



# A Means to a Changing End. European Resources: The EU and the Reconciliation of Paid Work and Private Life

Sophie Jacquot, Clémence Ledoux, Bruno Palier

## ► To cite this version:

Sophie Jacquot, Clémence Ledoux, Bruno Palier. A Means to a Changing End. European Resources: The EU and the Reconciliation of Paid Work and Private Life. European Journal of Social Security, 2011, 13 (1), pp.26 - 46. hal-01307674

**HAL Id: hal-01307674**

**<https://sciencespo.hal.science/hal-01307674>**

Submitted on 26 Apr 2016

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

# A MEANS TO A CHANGING END. EUROPEAN RESOURCES: THE EU AND THE RECONCILIATION OF PAID WORK AND PRIVATE LIFE

SOPHIE JACQUOT\*, CLÉMENCE LEDOUX\*\* and BRUNO PALIER\*\*\*

## Abstract

*European resources related to reconciliation policies have been incrementally developed and transformed. Three main phases of this process can be distinguished in the progressive institutionalisation and evolution of this field of action at the EU level. At first, the reconciliation issue appeared on the European agenda as a spill-over interpretation of 'equal treatment'. It then acquired greater autonomy, becoming an equal opportunity policy, leading to the development of various (legal, financial, cognitive and political) instruments around the objectives of improving work/family balance and the division of labour between women and men. Finally, this field has been converted into an economic employment policy field aimed at modernising welfare systems and guaranteeing budgetary sustainability through increases in fertility rates and, most importantly, female employment rates. However, this has come at the expense of the initial gender equality goals. The conclusion underlines the diverse and evolving meanings of the 'reconciliation' issue and its orientation. This diversity in meanings and orientations allows greater room for manoeuvre at the domestic level and even more diverse patterns of national usages of Europe, as is shown in the rest of this special issue.*

**Keywords:** European integration; reconciliation policy; usages; welfare state reforms; work-life balance

\* Sciences Po, Centre d'études européennes, 27 rue Saint Guillaume, 75 337 Paris Cedex 07, France; phone: +33 01 45 49 83 59; email: sophie.jacquot@sciences-po.fr.

\*\* Sciences Po, Centre d'études européennes, 27 rue Saint Guillaume, 75 337 Paris Cedex 07, France; phone: +33 01 45 49 83 59; e-mail: clemence.ledoux@sciences-po.fr.

\*\*\* CNRS, Sciences Po, Centre d'études européennes, 27 rue Saint Guillaume, 75 337 Paris Cedex 07, France; phone: +33 01 45 49 83 59; e-mail: bruno.palier@sciences-po.fr.

The authors would like to thank Silke Bothfeld and Yves Surel for their helpful comments.

## 1. INTRODUCTION

The common question of the research project presented in this special issue is to understand whether and how the EU has contributed to changing national reconciliation regimes. In order to investigate the mechanisms according to which the various EU initiatives matter at the national level, we have chosen to concentrate on Europeanisation and on the national 'usages of Europe' (see introduction to this special issue; and, for a general presentation of this analytical approach, see Jacquot and Woll 2010). In this perspective, analysing the way EU resources are used at the national level requires first analysing what kind of resources the EU can provide national actors with.

Generally Europe is perceived in the literature as a specific constraint which leads to negative integration, limiting the national government's sovereignty and/or room to manoeuvre (Leibfried and Pierson 1995, Scharpf 1999). However, the EU has not only provided national actors and welfare systems with new constraints, it has also created new opportunities. ECJ cases, directives, EC communications, EES or OMC are full of new resources that national actors may have taken up, translated, and shaped in order to follow their own national strategy. This wide range of resources highlights the fact that studying the usages of EU resources is not synonymous with simple discourse analysis. Implementing EU regulations or directives or using EU funds are also part of the usage of European resources. Opportunities and constraints provided by the EU have to be transformed into specific national tools by actors (even the transposition of directives cannot be reduced to a cut-and-paste process), which implies political work and hence involves power, transaction, framing, conflict, and so on.

The aim of this article is to provide a panoramic view of the resources provided by the EU to national actors in the field of reconciliation between paid work and private life. We can distinguish four types of resources provided by the EU: legal resources (primary legislation, secondary legislation, case law, etc.), budgetary resources (budgetary constraints but also new funding opportunities), cognitive resources (communications, ideas, etc.) or political resources (argumentation, blame avoidance mechanisms, multi-level games, etc.). In order to list them as exhaustively as possible and to analyse their changing nature, we will trace their emergence and development.

