 (Council Decision 2015/1848) stress that *"female participation in the labour market should be increased and gender equality must be ensured, including through equal pay. The reconciliation between work and family life should be promoted (...)."*

This initiative would also be in line with the Country-Specific Recommendations (CSRs) issued within the European Semester. In 2015, CSRs were addressed to 8 Member States with regard to the labour market participation of women²⁰² in particular to address availability of affordable childcare, to address full-time childcare, to improve the provision of long-term care services and to take action to narrow the gender pay gap. The Commission monitors progress on the recommendations and suggests further action to Member States where needed.

The Strategic engagement on gender equality 2016-2019²⁰³ recalls that *"coordinated efforts will be required to facilitate women's labour-market participation. (...) This will involve making it easier to balance caring and professional responsibilities. It also requires a more equal sharing of time spent on care and household responsibilities. The*

²⁰¹ European Commission (2015) Commission Work Programme 2016

²⁰² The following country-specific recommendations on the labour force participation of women were addressed: CSR 3 to the Czech Republic: *"(...) Further improve the availability of affordable childcare"*; CSR 2 addressed to Estonia: *"Take action to narrow the gender pay gap. Ensure (...) availability of childcare services at local level"*; CSR 3 addressed to Ireland: *"Take steps to increase the work-intensity of households and to address the poverty risk of children (...) and through better access to affordable full-time childcare"*; CSR 5 addressed to Italy: *"Adopt the legislative decree(s) on (...) work-life balance"*. CSR 2 addressed to Austria: *"(...) Strengthen measures to increase the labour market participation of (...) women, including by improving the provision of childcare and long-term care services"*. CSR 3 addressed to Romania: *"Increase the provision and quality of early childhood education and care (...)"*; CSR 2 addressed to Slovakia: *"Improve the incentives for women to remain in or return to employment by improving the provision of childcare facilities"*; CSR 3 addressed to the UK: *"Further improve the availability of affordable, high-quality, full-time childcare"*.

²⁰³ http://ec.europa.eu/justice/gender-equality/files/documents/160111_strategic_engagement_en.pdf

Barcelona targets on childcare must be attained and reflection undertaken with Member States on ways of making them more ambitious and extending them to cover care of other dependants should be considered."

A new initiative can allow the Commission to work together with the Member States to “*support work-life balance for women and men, by encouraging the equal sharing of responsibility for care of dependent family members and household tasks*” as requested by the EPSCO Council conclusions of 19 June 2014.

Finally, a number of earlier commitments can be recalled, in particular the Barcelona targets to remove disincentives to women’s labour market through the provision of childcare²⁰⁴, the 2000 Council Resolution on Balanced participation of women and men in family and working life (2000/C 218/02) and the 1992 Council recommendation on childcare (1992/ 241/CEE) recommending Member States should support reconciliation between work and family life and included “*increased participation by men as regards responsibilities arising from the care and upbringing of children, in order to achieve a more equal sharing of parental responsibilities between men and women and to enable women to have a more effective role in the labour market*”.

²⁰⁴ The European Council in 2002 set ‘the Barcelona Targets’ to provide childcare by 2010 to at least 90% of children between 3 years old and the mandatory school age and at least 33% of children under 3 years of age. The Commission reports on progress towards these targets, such as in the 2013 Progress Report on the Barcelona Objectives.

9. POSSIBLE AVENUES FOR EU ACTION

This section provides an overview of the measures that could be considered for addressing the problem and meeting the objectives outlined above.

The results of the first stage of social partner consultation and the public consultation demonstrate that there are different views of stakeholders with regard to the most suitable policy measures. This document does not seek to identify a preferred option, but to present possible measures for consideration with regard to the different elements identified in the problem definition in respect of which the EU has competence to act. The following section will also provide an overview of the possible impacts of these measures in relation to the objectives of this initiative. Should the Commission decide to prepare a proposal if the Social Partners decide not to negotiate, these issues will be looked at in greater detail in the Impact Assessment accompanying the Commission proposal.

Possible legislative measures (with different parameters for consideration)		Intervention logic
Maternity leave	Improving dismissal protection	Overcoming problems of existing discrimination and dismissals in connection with maternity leave could help to keep women in the labour market.
	Provision for breastfeeding breaks and/or facilities	Breastfeeding breaks and/or facilities could facilitate women's return to work after their leave, in cases where women want to continue breastfeeding while working.
Paternity leave	Length	<p>Paternity leave could contribute to a more equal use of leave arrangements between women and men. It has been shown to have a knock-on effect on fathers' longer-term involvement in childcare, which would have a clear positive impact on women's labour market participation.</p> <p>Enhancing fathers' possibilities to take leave after having a child could also help to reduce the risk of labour market discrimination against women.</p> <p>The provision of an adequate allowance is a key determinant of fathers' take-up of leave and could therefore enhance the effectiveness of this measure.</p>
	Pay	

Parental leave	Flexibility in take-up	<p>Improving the possibilities and incentives for fathers to take parental leave could support a more equal use of leave arrangements between women and men, which has been shown to have a positive impact on women's labour market participation. Enhancing fathers' possibilities to take parental leave could also help to reduce the risk of labour market discrimination against women.</p> <p>The provision of an adequate allowance is a key determinant of fathers' take-up of parental leave and could therefore enhance the effectiveness of this measure. Increasing non-transferability could encourage fathers to take more of their leave entitlement, thereby limiting the length of career interruptions for women. Flexibility could improve the attractiveness of parental leave for men and thereby their take-up, as well as enable employees and employers to maintain the benefits of their connection to the workplace.</p>
	Pay	
	Length	
	Non-transferability	
Carers' leave	Length	<p>Introducing carers' leave would provide workers with the possibility to take time off to care for a dependent relative, or ensure arrangements for formal care, while remaining in employment. Such measures could strengthen carers' attachment to the labour force (particularly women who are more likely to be carers), by allowing them to take a temporary period of absence and then return to work, rather than compelling them to drop out of the labour market altogether. Flexibility in take-up could enable employees to better maintain their connection to the workplace, for their benefit and that of their employer.</p>
	Pay	
	Flexibility in take-up	
Flexible working	Type of arrangements	Improving the availability of flexible working arrangements for parents

arrangements		and carers could help workers balance work and care responsibilities, by allowing them to adapt their working patterns and/or schedules to their personal needs and preferences. In particular, such arrangements could help employers retain workers returning from a care-related leave, or who are faced with new caring responsibilities during their career, to remain in their jobs rather than having to change their jobs or even drop out of the labour market.
	Nature of the entitlement	
	Scope of the right	
Supporting non-legislative policy framework	Policy guidance and/or benchmarks	Through a broader framework of non-legislative measures, the EU could enhance the effectiveness of legislative measures by addressing the drivers of women's underrepresentation in the labour market in a more comprehensive way. Such a framework could consider in addition to leaves and flexible working arrangements, other relevant measures such as childcare and long-term care services and addressing tax-benefit disincentives. Evidence shows that these policies interact and often reinforce each other.
	Knowledge-sharing and awareness-raising activities	
	Enhanced use of EU-level funds	

9.1 Legislative measures

9.1.1 Maternity leave

Under the baseline scenario (no further EU action) EU legislation would continue to provide for 14 weeks' maternity leave, paid at least at the level of sick pay, with the right to return to the same or an equivalent job and protection against dismissal from the beginning of pregnancy until the end of maternity leave. In the case of a dismissal in exceptional circumstances not connected to the pregnancy, the employer must cite duly substantiated grounds for dismissal in writing. The policy options to be examined in detail in an Impact Assessment could be a combination of some or all of the issues set out below and taking into account the baseline scenario.

