

▪ **Parental Childcare and the Employment Policy** ▪
“Collision or Complementarity?”

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**“Types of Public Financial Support for Parents in Day-long
Childcare”**

Topic from the Viewpoint of Labour Law and Social Security

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1. Introduction

There is not doubt that various public authorities can implement a particular policy for family protection in many and various areas: education, housing development, the tax policy, employment, social protection, etc. In this situation, a proposal of any public acts in this area must have the necessary multidisciplinary focus.

However, of all these areas, the area of the existing professional relationship between employees and employers is the most important. It is not by chance that the reconciliation of personal, family and professional life occupies an important position - the phenomena that will always shape labour law and social security.

Based on these introductory premises, we will strive to summarize the topic from the viewpoint of labour law and social security in the following contribution, while trying to offer proposals that would result in higher and better reconciliation of personal, family and professional life of those employed through public policies. Despite its importance, many factors that are outside the area of strictly professional relationships will not be considered in this contribution.

2. Reconciliation of Personal, Family and Professional Life: Uneven Protagonism

From a strictly subjective view, employees and employers should be entities directly involved in the process of reconciling personal, family and professional life. Since it is an exercise of particular rights within employment relationships, the main driver of the this phenomena cannot be anyone else but employees and employers themselves, not

public administration. However it is the very public administration - whether directly or indirectly - to where the appeal is addressed to play a significant role in the respective issues, since through public administration mechanisms compensation for the effort exerted by both sides can be implemented.

There is no doubt that of the three entities employees exert the greatest effort within the area of our interest. Let us realize that it is employees, who using implemented mechanisms within the respective labour-law provisions make the greatest exertion to carry out their responsibilities towards the family, whether in relation to caring for children or other family members. So, for example, it is employees themselves, who for this purpose choose a shorter working week accompanied by a decrease in salary; who temporarily suspend their employment contracts, thus losing income, or even leave their jobs, which spoils their chance of again getting involved in the labour market in the more or less distant future. In specific and not very rare cases carrying out their responsibilities towards families may, for employees, result in slowing down their career development, or undermining their access to employment, and in some cases even making them unemployable. We need to acknowledge that in the majority of cases various solutions adopted for better reconciliation of family and professional interests affect the course of the indemnity of employees (social security).

As is generally known, the consequences of this extraordinary effort in the majority of cases affect employed women, which is negatively reflected in the principles of the equality of men and women. As often emphasized by Mr. Vladimír Špidla, when determining the issue of reconciling personal, family and professional life for maternity: "Too often it is assumed that for women maternity means negative affects on their income and career outlook. Only 65% women with small children have paid employment in comparison to 91.7% of men".

Despite all these efforts, the sincere wish of the majority of the active European population to reconcile family and professional obligations still remains a constitutive denominator in this area.

Despite appearances, employers themselves carry out a substantial amount of work in this area. Certainly, these are completely different efforts, since the viewpoints, within which employers and employees encounter the phenomena of reconciling personal, family, and professional life of employees, differ, as well. Employers take over economic and/or organizational expenses set by legal mechanisms introduced in labour relations to enable the personal, family and working life of employees to be better reconciled. From the economic viewpoint, paradigmatic examples of the issues we are referring to are disability leaves for family reasons, which are debited from the employer; from the organizational viewpoint, this is the assumed shortening of the working week due to family reasons, which forces employers to reorganize available human resources.

What we are interested in now are the subjects affected by these issues in particular, i.e. small and medium enterprises, which, on the contrary to large enterprises, have a smaller amount of economic resources as well as a smaller scope of activities in reorganizing their human resources. In any case and contrary to how it is done for

employees, the majority of enterprises (small, medium, or large) assume their role in this area, solely and exclusively because of obligatory national legislation. Despite all this, there is still a long way to go in this area; more and more enterprises are emphasising the support and development of reconciling personal, family, and professional life of their employees.

Although, based on a different legal framework, representatives of the whole area of issues of reconciling personal, family and professional life need to include the self-employed, who are often neglected in the analysis of this topic. The fact is that contrary to the process for employees, not only are there no legal mechanisms implemented for the self-employed as those that benefit employees (sick leave, shortening of a working week, retirement from employment, protection against dismissal, etc.), but there are no minimum provisions in this area. Thus, it is not surprising, that in the majority of cases these workers must make a choice between giving up their family obligations or their work.