We have identified three main sequences during which these different policy tools have been created and transformed at the EU level. At first, reconciliation issues emerged through a spill over interpretation of 'equal treatment'. It then acquired greater autonomy, became an equal opportunity policy, developing various (legal, financial, cognitive and political) instruments around the objectives of improving the work/family balance and the division of labour between women and men. Finally, this field has been converted into an economic employment policy field aimed at modernising welfare systems and guaranteeing budgetary sustainability through increases in fertility rates and, most importantly, female employment rates, at the

expense of the initial gender equality goals. Our conclusion underlines the diverse and evolving meanings of the ‘reconciliation’ issue and its orientation. This diversity in meanings and orientations allows for greater room to manoeuvre at the domestic level and for even more diverse patterns of national usages of Europe, as is shown in the rest of this special issue.

## 2. AN EXTENSIVE INTERPRETATION OF EQUAL PAY (1950s–1980s)

The issue of reconciling work and family life initially fell outside the European Economic Community’s scope of action as conceived by its founding fathers and by the governments that negotiated the Treaty of Rome in 1957. The EEC’s competence in social policy was extremely limited both in right and principle by what was later to become known as subsidiarity, as well as by a purely functional approach to managing the common market. Moreover, the development of prospective policies regarding reconciliation was hampered by two conceptual limitations: the notion of ‘professional life’ was pigeonholed into a narrow perspective that reduced it to pay, working conditions, and vocational training, and the notion of ‘family life’ lacked any foundation at all. Consequently, the connection between these two areas and their regulatory instruments (maternity and parental leave, care services and benefits, part-time work, retirement pensions) *a priori* fell outside the Community’s responsibility, and was extremely unlikely to appear on the European agenda.

The signatories of the Rome Treaty originally declared in its preamble that they were committed to ensuring the ‘economic *and* social progress’ of their countries, and thus charged the new Community with a mission ‘to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it’ (Article 2). However, the powers granted to the EEC were principally geared towards preserving the sovereignty of the founding states regarding their national social protection systems, and eschewing any social dumping and race to the bottom that might occur because of gaps in levels of social protection (Palier 2009). Even if upward harmonisation was mentioned as an objective in the Treaty of Rome (Article 117), the treaty only granted the power to coordinate social security regimes, linked to the free movement of workers (Articles 48–51). Furthermore, collaboration in the social arena was subjected to unanimity (Article 118), and the limited budget of the Community was in fact an indirect assistance to Member States who intended to keep a tight control over social protection issues. The only Article that mentioned equality – Article 119 on equal pay for female and male workers – aimed to ensure fair competition among Member State industries, especially in sectors where women accounted for a high proportion of the workforce.

The promotion of 'harmonious development' (Article 2) thus fell short of encompassing the range of different life stages between paid work and private life. This feature was in line with the fact that European social policy was characterised by its intrinsic link to the market-building process (Leibfried and Pierson 2000). This exclusive link to economic dynamics constituted a considerable limitation.

In the second half of the 1970s, three directives have however been proposed by the Commission and adopted by the Council in order to implement the principle of equal pay (see Table 1). Their scope was limited however, by the restriction of European action in the public and labour market spheres, as clearly underscored by European Court of Justice (ECJ) decisions in the mid-1980s. Since the landmark *Defrenne* ruling of the early 1970s<sup>1</sup>, the ECJ often played a precursory role in gender equality matters. Its decisions compensated for Council stalemates and sometimes inspired the content of future directives. However, the specificity, powers and objectives of the EEC constrained the scope of action of the judges, who only considered equality and the fight against gender-based discrimination within the realm of the market. According to the ECJ, the powers that were granted to Community institutions on gender equality matters were not concerned with equality *per se* or in all of its dimensions, but only with labour market equality.<sup>2</sup> This affected the issue of reconciliation insofar as the ECJ was 'reluctant to account for the effects of its decisions in the private sphere' (Barnard 2001: 231). Indeed, the Court systematically refused to cross the boundary between the private sphere and the public sphere, which only covered occupational matters. The 1984 *Hoffman* case presented the ECJ with an opportunity to clearly state its refusal 'to settle questions concerning the organisation of the family, or to alter the division of responsibility between parents.'<sup>3</sup> The Community's definition of equality was thus strictly curtailed and did not take into account the web of problems surrounding the labour market (Lewis and Ostner 1995).