One set of parameters for improving the situation of pregnant workers and new mothers would be related to **improving dismissal protection**, for example by:

- extending the period of protection (e.g. until six months after the end of maternity leave);

- prohibiting, in addition to dismissal, any preparatory steps for dismissal²⁰⁵; and/or
- providing for a right to written reasons for dismissal during the full period for which dismissal protection is provided.

Measures to improve **dismissal protection** could update current EU legislation in light of case law of the ECJ (notably Paquay, C-460/06²⁰⁶) which clarified that not only the dismissal as such but also preparatory measures for dismissals until the end of maternity leave are prohibited under Directive 92/85. The requirement to substantiate the grounds for dismissal in writing could be extended for a certain period after the end of the maternity leave.

Entitlements for breastfeeding mothers in relation to breaks and/or facilities for breastfeeding that could facilitate the transition back into work could also be considered.

Finally, a parameter that is relevant is **the length of maternity leave**. In this context, it is useful to recall the 2008 Commission proposal to extend the length of maternity leave from 14 to 18 weeks. The European Parliament adopted a position calling for a further extension to 20 weeks and other measures including introducing full pay for the entire duration, which was not acceptable to the Council. Discussions between the co-legislators were at a stalemate. The Commission withdrew the proposal in 2015, noting that in the meantime many Member States had increased maternity leave to at least 18 weeks and that a new approach was needed in order to take into account changes in the national policies of Member States, as well as the changing labour market and societal context. The Commission also acknowledged that more opportunities for women and men to share caring responsibilities would have a strong positive effect on mothers' employment, and a new proposal would therefore examine options beyond maternity leave that would allow for a better sharing of care responsibilities.

Effectiveness

Improved dismissal protection could contribute to overcoming problems of existing discrimination and dismissals in connection with maternity leave and thus keep women in the labour market.

The additional **costs** of dismissal protection measures are expected to be very limited. Additional costs would be non-existent in relation to the codification of existing case law which, due to the clarification in legislation, could rather save businesses expenses related to invalid dismissals and resulting litigation. The costs of a written substantiation in case of dismissals very soon after the end of maternity leave would also appear to be rather marginal.

The costs relating to any measures for breastfeeding breaks and facilities would depend on the specific nature of the provisions and in particular whether employers would have to make any changes in their premises. The difficulties smaller enterprises could face in particular in implementing such provisions would have to be taken into account.

The **benefits** of the above-mentioned measures would be likely to be tangible, even though this is difficult to quantify²⁰⁷. The EU could take steps to address the problem of pregnancy and maternity discrimination leading to dismissals in the EU which according to the available evidence is an existing and widespread problem. For example, according

²⁰⁵ Such as the recruitment of a replacement employee on a permanent basis.

²⁰⁶ Paquay, C-460/06, Judgment of the Court (Third Chamber) of 11 October 2007, Nadine Paquay v Société d'architectes Hoet + Minne SPRL, ECLI:EU:C:2007:601.

²⁰⁷ In the case of a legislative proposal, further detail and a possible quantification of benefits would be analysed in an impact assessment.

to a recent study, around one in nine mothers (11%) reported that on grounds of pregnancy or motherhood they were either dismissed or treated so poorly they felt they had to leave their job. This amounts to around 54,000 mothers a year in the UK alone²⁰⁸. In 2011, the Italian Institute for Statistics said it believes 800,000 women have at one point in their lives been forced to leave a job either during or after a pregnancy.²⁰⁹ The benefits of breastfeeding breaks and/or facilities would be the extent to which they could help women return to employment after a shorter period of maternity leave in cases where they want to continue breastfeeding their infant.

9.1.2 Paternity leave

Paternity leave is understood as a period of leave reserved as a non-transferable right for fathers to have time off work around the time of birth or adoption of a child. Under the baseline scenario (no EU action) there would continue to be no provision for paternity leave at EU level.

In order to improve the situation of working parents one possibility would be to consider introducing paternity leave at EU level.

The main parameters to assess in relation to the features of paternity leave would be **length** and **pay**:

- the **length** of (paid or unpaid) paternity leave could, for example, be set at around two weeks;
- the **level of remuneration** could range from unpaid to the level of sick pay or even full pay.

Effectiveness

While there are currently no EU rules on paternity leave, most of the Member States have some form of paternity leave in place. Evidence suggests that the introduction of paternity leave provisions at EU level is likely to be significantly taken up by fathers only if compensation levels are high²¹⁰. Well-compensated paternity leave is thus likely to increase take-up by fathers. This is certainly also an explanation for the fact that all Member States currently offering paternity leave also guarantee remuneration.

With regard to paternity leave up to a period of two weeks, as it is usually taken around the time of the birth of the child, it can be planned very well in advance by both the employee and the employer which makes it a relatively easy right to implement²¹¹. Its **costs** (apart from any allowance payable)²¹² are rather limited as it is mainly perceived as

²⁰⁸ See Pregnancy and Maternity-Related Discrimination and Disadvantage, First findings: Surveys of Employers and Mothers, BIS Research Paper No. 235 (2015).

²⁰⁹ For more details, see <http://www.theguardian.com/world/2013/jan/31/italian-election-female-question-employment>

²¹⁰ COWI (2008) *Study on the costs and benefits of options to improve provisions for the reconciliation of work, private and family life* (p. 95) - available at http://ec.europa.eu/justice/gender-equality/files/dg-empl_reconciliation_main-report_final_en.pdf

According to this study, unpaid paternity leave would rather lead fathers who want to take off a shorter period of time around childbirth to do that by making use of paid annual leave.

²¹¹ Vaganay, Canónico, Courtin (2016) *Challenges of work-life balance faced by working families: review of Costs and Benefits*, LSE Evidence Review

²¹² Costs are understood in this sense as ‘costs incurred by enterprises, the voluntary sector, public authorities and citizens in meeting legal obligations to provide information on their action or production, either to public authorities or to private parties. Information is to be construed in a broad

an easy process, it concerns a short period, it requires less planning in advance and is generally considered to be similar to a holiday in organizational terms for the company and the employee. Therefore the overall impact in terms of administrative burden on business would be unlikely to be very significant because paternity leave is only a short period of absence that can be planned and does not disrupt the organization of work of business.

The main **cost** in terms of the pay for the leave²¹³ would depend on the minimum standard envisaged by any potential EU instrument as well as on the current level of pay in the Member States where paternity leave exists. Around half of the Member States already have full pay at least for a certain period of paternity leave²¹⁴. Others provide levels of pay between 70% and 90%²¹⁵. Since in the majority of Member States that provide paternity leave the remuneration is rather generous, costs resulting from increased pay levels could be non-existent or not significant in those Member States and would be concentrated in the six Member States currently not having any paternity leave. For the rest, the precise cost of an EU instrument would depend on the length of the paternity leave.

One of the **benefits** could notably be a **leverage effect of paternity leave for fathers' involvement in caring responsibilities and the take-up of parental leave by fathers**. The positive impact that paternity leave has on the later take-up of parental leave by fathers – thus facilitating stronger labour market integration of women as a result of a bigger share of fathers in the overall leave taken - is illustrated by evidence from several Member States. Enhancing fathers' possibilities to take leave after having a child could also help to reduce the risk of labour market discrimination against women because they are more likely to take leaves after having children than men.

A study in **Finland** found that there is a positive correlation between longer paternity leave and longer use of parental leave by fathers and concluded that there is a longer-term impact on father's behaviour²¹⁶. After increasing paternity leave in **Portugal**, available data showed that 80% of fathers taking paternity leave also subsequently used at least some part of parental leave²¹⁷. In **Slovenia**, improvements to paternity leave entitlements in terms of length and pay lead to a near threefold increase in take-up with a total take up rate of paid paternity leave of 80%²¹⁸. Research²¹⁹ has also shown that leverage effects (on increased take-up of parental leave) are more likely to occur in countries with paternity leave of 2 weeks or more but particularly in combination with incentives for fathers to take up well-compensated parental leave.