As mentioned above, public administration, despite not being part of labour relations *strictu sensu*, plays an important role in reconciling personal, family and professional life. However, this role within the EU environment is unmatched.

Due to the limited space for this contribution, we cannot give a comparative analysis of these issues. However, we feel obliged to mention that there are significant differences between individual countries in this area. As regards labour law and social security, the role of public administration is developed on the two following levels; on one side is the level of strictly labour relations through adopting the respective national legislation for the particular needs of employees and the realistic possibilities of employers in this area and on the other hand on the level of public social security through protecting employees within the respective social security systems.

For various reasons, communitarian coordination of both levels is difficult. We need to bear in mind that a proposal of any public policy in this area may be exclusively and solely based on economic and social reality, to which it is, on its own, focused. There is, however, great room for public initiatives that may play a coordinating role or may specialize in this area.

3. Proposals Resulting in Better Involvement of Public Administration in Reconciling Personal, Family, and Working Life

As I mentioned before, reconciling personal, family, and professional life directly influences employees and employers, since they are the main actors of the entire labour relationship. In support of this process, however, public administration may assist on levels of various types of activities, always within the respective legal and financial possibilities through compensation (subventions, loans, social insurance discounts or exemptions, tax benefits, etc.).

As regards labour law and social security, these activities could be rendered by taking over respective competence areas on national or community levels of proposals, as follows:

a) Employment

- Equality in the area of protection provided on biological and adoptive appropriation, as well as considering other associated forms thereof (such as guardianship).
- Equality in the area of protection provided on appropriation (biological or adoptive) in other family needs (disability, illness, advanced age, dependency).
- Introducing labour-law mechanisms that would enable employees to reconcile personal, work and family life with regard to working hours (sick leave, shortening of the working week, temporary suspension of employment contract, etc.).
- Establishing protective mechanisms for employees against dismissal or any retaliatory measures based on pregnancy or in the use of labour-law mechanisms for reconciling personal, family and work life, on the part of employers.

b) Social protection

- Harmonizing and eventual extending the continuation of maternity benefits
- Harmonizing and eventual extending the continuation of parental benefits
- Guarantee of 100% income for those with a temporary disability due to pregnancy, because of the suspension of an employment contract during pregnancy, maternity or parenthood.
- Extending the cover and possibility of benefits for children or other family members being taken care of.
- Implementing economic compensation mechanisms for those employees who choose to shorten their working week or who suspend their employment contract for family reasons.
- Implementing fictive assessment mechanisms for those employees who choose to shorten their working week or who suspend their employment contract for family reasons.
- Extending the validity of the social security system through voluntary insurance mechanisms for those who take care of their family members at home.
- Implementing specific benefits for various maternity or parenthood risks.
- Implementing tax benefits or exemptions in the assessment by specific cases in the respective social security and protection systems:
 - for enterprises that conclude contracts with those with family obligations and/or those who re-enter the labour market after temporary leave to carry out their family obligations.
 - for enterprises that contribute to reconciling the personal, family, and professional life of their employees; especially in all matters contributing to the flexible organization of working hours.
 - for enterprises that replace those who use labour-law mechanisms for reconciling personal, family, and professional life with other workers.

d) Other measures

- Extending current protection and security mechanisms in the area of labour-law relations or social protection with respect to numerous and large families, single-parent families, or families in which one of the parents is disabled..
- Supporting the establishment of so-called "work nursing homes".
- Establishing tools that would stimulate the role of collective bargaining in the area while adopting new mechanisms for reconciling personal, family, and professional life, or in specific cases extending the existing mechanisms within the respective national legislations.

- Establishing tools that would stimulate higher involvement of male employees in the use of labour-law mechanisms for reconciling personal, family, and professional life.
- Developing a comprehensive policy for reconciling personal, family and professional life for the self-employed i.e. in the area that concerns the self-employed providing professional services predominantly to a single client.
- Supporting new sources of employment in the family care area that would improve the working conditions, remuneration, and training of personnel.