A veil of illegitimacy was thus initially cast over the potential development of Community policy relating to the reconciliation of paid work and private life. This was the result of a number of factors: the absence of a legal foundation, economic and public-private boundaries, and the preservation of national sovereignty over the definition and *modus operandi* of social protection systems (Lewis and Ostner 1995,

<sup>1</sup> The *Defrenne* case (after the name of Gabrielle Defrenne, an airline hostess from the Belgian national airline Sabena, contractually obliged to retire after turning 40 like the other hostesses but unlike the stewards who could retire after reaching the age of 55) resulted in 3 ECJ rulings. The second one (ruling 43–75 from 8 April 1976) declared the direct effect of the Article 119 of the treaty of Rome and the third one (ruling 149–77 from 15 June 1978) is that the elimination of sex-based discriminations is a fundamental human right.

<sup>2</sup> 'Article 119 of the EEC Treaty and Council Directive 75/117/EEC of 10 February 1975 (...) and Council Directive 76/207/EEC of 9 February 1976 (...) implement equal treatment between men and women not generally but only in their capacity as workers.' Court judgment (second chamber) of 27 June 1989. *J.E.G. Achterberg-te Riele and others v Sociale Verzekeringsbank*. Joined cases 48/88, 106/88 and 107/88 (ground 12).

<sup>3</sup> Court judgment of 12 July 1984. *Ulrich Hofmann v Barmer Ersatzkasse*. Case 184/83.

Mazey 1998). Although the idea of reconciliation of ‘family responsibilities’ with ‘professional aspirations’ was mentioned in the social action program of 1974, no concrete measures were proposed until the end of the 1980s.

**Table 1. EU resources linked to reconciliation issues (1950s-1980s)**

Policy domains	Resources	Objective
Equal treatment and training	European Social Fund	Specific guidelines and measures in the Fund for the training of female workers, especially women returning to work.
Equal treatment and anti-discrimination	Directive on Equal Pay for Equal Work (1975/117/EEC)	This directive recommended that Member States should introduce into their national legal systems those measures necessary to apply the principle of equal pay.
Equal treatment and anti-discrimination	Equal Treatment Directive (1976/207/EEC)	This extended the fields in which discrimination should be fought.
Equal treatment and anti-discrimination, Social Security	Directive on Social Security (1979/7/EEC)	This aimed at ensuring the progressive implementation of the principle of equal treatment in matters of social security.
Equal opportunities	Action programme on equal opportunities for women, 1982–1985	The first action programme mentioned the issues of child care and the weight of family responsibilities, and proposed a directive on parental leave, which was voted on much later.
Equal opportunities	Second action programme on equal opportunities for women, 1986–1990	The second action programme directly encouraged the “sharing of family and occupational responsibilities”.
Childcare	Community network on childcare (1986)	The network did extensive work in compiling comparative statistics on the provision of types of childcare across Europe and worked on the legitimization of the idea of reconciliation as one of the pre-conditions to the realisation of equality.
Equal treatment and anti-discrimination, Social Security	Directive 1986 /378/EEC	The first directive covers independent workers and workers that had been left out by previous directives. Directive 86/613 concerned the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and the protection of self-employed women during pregnancy and motherhood.
	Directive 86 /613/EEC	

### 3. RECONCILIATION AS AN INSTRUMENT OF EQUALITY POLICY (1990s)

Throughout the 1980s, it was more and more widely acknowledged that gender-based employment inequalities were persisting. Equal opportunity approaches started to be taken into consideration as possible remedies to the shortfalls of equal treatment policies. At this time, reconciliation was promoted as a means of creating substantial equal opportunity with the help of an activist European Commission and its unit dedicated to the promotion of equal opportunities for women and men (Hantrais 2000). It was thus through – and within – equality policy that reconciliation became a legitimate area of intervention on the Community agenda. It was conceived and presented as a means of achieving equality both in the labour market and in the household.

#### 3.1. FROM EQUAL TREATMENT TO EQUAL OPPORTUNITY

As seen above, the first Community gender equality policies were initially based on the principle of equal treatment, which was built on ‘a liberal interpretation of equality as equal treatment: the focus is placed on lifting barriers and on anti-discrimination’ (Mazey 2002: 415). In this perspective, equality consisted of granting individuals identical rights, or treating everyone identically. It was a conceptualisation of equality that was based on rights and that worked through the modification of norms of inequality and the creation of norms forbidding direct discrimination against women. Starting in the mid-1980s, the inadequacies of this conception and its attendant policy prescriptions became increasingly manifest. Equality through law had been necessary in order to correct direct inequalities. However, this did not bridge the gap between *de jure* and *de facto* equality, thus allowing a space to subsist between the enforcement and formal respect of laws and rules (Caporaso and Jupille 2001). Throughout the 1980s, increases in the employment rate of women were mainly achieved in so-called ‘atypical’ areas of employment (part-time, fixed term, and flexible hours) (see Hoskyns 1996). Consequently, pay gaps remained significant, as did horizontal and vertical segregation<sup>4</sup>, and the unemployment rate for women remained consistently higher than the unemployment rate for men. These facts suggested that the Community’s initial equality policy had had little effect on the social constraints affecting models of women’s employment (Silvera 2002). Consequently, a new idea became popular: the pursuit of equal treatment was insufficient to achieve real equality but equal opportunity policy might bridge the gap between norms and reality.