Remuneration is seen as key to take-up of paternity leave. The take-up by men of unpaid leave would have to be envisaged as being very low, also on the basis of existing experience with parental leave where it is unpaid. Therefore leave for fathers that is remunerated at a level equal to maternity leave appears to be by far the most effective to lead to significant take-up by fathers. Paternity leave improves work-life balance in itself but can be particularly important in paving the way for more parental leave take-up by

sense, i.e. including labelling, reporting, registration, monitoring and assessment needed to provide the information', COWI (2008) p. 158, ibid.

²¹³ In addition to pure administrative costs (see above under length)

²¹⁴ BE, DK, EE, EL, ES, FR, HU, IT, LT, LU, MT, NL, PL and PT

²¹⁵ For instance BG, FI or LV

²¹⁶ Taskula, S (2007). *Parental leave for fathers?* Research Report no 166. Finland. National Research and Development Centre for Welfare and Health

²¹⁷ COWI (2012) *Study on the costs and benefits of possible EU measures on paternity leave*

²¹⁸ Ibid.

²¹⁹ Ibid.

fathers with the resulting impact on a more equal distribution of childcare between parents and thus also on female labour market participation.

In terms of **benefits** in relation to female labour market participation possible limited effects may already be observed as a result of introducing paternity leave itself but are likely to be bigger and more sustainable if leverage effects can be achieved²²⁰. The evidence available on leverage effects indicates that such effects are more likely to arise where paternity leave is longer and well-compensated and where incentives are available for fathers to take-up longer periods of parental leave. Higher female labour market participation leveraged by take-up of paternity leave and a likely resulting a higher take-up by fathers of parental leave can then contribute to reducing the employment gap with knock-on effects on other gaps in the labour market (including the gender pay and pension gap)²²¹. Moreover, enhancing fathers' possibilities to take leave after having a child could also help to reduce the risk of labour market discrimination against women because they are more likely to take leaves after having children than men.

9.1.3 Parental leave

Parental leave occupies a key position in helping men and women to better balance their work and caring responsibilities since – as compared to maternity and paternity leave – it is longer and open to both parents, so that higher take-up by men and a more equal distribution between parents can result in significant impacts on female labour market participation.

The situation across Member States in relation to parental leave is varied. It ranges from 17 weeks²²² to 156 weeks²²³. The average duration is 86.9 weeks²²⁴. Evidence shows that mostly women take parental leave and are therefore absent from the employment market at least for a certain period. The risk of dropping out of the labour market or damaging career opportunities grows with the length of absence (multiplied by the number of children).

A recent EP study²²⁵ shows that the lowest take-up of parental leave by fathers can be observed in Greece with only 0,02%, while on the other side of the spectrum, Sweden has a 44% take-up rate. Fathers usually take short periods of leave (OECD, 2012). A Eurofound study²²⁶ concludes that the aspects that influence fathers' take up rate of parental leave most are:

- the level of compensation,
- the flexibility of the leave system,
- the availability of information,
- the extent to which workers fear isolation from the labour market when taking leave.

²²⁰ Duvander, A.Z., Jans, A.C. (2008) *Consequences of fathers' parental leave use: evidence from Sweden*. Paper presented to Workshop on Diversity and Leave Policies 2008, Amsterdam.

²²¹ COWI (2012) Study on the costs and benefits of possible EU measures on paternity leave

²²² BE

²²³ AT, CZ, DE, EE, ES, FR, HU, LT, LV, PL, and SK

²²⁴ According to European Parliament study for the FEMM Committee, Maternity, paternity and parental leave: data related to duration and compensation rates in the EU.

²²⁵ European Parliament (2015) *Maternity, paternity and parental leave: data related to duration and compensation rates in the EU*, study for the FEMM Committee.

²²⁶ Eurofound (2015) *Promoting uptake of parental and paternity leave among fathers in the EU*

- the non-transferability of (parts of) the father's individual entitlement to the mother.

Improving the overall conditions of parental leave in order that men are incentivised to take a substantially bigger share of it could improve work-life balance for parents and facilitate labour market integration of women.

Under the baseline scenario (no further EU action) EU legislation would continue to provide for an individual right to four months' parental leave, with one month non-transferable, for parents of children up to an age determined by the Member States up to eight years. There would be no stipulations at EU level as to whether leave can be taken on a full-time or part-time basis, in one block or in a number of blocks; nor would there be any stipulation as to pay.

- One possibility for improving the situation of working parents could be to increase the **level of flexibility for parents in how they use the parental leave**, e.g. by
 - increasing the age of the child in respect of which parental leave can be taken, for example up to the age of twelve years; or
 - providing for an individual right to choose to take the leave on a full-time or part-time basis, in one block or in a number of blocks.
- Another possibility could be to **introduce a requirement of remuneration**, for example at least at the level of sick pay, or alternatively at full pay, either for part (e.g. the non-transferable period) or all of the leave.
- Another possibility could be to **increase the period of leave including the part of it that is non-transferable** in order to combine a greater length of parental leave with a stronger incentive for fathers to use a greater portion of the leave.

These possibilities could be used individually or in combination.

Effectiveness

Entitlement to flexible take-up

(a) Parental leave on a part-time basis or in blocks

The Parental Leave Directive currently provides the possibility for the Member States to provide in their legislation the possibility to take full-time parental leave and/or part-time parental leave but leaves this decision (as for modalities of the leave in general) to their discretion. Usually national systems include some degree of flexibility as explained in Section 5.1.3. A Eurofound study²²⁷ found that the flexibility and simplicity of the system of parental leave influences take-up of parental leave.

The additional **costs** of providing flexibility in the take-up of parental leave would appear to be rather marginal or even non-existent since the overall leave entitlements stay the same. There could be costs where employers wish to replace employees for possibly shorter periods which could make it more difficult to find the right candidate, but this would need to be weighed against the benefit that a worker taking parental leave on a part-time basis would still be present at work.

In terms of **benefits**, providing flexibility in the use of parental leave could allow parents to stay in the labour market during parental leave (part-time) or be absent for shorter periods at a time. Providing such flexibility could have advantages for workers not only in terms of facilitating work-life balance but also in terms of maintaining their

²²⁷ Eurofound (2015) *Promoting uptake of parental and paternity leave among fathers in the EU*

professional competences. These effects could equally benefit employers who retain qualified employees on the job instead of hiring and training new employees²²⁸. Moreover, flexible use of parental leave could be less disruptive for business than leave taken on a full-time basis. Providing more flexibility in the take-up of parental leave could also allow more working parents to make use of parental leave where any pay or allowance granted during parental leave is less than full pay, by distributing income losses in a more manageable way. Importantly, this approach may increase the likelihood of fathers using their allocated parental leave. A Eurofound study concludes that the decision of fathers to take parental leave is dependent to some extent on how flexible the leaves are and how feasible it is to combine childcare with working life.

(b) Maximum age of the child

Another aspect of providing more flexibility in the use of parental leave is to give parents the possibility to choose the best moment to take parental leave according to their needs. In the vast majority of Member States, the right to parental leave is granted until the child reaches a certain age. Currently the Directive provides that 8 years should be the maximum age of child up to which parents can take parental leave but leaves Member States the possibility to stipulate a lower age limit, and a number of them have made use of this option. The objective of an amendment here could be to give parents full flexibility to choose the timing of parental leave freely until the age of 8 years or a higher age (e.g. 12 years).

While the main **benefit** for work-life balance is to offer greater choice to parents in terms of when to take parental leave²²⁹, the **cost** of such a measure should remain relatively limited since it would not change the length of parental leave but only extend the period in which it can be taken. Replacement costs for employers should remain the same.

Remuneration of parental leave

Currently the Parental Leave Directive provides no right to a remuneration of the parental leave. Where parental leave is remunerated, levels of allowance range from generous allowances based on full pay or sick pay in some Member States to low allowances (sometimes also in the form of low flat rate allowance) in others. Studies show that pay constitutes one of the most important considerations, for parents, (and in particular for men), to take parental leave. Evidence suggests that the greatest barrier to take-up of parental leave for both parents is the absence of remuneration during leave. A COE study on parental leave²³⁰ highlights that an abundance of international literature suggests that unpaid leave is ineffective. A Eurofound study²³¹ further confirms that the financial aspect is an important determinant particularly of fathers' use of leave and the absence of pay is a significant barrier to their stronger involvement. As men's salaries on average account for two thirds of the income in the couple²³² there is a significant disincentive for them to take unpaid or low paid parental leave.

Financial support is seen as essential for promoting the take-up of parental leave by men. Countries providing high earning-replacement rates have the highest take up rates of

²²⁸ European Parliament (2010) *Costs and benefits of maternity leave and paternity leave*

²²⁹ Eurofound (2015) *Promoting uptake of parental and paternity leave among fathers in the EU*

²³⁰ Council of Europe (2005) *Parental Leave in Council of Europe Member States*, available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680591662>

²³¹ Eurofound (2015) *Promoting uptake of parental and paternity leave among fathers in the EU*

²³² See Section 5

parental leave. Most experts²³³ consider that an adequate payment of the leave is essential not only for its practical use but in particular also for its use in a more balanced way by mothers and fathers²³⁴. Providing a remuneration of the parental leave would provide a powerful incentive for fathers to take parental leave. According to a study carried out in the UK in 2005²³⁵, fathers hardly take any parental leave when it is unpaid. This also applies to the Swedish reform introducing the paid "daddy month" in 1995²³⁶ which increased the percentage of fathers taking parental leave from 9% to 47%²³⁷.

Some comprehensive studies on EU countries²³⁸ conclude that legislation on family-related leave may raise female employment rates by 3% to 4% and even more for women of childbearing age. In particular, paid parental leave of relatively short duration helps to raise female employment rates²³⁹. There is evidence that countries granting paid parental leave and childcare subsidies in general have higher female labour-market participation rates and that such policies stimulate full-time participation.

The **costs** would depend on the length of coverage and would be expected to be much more limited if pay were offered for instance only during the non-transferable period (currently one month) as opposed to pay of the entire period of parental leave. However, costs of introducing a requirement would be reduced due to the fact that most of the Member States already provide for remuneration of parental leave.

In terms of **benefits**, the payment of parental leave or some parts of the period of parental leave could improve the situation for working families. An EP study shows that paid parental leave gives parents financial security and supports children. Unpaid leave cannot effectively facilitate work-life balance or female labour participation for parents on low and middle incomes, as they cannot afford to take it.

Non transferability and length of parental leave

The Parental Leave Directive currently provides for an individual right granted to each parent of 4 months of parental leave. Member States may allow transferability between parents, except for one month. Significant transferability could reinforce mothers' predominant use of parental leave relative to fathers, and thus contribute to their longer or more frequent absences from the labour market after having children as compared to men.

An extension of current parental leave entitlements not accompanied by increased non-transferability could result in only further increasing mothers' take up of leaves, which could lead to a greater depreciation of their skills and thus to more difficulties to get back to employment. This might strengthen gender stereotypes and enhance the risk of discrimination against women in the labour market.

²³³ HR, CY, EL, DE, LV, LIE, MT, PT, UK

²³⁴ Research Paper by Prof Dr Maria do Rosario Palma-Ramalho, EP (2015) *The implementation of the Parental leave directive 2010/18/EU with reflections on a harmonised approach to the maternity and parental leave*

²³⁵ Employment relations, Research series n°50, *Maternity rights and benefits: Survey of parents* (2005), p.80-82

²³⁶ Parental Leave- A policy evaluation of the SE daddy month Reform, Friebel, 2005, Institute for the study of Labour, IZA DP n°1617 p.22

²³⁷ European Commission (2008) *Impact assessment accompanying the Proposal to amend Directive 92/85 on maternity leave*

²³⁸ Idem.

²³⁹ Vaganay, Canónico, Courtin (2016) *Challenges of work-life balance faced by working families: review of Costs and Benefits*, LSE Evidence Review

At the same time, increasing the non-transferable period alone without an appropriate increase in the overall length of parental leave would reduce the period of leave from which mothers may benefit in case of full transfer²⁴⁰ from the father and could reduce the flexibility that families have to organise their work-life balance.

The current situation could be improved by a combination of increasing the length of the non-transferable period of parental leave with increasing the overall length of leave.

Apart from potential **costs** arising from pay requirements, **extending the length of parental leave** (e.g. from 17 to 20 weeks for each parent) would imply costs for some companies that choose to replace employees on parental leave for a longer period. However, the costs would be significantly nuanced by the fact that the average number of parental leave weeks available in the EU is already beyond 20. Five Member States²⁴¹ would have to modify their legislation to increase the length of parental leave. **Costs of increasing the length of the non-transferable period** should be non-existent or marginal since they do not affect the total length of parental leave. Depending on the take-up by fathers of the longer non-transferable period, the costs from an extension of the overall leave could be mitigated or reduced to zero.

In terms of **benefits to be derived from a longer period of leave** for parents to take care of their children, it could allow them to better address difficulties in reconciling professional and care responsibilities and also to build up a stable relationship with their children and be present when the children need it. An EP study reveals that extended parental leave periods impact positively on children's health due to direct parental care, as well as later enrolment into group childcare or into care provisions by non-relatives.

As for the **benefits of increasing the non-transferable period** (e.g. from 1 month to 10 weeks), they derive from the fact that this measure represents an incentive to fathers' take-up of parental leave: the fact that if the father does not take 10 weeks of parental leave, those weeks are lost would provide a strong incentive for fathers to take more parental leave, notably if such leave is remunerated, with positive consequences for female labour market participation.

An EP study²⁴² shows that the portion of leave available to fathers or reserved exclusively for fathers and the generosity of parental leave in terms of wage replacement are the main factors used in assessing the gender equality of policy. Longer parental leave that is both paid and with a significantly longer non-transferable period could therefore be expected to increase take-up in general (even among women) but particularly among men with a stronger effect on female labour market integration (but also at a much higher cost). Evidence shows that Sweden and Germany, the two Member States with the highest take-up rate by fathers (almost 45% and almost 30% respectively) both combine paid leaves that are considerably longer than the current EU minimum with periods of non-transferability that also exceed the current EU requirements.

9.1.4 Carers' leave

Carers' leave is understood as leave to care for ill, disabled, frail, elderly or dependant first-degree relatives and spouses/life partners. There is currently no provision at EU level for carers' leave.

²⁴⁰ I.e. transfer of the period that parents are allowed to transfer to each other

²⁴¹ BE, CY, EL, IE, MT

²⁴² European Parliament (2010) *Costs and benefits of maternity leave and paternity leave*

Caring responsibilities can lead women to exit the labour market either temporarily or permanently. Care tends to have a negative impact on labour participation particularly when it is intense, i.e. the care comprises at least 20 hours per week and/or covers longer periods²⁴³. Evidence indicates that less than a fifth of caregivers provide intense care²⁴⁴, which means that the majority of caregivers are in need of medium-term or short-term care leave that they can take on a flexible basis.

Current workplace policies and practices and the variable and low provisions of leave at national level provide little incentive for men to take time off in order to share caregiving on a more equal basis with women. The low take-up rate by men is influenced by several factors, notably including lack of availability of carers' leave, low compensation rates of carers' leave (if available at all), employers' negative attitudes, fear of career penalty or lack of flexibility in how leave can be taken. The vast majority of carers wish to remain in employment²⁴⁵. Measures that carers perceive as most helpful in balancing work and care refer to flexible working arrangements and the possibility to take time off. However, a number of Member States only offer a very short leave for urgent family reasons, e.g. in case of an accident (*force majeure* leave), while several others have leave entitlements to care exclusively for children under the age of 18. Moreover, the majority of Member States do not offer entitlement for a flexible take-up of carers' leave, which would for instance allow taking leave on a part-time basis.

Research suggests that the absence of comprehensive leave and carer-friendly policies affects carers' well-being and productivity at work. This also translates into costs for employers due to absenteeism and lower productivity, staff turnover and re-hiring costs. Moreover, in the absence of (sufficient) carers' leave provisions, working carers use other forms of leave (e.g. sick leave, annual leave) which are often better compensated, to meet caring requirements; this would also suggest that employers – or social security systems - may already incur additional costs in the baseline as a result. Evidence suggests that carers also consider inflexible working hours as a major barrier to reconciling work and caring²⁴⁶.

Under the baseline scenario (no EU action) there would continue to be no provisions at EU level for carers' leave (time off work to take care of sick or disabled children aged over the age at which parental leave is available, or to take care of a spouse or elderly or infirm dependant relatives) beyond the *force majeure* leave (time off for urgent family reasons) currently provided under the Parental Leave Directive.

The main parameters to assess in relation to carers' leave would be **length, pay** and the **flexibility for carers in how they use the leave**.

- In terms of the **length of the total period of leave** available to workers with caring responsibilities, possibilities could range from a relatively short total amount of leave (for example four weeks) to a longer total amount of leave (for example twelve weeks) that workers could use over the course of their working lives.

²⁴³ Colombo et al., OECD Health Policy Studies (2011) *Help Wanted? Providing and Paying for Long-Term Care*, available at <https://www.oecd.org/els/health-systems/47836116.pdf> ; Lilly et al., (2007) *Labour market work and home care's unpaid caregivers: a systematic review of labour force participation rates, predictors of labour market withdrawal, and hours of work*.

²⁴⁴ Colombo et al., OECD Health Policy Studies (2011) *Help Wanted? Providing and Paying for Long-Term Care*, available at <https://www.oecd.org/els/health-systems/47836116.pdf>

²⁴⁵ COWI (2012) *Study on the costs and benefits of possible EU measures on carers' leave*

²⁴⁶ Arksey et al. (2005) *Unpaid carers' access to and use of primary care services, Primary Health Care Research and Development*

- In terms of **pay**, possibilities could range from no pay to pay at the level of sick pay or full pay for the entire leave or only a part of it.
- As regards **flexibility in take-up**, one could consider a right of the caregiver to take the leave on a full-time or part-time basis, in one block or in a number of blocks.

Effectiveness

Offering working carers more possibilities to reconcile family commitments and work would represent an incentive for carers to enter and remain in the labour market. As women are de facto primary caregivers, the measures on carers' leave could improve female labour market participation, encouraging them to remain in employment or move from unpaid work at home to paid employment. Introducing carers' leave could significantly improve the work-life balance situation of employees caring for dependent family members. It could provide carers' with the possibility to take time off to care for dependant relatives (for instance spending time with a terminally ill relative) or with the time needed to make arrangements for formal care while staying in employment.

The most significant potential **benefits** would be increased labour market participation²⁴⁷, by allowing carers to retain an attachment to their jobs during periods of caring responsibilities and preventing them from dropping out of the labour market altogether. Overall increased employment would lead to increased tax revenues and less state support in terms of benefits. Improvements in work-life balance could also contribute towards increased job satisfaction, leading to improved staff retention and worker productivity; and improved worker health, particularly reductions in stress-related illnesses leading to reduced costs also for employers and health insurance. The employer benefits could include reduced rates of absenteeism; retention of valued and skilled employees; increased worker productivity; and improved employee job satisfaction. Carers' leave could contribute to skilled workforce retention, specifically for employers who employ a large number of females in the age group 54-65, as it is known that they are the most likely group of employees to initially take leave to look after an ill or disabled relative (usually a partner) and to subsequently leave the active working population. Many of these older workers are at the peak of their careers in terms of productivity and earnings, therefore the consequences for businesses and the wider economy (through tax revenue and consumption by the relevant households) is substantial. In the absence of family-friendly policies such as carers' leave, proportionally higher numbers of highly skilled workers exit the workforce, a problem that is only likely to grow with an ageing population and the increasing prevalence of age-related health conditions²⁴⁸.

Costs gradually increase with the length and with an entitlement to pay. Costs to public authorities would be likely to be only minimal or non-existent where no pay is provided, nor would there be significant administrative costs associated with the processing of leave claims. Given that employers are seldom responsible for paying direct compensation to employees, their costs are estimated to be very low even where pay is provided. As regards flexibility in the take-up of carers' leave, the additional costs of such measures would appear to be limited since for instance the employee taking carers' leave on a part-time basis would still be present at work. However there could be costs for companies choosing to replace employees on carers' leave.

²⁴⁷ Vaganay, Canónico, Courtin (2016) Challenges of work-life balance faced by working families: review of Costs and Benefits, LSE Evidence Review

²⁴⁸ Ibid.

9.1.5 Flexible working arrangements

Offering parents and carers the possibility of **flexible working** by changing their working hours or place of work or reducing their working hours at their request can help men and women better balance their work, family lives and caring responsibilities. The situation across Member States in relation to flexible working and reduced working hours is varied both as regards the legal situation and the actual use of arrangements. For example, flexible working time schedules are common in Denmark, Sweden, Germany, Finland and the UK, whereas they are unusual in Greece, Cyprus, Romania and Bulgaria²⁴⁹ and the share of part-time employment per Member State varies considerably.²⁵⁰

The current provision in the Parental Leave Directive provides for a right for parents returning from parental leave to request changes to their working patterns or to their working hours at that moment for a set period of time. The employer is under an obligation to consider the request, having regard to the employer's and the employee's need, and to reply, but the decision on whether to grant the requested temporary change is at the employer's discretion. In addition, as parental leave is limited to parents of children below a given age up to 8 years to be defined by Member States or social partners, the right to request a return to changed working pattern is limited accordingly.

Under the baseline scenario (no further EU action) there would continue to be a right only for workers who have taken and are returning from parental leave to request changes to their working patterns or to their working hours for a set period of time and to have that request considered.

a) Changes to working patterns

One possibility for improving the situation for working parents and workers with caring responsibilities would be to provide for an individual right for all working parents and workers with caring responsibilities **to request changes to their working patterns** in relation to the place of work (e.g. telework) and the distribution of working hours for a set period of time and to have that request considered but leaving the decision at the employer's discretion.

Another possibility would be to **create a stronger and enforceable legal entitlement to flexible working arrangements** at the request of the worker that could only be refused for serious operational or business reasons or that cannot be refused at all in certain circumstances. In this respect in particular, the size of the employer is a relevant factor for consideration in relation to the qualification of the right. In pursuing that option, one would have to consider the specific conditions for entitlement in relation to different types of flexible working arrangements requested by the worker, for example changes to working schedules or changes to working location (e.g. working from home or another location). These conditions could also include the maximum age of the child in respect of which flexible working arrangements, or certain types of flexible working arrangements,

²⁴⁹ The 6th European Working Conditions Survey (EWCS) found that in 2015, 20% of employees reported that they can start and finish their work within designated margins and that 25% of workers report that it is "very easy" for them to take an hour or two off during working hours to take care of personal or family matters and 40% that it is "fairly easy" to do so.
http://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1568en.pdf.

²⁵⁰ The extent to which that part-time employment is voluntary or involuntary also varies considerably. For example, the share of involuntary part-time workers ranges from less than 12 % in Slovenia, Belgium, Austria and the Netherlands to more than 60 % in Bulgaria, Greece, Spain, Italy and Cyprus. (see <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7859&furtherPubs=yes>)

can be requested (possible thresholds could range from three years up to sixteen years of age) as well as incentives to share the entitlement between carers.

Effectiveness

Making it easier for parents and carers to enter and remain in the labour market by providing for flexible working arrangements so that they can balance their working and family lives could increase female labour market participation and help to achieve the Europe 2020 target of 75% of 20-64 year-olds in employment. Flexible working in the sense of the ability to vary the time and place of work, could provide an effective tool to enable parents to better balance work and family life. A comprehensive approach to flexible working can be associated with a higher female employment rate and better matches between qualifications and job skill-level for women and mothers, thus promising significant net gains for the economy²⁵¹.

The main **benefits** of flexible working for the EU economy would be the increased labour market participation of women who would have otherwise dropped out of employment or had to work fewer hours, particularly where the childcare infrastructure or long-term care services do not allow combination with rigid working hours at the workplace and hence an increase in jobs and growth across the EU. Benefits could also accrue for women able to continue in higher-level jobs rather than working in jobs below their skill level in order to have the desired level of flexibility.

For individual employers and businesses the benefits of flexible working could include increased productivity, less staff turnover (i.e. increased retention of staff) and reduced absence²⁵². For example, a study in 2009 showed that employees who work flexibly are, on average, more committed to the organisation than employees who don't work flexibly.²⁵³ Women in organisations that offer flexible working are 30% more likely to aspire to high-level positions than those at organisations that do not offer flexible ways of working²⁵⁴. Flexible working also helps employers in recruiting staff²⁵⁵. It further prevents and addresses skills mismatches as skilled employees are able to remain in jobs that provide flexibility rather than leaving the labour market or moving to lower-skilled jobs.

Where the benefits of flexible working have been calculated in one Member State it was concluded that they far outweigh the costs²⁵⁶.

²⁵¹ Institute for Public Policy Research (2014) *Women and flexible working: improving female employment outcomes in Europe* (pp. 1 and 28) , available at

http://www.ippr.org/files/publications/pdf/women-and-flexible-working_Dec2014.pdf?noredirect=1

²⁵² Policy Studies Institute (2014) *Costs and Benefits to Business of Adopting Work Life Balance Working Practices: A Literature Review* (pp. 123-125), available at <http://www.psi.org.uk/images/uploads/bis-14-903-costs-and-benefits-to-business-of-adopting-work-life-balance-working-practices-a-literature-review.pdf> ; Vaganay, Canónico, Courtin (2016) *Challenges of work-life balance faced by working families: review of Costs and Benefits* (pp. 86-90), LSE Evidence Review

²⁵³ Kelliher and Anderson (2010) *Doing more with less? Flexible working practices and the intensification of work*, available at

<http://www.som.cranfield.ac.uk/som/media/images/research/wbl/moreless.pdf>

²⁵⁴ Beninger and Carter (2013), *The Great Debate: Flexibility vs Face Time, Busting the myths behind flexible working arrangements*, Catalyst, available at

http://www.catalyst.org/system/files/the_great_debate_flexibility_vs_face_time.pdf

²⁵⁵ Policy Studies Institute (2014), *Costs and Benefits to Business of Adopting Work Life Balance Working Practices: A Literature Review* (p. 124), available at

http://www.ippr.org/files/publications/pdf/women-and-flexible-working_Dec2014.pdf?noredirect=1

²⁵⁶ For the UK https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82794/12-1270-modern-workplaces-response-flexible-working-impact.pdf

The **costs** would vary along with the strength of the right.²⁵⁷ A stronger right requiring an employer to demonstrate serious business or operational reasons for refusal would cost more than a right to request as the employer would have to be able to give adequate reasons and justify such a decision if challenged. Costs could arise not only from the decision-making process but from the implementation of flexible working arrangements. These could be expected to be limited in the case of changes to working hours and more significant for changes to the place of work (e.g. investment in equipment to allow an employee to work from home). A refusal where granting the request would substantially disrupt work organisation could avoid disproportionate costs for employers.

An absolute right (i.e. one that would override serious business or operational reasons) upon the fulfilment of certain conditions would be the most costly option and the precise cost would depend on the nature of the business and how easy it would be to accommodate flexible working.

b) Reduced working hours

Another possibility could be to provide for an individual right to request **reduced working hours** for all working parents and workers with caring responsibilities for a set period of time, i.e. on a temporary basis combined with an automatic right to return to the previous hours after the period of reduction. As for flexible working arrangements, one possibility could be to have that request considered but leaving the decision at the employer's discretion. Another possibility could be to create a stronger and enforceable legal entitlement to reduced working hours that can only be refused for serious operational or business reasons or that cannot be refused at all in certain circumstances. Specific conditions for entitlement could also be considered such as the maximum age of the child as well as incentives to share the entitlement between parents or carers or a requirement to inform workers of the financial impact of reduced working hours including pension contributions.

Effectiveness

The above considerations in relation to flexible working arrangements also apply to reduced working hours²⁵⁸ in relation to the contribution to work-life balance. There is also a strong correlation between the extent of female part-time work and overall female labour market participation, for example in countries such as the UK and the Netherlands.

The main **benefits** for the EU economy would be the increased labour market participation of women who would have otherwise dropped out of employment, particularly where the childcare infrastructure does not allow combination with full-time employment (reduction of working hours) and hence an increase in jobs and growth across the EU. Benefits could also accrue for women able to continue in higher-level jobs rather than working in jobs below their skill level, particularly with a view to qualified positions that are often not ordinarily made available on a part-time basis. It should also be taken into account that, since it is currently women who work more in part-time, care

²⁵⁷ Flexible working arrangements were first introduced in the UK in 2002 and gradually expanded. In 2002, when flexible working was introduced for parents of children under the age of 6 and for parents of disabled children under the age of 18, the total recurring cost to employers was estimated at £296 million. In 2006, when flexible working was extended to carers the total recurring cost to employers was estimated at £21.1 million. In 2010, when flexible working was extended to parents of children up to the age of 17, the total cost was estimated at £20.1 million. In 2012, when flexible working was extended to all employees, the total cost was estimated at £358.3 million.

²⁵⁸ The sources quoted above for flexible working arrangements generally include the reduction of working hours.

needs to be taken to prevent that the features of a right to part-time could have negative effects on the employment situation of women of childbearing age because employers would become more reluctant to hire them.²⁵⁹"

In addition, the 6th European Working Conditions Survey conducted by Eurofound found that 28% of employees would like to decrease their working hours whilst 13% would like to increase them and Eurofound suggests that, given that a significantly higher proportion of women work short part-time hours while a significantly higher proportion of men work long hours, male and female employees aspire to some convergence of working time: shorter full-time hours or longer part-time hours for both²⁶⁰. The Commission's 2015 Employment and Social Developments in Europe Review found that family policies, especially high quality childcare and the availability of part-time work, are positively associated with employment of women with children.²⁶¹ Providing access to part-time work across the board, including in qualified professions that are often not ordinarily made available on a part-time basis, could address the problem of skills mismatches.

Possible positive effects for female labour market participation would have to be carefully weighed **against possible negative effects and costs** resulting from the reduction in working time and income for the workers making use of such a possibility. Both effects would have to be assessed in order to calculate the net impact and to conclude whether the combined individual effects for women who reduce their working hours and thus their income and social security contributions leading to lower pension entitlements (because without such a possibility they would have continued to work full-time) is counter-balanced or exceeded by the effects for women staying in or entering the labour market (who without such a possibility would have remained or become inactive) or participating in the labour market in higher-level jobs that are ordinarily often not made available on a part-time basis.

Consideration could also be given to the extent to which adverse general consequences of part-time work, e.g. in terms of lower access to training and promotion and in terms of slower career progression²⁶² compared to full-time workers would materialise in the context of a right to reduce working hours for care reasons and whether and how risks in that respect could be mitigated, for example through the temporary nature of the reduction of working hours and the automatic return to prior status quo after the period of reduction.

As women are much more likely than men to work part-time for care reasons, it should be avoided that any option to reduce working hours for family reasons would further contribute to maintaining or reinforcing the unequal sharing of care responsibilities between women and men. These impacts should be carefully considered as well as incentives for men to make use of this right in order to promote and facilitate women's employment and the possibilities for men and women to share caring responsibilities.

²⁵⁹ Studies have shown that a strict right to part-time for working parents has adverse effects on the employment situation and wages of women of childbearing age, whether or not they have children, because employers can be reluctant to hire them or hire them on contracts without this right to reduce working hours or to promote them.

²⁶⁰ p. 5 of the 6th European Working Conditions Survey, *ibid*

²⁶¹ European Commission (2016) *Employment and Social Developments in Europe 2015* (p.16), available at <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7859&furtherPubs=yes>

²⁶² Some evidence suggests that even short spells of part-time work have a negative impact on career progression, while the incidence of part-time employment among working women is negatively associated with the share of women in senior corporate positions.

In relation to costs, the above considerations in relation to flexible working arrangements also apply to reduced working hours. A right to reduced working hours for a specified period of time for parents of a child under a certain age could involve costs associated with arranging temporary cover. The costs would vary depending on the length of period of entitlement and the length of the take-up.

The positive employment effects of all of the above possible measures would be expected to also have important second round effects; such as increased tax revenues and less state support in terms of benefits²⁶³. The positive impact of enhanced work life balance on health and reduced stress levels when working from home could also translate into savings for national health care systems. There could also be an increase in the birth rate as people become more able to balance work and family life beyond the relatively short periods of family-related leaves. For example, in Sweden where parents are among the EU's most successful in balancing work and family responsibilities there is a relatively high fertility rate as compared with other EU countries.

9.2 An EU policy framework to improve work-life balance: complementary policy measures

This section presents policy measures that could complement possible legislative measures. Evidence shows that policies often interact and can mutually reinforce each other, but this is not always the case and unintended side-effects may occur, which do not effectively support the participation of women in the labour market or may reinforce gender inequality. This is why complementarity between policy and legislative measures is necessary.

Under the baseline scenario, the EU would continue to provide policy guidance and encourage Member States to implement measures in areas linked to work-life balance. Several EU policy initiatives partially address the objectives pursued under the new initiative. For example, the European Commission is monitoring Member States' performance related to supporting women's labour market participation in the framework of the European Semester and is issuing Country-Specific Recommendations.²⁶⁴ Increasing the availability of childcare is a priority since 1992, further to the Council Recommendation on Childcare²⁶⁵ and the European Commission is monitoring the progress of Member States towards the Barcelona targets²⁶⁶ to provide childcare.

However, existing policy guidance is fragmented and there are gaps, for example between parental leave and available childcare, which weaken the capacity to support employed parents and limit the effect of measures in place. When the design of parental leave is not developed in conjunction with affordable childcare services, it may simply serve to postpone the point at which women, who are the ones mostly taking parental leave, will exit the labour market. Similarly, insufficient supply of childcare places, or places at a cost beyond the reach of lower paid parents, or entitlements to childcare that only offer access to part-time provision, such as for a half day and/ or during school terms only, will not cover the needs of many employed parents to work full-time.

²⁶³ See for instance, Eurofound (2016 forthcoming) *The Gender Employment Gap - Challenges and Solutions*; Vaganay, Canónico, Courtin (2016) *Challenges of work-life balance faced by working families: Review of Costs and Benefits*, LSE Evidence Review

²⁶⁴ In 2015, 8 Member States received a recommendation related to female labour market participation

²⁶⁵ European Council Recommendation of 31 March 1992 on child care (92/241/EEC)

²⁶⁶ Presidency Conclusions – Barcelona European Council 15 and 16 March 2002 – available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/71025.pdf

Moreover, even when benchmarks at EU level are set, for example in the area of childcare, there is a risk of confusion and reduced effectiveness of policy guidance, due to slightly different policy objectives:

- the European Council set the Barcelona targets inviting Member States to remove disincentives to women's labour market participation to provide childcare by 2010 to at least 90% of children between 3 years old and the mandatory school age and at least 33% of children under 3 years of age.
- the Education and training 2020 strategy set a slightly different benchmark: at least 95% of children between 4 year old and the age of starting primary education should participate in early childhood education across the EU by 2020 as a foundation for later educational success.

A **comprehensive approach to childcare** would take into account **availability, quality, and affordability** of services, as well as the different objectives of childcare.

Description of the complementary policy measures

These would consist of developing an *EU policy framework to improve work-life balance for both women and men*. This would be done jointly by the Commission and the Member States in close cooperation with the European Social Partners, using an evidence-based process. Key principles would serve as a guide to any future reform to come in the area of work-life balance. These principles would cover the **life cycle** of women and men:

- when caring for children from birth till the end of school
- when caring for a dependent relative
- in order to make work pay for both parents.

Benchmarks on conditions for the effective participation of women in the labour market would provide incentives for Member States to work towards the common goal. The benchmarks could build on existing objectives, such as the Barcelona targets on childcare²⁶⁷ and they could further encompass other elements of a successful work-life reconciliation policy mix, with possible benchmarks in terms of take up of leave and flexible working arrangements by women and men, provision of elderly care services and tax-benefit disincentives. A regular monitoring and public reporting on the implementation of the framework, in particular through the European Semester and thematic reports would be carried out.

Additional knowledge-sharing and/or awareness-raising activities could be envisaged with Member States and stakeholders. Measures to facilitate the exchange of policy experiences relevant to parents' labour market participation could be organised; for instance, through the Employment and Social Protection Committees. Dedicated seminars or conferences could bring attention to the issue of work-life balance, exchange positive experiences between stakeholders as well as challenges in promoting work-life balance.

EU funds would support notably projects and investments in care services and infrastructure along with other measures to promote the participation of women in the labor market. Clarification to national and local authorities on how work-life balance issues can be supported by EU Funds would also be envisaged.

²⁶⁷ For example by setting a new target date, improving the target for children below the age of 3, taking into account opening hours and including out of school hours for children in mandatory school.

A structured dialogue could be initiated with Member States, social partners and other actors of the labour market, such as the public employment services network, to identify and promote the exchange of best practices and develop awareness-raising activities.

Effectiveness

The main **benefit** is that policy guidance can be comprehensive and set out the different, inter-related policy measures that are needed. An integrated EU framework would also strengthen the consistency of policies while allowing flexibility: progress would not take place in all areas at once and differences across Member States could be taken into account, while providing incentives to progress. Member States could make reforms of a very different nature, adapted to their situation, for example taking initiatives to encourage a greater involvement of men in care activities through campaigns or activities in schools, or an expansion of childcare services or services for elderly and dependent persons. When translated into measures adapted to the national context, the EU framework could provide a real impetus to allow women and men to better reconcile work with their daily life.

As an illustration, an expansion of childcare services²⁶⁸ would have **considerable positive employment effects**, including direct effects in terms of childcare staff and full-time employment rates among women with children, with associated revenues for public funds. An expansion of elderly care²⁶⁹ could counter the risk of reduced employment of those providing informal care. It would also contribute to narrow the potential gap between supply and demand of informal care to older people in view of population ageing.²⁷⁰ Direct creation of job opportunities is also expected, as the sector is highly labour intensive and in some countries, the vacancy rates in the formal care sector are already high²⁷¹.

Policy measures to encourage men to take up the leave arrangements provided could lead to an increase in the use of available paternity and parental leave by fathers. This would **strengthen the impact of legislation**, and contribute to reducing workplace discrimination due to the perception that only women make use of leave entitlements. Moreover, as men report more frequently than women that they are able to adapt their work schedules within their usual working hours, greater encouragement could be given to them so that they make use of these possibilities;

More neutral tax and benefit systems would contribute to a less distorted choice by each parent in terms of the hours in employment and the hours spent in unpaid work (especially for the parent with low or potentially low earnings). At the same time, when the financial incentives to work given by tax and benefit systems are strong enough for both parents to work, then the effectiveness of measures is increased. For example, female participation would not require as high levels of public expenditure on childcare to compensate for the reduced work incentives introduced by tax and benefit systems, and the main earner in the couple (more often the man), would be more likely to make use of leave arrangements, as he or she is not the sole earner anymore.

²⁶⁸ This is to be understood as any combination of increased number of places, of hours of care, of quality of care.

²⁶⁹ Also to include any combination of services, infrastructure, improvements to the quality of care.

²⁷⁰ According to Eurostat population projections, and as a peak in the provision of caring time is generally observed in the age group 45-64, in 2060 one potential carer (i.e. a person aged 45-64) is expected for 51 persons of 80 years old or more.

Member States would be encouraged to take actions, including through financial support, but policy guidance lacks legally binding force. In order to be effective, it requires a sense of common purpose among the Commission, Member States and social partners.

Policy guidance in the area of family leave can complement and support the take-up of leave arrangements, but it cannot substitute legislation.

Another obstacle is that the advantages of some policy measures, such as the expansion of childcare or elderly care services, may not be entirely appreciated as an investment that pays off in terms of employment creation and bringing additional revenues, due to the short-term **costs** associated with such investments. While the associated costs are visible and immediate, the benefits are of a more diffuse nature and more difficult to quantify. Furthermore, they span across different policy areas, such as employment, education, health care or pensions. For example there could be a positive impact of an expansion in quality childcare services on children's well-being including by laying the foundations of future learning, in view of the high returns to investment in education in the early years. An expansion of long term care would also lower the physical and psychological burdens of elderly care that are becoming more prevalent with an aging population and contribute to the well-being of societies. Both the expansion of childcare and elderly care services can contribute to reduce the gender differences in the duration of working life that are caused by extensive provision of care to grandchildren and other relatives, support policies to postpone retirement of women, and reduce a future need for public intervention to reduce poverty risk among elderly women.

10. CONCLUSION

The analysis demonstrates that the picture is very patchy across the Member States, including when it comes to work-life balance beyond the requirements of EU legislation. Despite this area having been the subject of numerous mutual learning and best-practice sharing initiatives at EU level over the past two decades, the situation remains sub-optimal from the perspective of addressing the challenges and problems identified. There are many gaps that are not addressed, and the overall picture, except in a few Member States, is one where the potential to improve equality between women and men in the labour market through measures to improve work-life balance for working parents and carers is not optimally addressed, with adverse effects both for the persons in need of such measures and Europe's economy at large.

While all Member States pursue work-life balance, these measures are not always holistically designed to optimise labour-market integration for parents and people with caring responsibilities, particularly women. Certain elements and combinations thereof are of particular importance and these are summarised below.

Some Member States have developed progressive models of mutually reinforcing legislation and policy that have enabled women to remain in the labour market after having children and which have supported fathers to increase their involvement in family responsibilities, a trend which is increasingly observed in those Member States. In terms of legislative aspects, which are the primary focus of this document, such systems tend to be characterised by:

- paid individual leaves around the time of the birth of a child for both mothers and fathers (maternity and paternity leave);
- periods of parental leave which fathers are encouraged to share through a combination of both the non-transferability of certain periods and the payment of some form of adequate allowance;
- design of policies to ensure no gap between the end of parental leave and available childcare;
- a high degree of autonomy for workers to manage their professional and family responsibilities in order to enable both parents to remain in the labour market after the birth of a child, for example through voluntary flexible working arrangements (such as flexible working patterns or schedules) or reduced working hours.

Such models are associated with more gender-equal outcomes in which labour market engagement by both parents is facilitated and women's labour market participation is higher.²⁷²

In contrast, in some other Member States the situation of lost economic growth caused by low female labour market participation is reinforced by measures that tend to be characterised by the following aspects:

- lack of paid leave exclusively for fathers around the time of the birth;
- too much reliance on leaves aimed at women relative to men, without incentives for fathers to take leave, (e.g. leaves are not remunerated; fathers can transfer a significant share of the leave to the mother; leaves can only be taken on a full-time basis); and

²⁷² European Network of Legal Experts (2015) *Measures to address the challenges of work-life balance*

- potential of flexible working arrangements is not properly exploited in such a way as to enable workers to have a reasonable measure of autonomy with regard to the management of their professional and family responsibilities throughout the life-cycle;
- gaps between parental leave and available and affordable childcare and/or a risk of reduced employment of those providing informal care to dependent relatives;
- tax/benefit systems that discourage the parent earning less (often the mother) from working.

Such models are associated with less gender-equal outcomes and lower levels of female labour market participation, in particular a higher incidence of complete female exit from the labour market on childbirth and higher concentration of women in low-paid work.²⁷³

In relation to the issue of carers' leave, many Member States have some provisions in place but the situation seems to have developed organically, rather than in response to the needs of an ageing population and the need for workers to be able to balance this aspect of caring responsibilities (when they arise) with their working life. There is a patchwork of measures that sometimes provide for leave in certain circumstances but not others, e.g. *force majeure* leaves to deal with short-term emergency situations (as already required under EU legislation), or, for example, leaves to take care of a terminally ill relative. The picture is far from comprehensive and does not systematically ensure that workers with caring responsibilities, whether parents or not, whether men or women, have the choice to take the time they may need to support an elderly or infirm relative without having to leave the labour market. Carers' leave is not a substitute for care infrastructure and services, but a complement to them, as it recognises and addresses the personal challenges that many workers, and therefore their employers, are increasingly faced with as the population ages and as the prevalence of age-related illnesses grows.

Overall, there is a positive correlation between the provision of relatively long and generously paid periods of parental leave, a proportion of which must be taken by each parent if the full period is to be enjoyed, and good labour market outcomes for women. In addition, access to flexible working arrangements, and to reduced-hours work, (in former full-time jobs, as opposed to sex-segregated, low-paid and often low-skill part-time jobs), is associated with increased female labour market participation and with women's retention in high-quality labour-market activity during motherhood. It is recognised that even the front-runners as regards gender-equitable labour-market outcomes have labour markets in which women take the lion's share of parental leave and men appear generally slow to take even leave which is available to them alone. Transforming gendered expectations (including the expectations of men and women workers, as distinct from employers and governments) may well be a slow process. It is nevertheless clear that the relative cost of parenthood to women in terms of labour-market outcomes can be reduced and women's labour market participation can be increased by legislative measures.²⁷⁴

²⁷³ Ibid.

²⁷⁴ European Network of Legal Experts (2015) *Measures to address the challenges of work-life balance*