<sup>4</sup> In the context of sexual segregation in the labour market, horizontal segregation refers to the concentration of women in certain sectors of activity and vertical segregation refers to their over – or under – representation at certain levels of the professional hierarchy.

In principle, the concept of reconciling paid work and private life is germane to equal opportunity. At the Community level, one of the principal means of achieving this type of equality was the elimination of barriers to the entry of women into the labour market *via* initiatives relating to the division of labour in households and childcare. The theme of reconciliation thus constituted a first step towards extending the Community's equality policies beyond the limiting confines of the labour market.

### 3.2. RECONCILIATION AS A MEANS OF IMPROVING OCCUPATIONAL EQUALITY AND THE DIVISION OF LABOUR

Towards the end of the 1980s the Community embraced a new two-fold approach. Firstly it posited a link between the gender discrimination in the labour market and the gendered division of labour within the family. Secondly, it envisioned that reconciliation measures might diminish occupational inequalities between women and men. The European Commission and its Women's Bureau, later known as the Equal Opportunities Unit, played a crucial role in this process by drawing on the resources of the Community network on childcare created in 1986.<sup>5</sup> This network crucially contributed to expanding the debate on equal opportunity; its work emphasised that gender discrimination in, and the unequal distribution of, unpaid work (domestic work and the education and care of children) indirectly determined inequalities between women and men in the marketplace (Jönsson 2002). Reconciliation was thus one of the pre-conditions to the realisation of equality. It implied, on one hand, a better integration of women into the labour market and, on the other, a modification of the social behaviour of men, who were expected to shoulder a greater share of family obligations.

This viewpoint revealed a strong connection between the distribution of tasks within the household and gender discrimination in the professional sphere, thus legitimating Community intervention in labour market-related areas to bring family life within the scope of the European agenda. This evolution resulted in substantial legislative activity and in the launch of public policy geared towards achieving the goal of reconciliation within gender equality policy.

Accordingly, in 1989 the European Commission adopted a Communication on family policy that was strongly influenced by the thinking of the Network on Childcare. It evoked, in a single indistinct expression, 'the reconciliation of professional and family life and the sharing of family responsibilities', and branded it as a 'theme of common interest' to the Community's Member States. That same year, article 16 (on

<sup>5</sup> Coordinated by Peter Moss, a British specialist attached to the Institute of Education at the University of London. It brought together experts from the 12 member states and became, from 1991 onward, the Community network on childcare and other measures favouring the reconciliation of family and professional responsibilities (Ross 1997).



equality between men and women) of the Community Charter of the fundamental social rights of workers, stated that ‘measures should also be developed enabling men and women to reconcile their occupational and family obligations’. Later, in 1992, two important texts were adopted. The first was the Council’s Recommendation on Childcare, seeking to facilitate the reconciliation of the occupational, family, and educational responsibilities of women and men. The second was the Directive on Pregnancy and Motherhood at Work. The remaining essential elements of the legislative apparatus promoting reconciliation were passed in 1996, 1997 and 1999 – the Directives on Parental Leave, Part-time Work, and Fixed-term Contracts. Like the provisions on pregnancy and motherhood, these texts set minimum prescriptions (Stratigaki 2000). In terms of reconciliation, the Directive on Parental Leave was especially important because it put a *de facto* end to a prerogative that had, in many Member States, long been exclusively reserved for mothers and non-transferable to fathers.

It is important to note that during the 1990s, the European Commission’s mid-term action programmes on equality between women and men (1991–1995 and 1995–2000) granted a central place to the reconciliation of work and family life, and continued to support the sharing of experiences and best practice on this issue (Hoskyns 2000). These financial instruments were the most obvious and visible expression of the Union’s commitment to equality

Finally, in June 2000, the Council adopted a resolution on the balanced participation of women and men in family and working life which, along the lines of its predecessors, recognised that ‘the principle of equality between men and women makes it essential to offset the disadvantage faced by women with regard to conditions for access to and participation in the labour market and the disadvantage faced by men with regard to participating in family life’ (see reference in Table 2 below).

The 1990s witnessed the development of solid and extensive Community policies in the area of reconciling private and professional spheres. This was initiated in the gender equality domain and linked to equality objectives in the labour market, with reconciliation mediating equality. This elective, cognitive and institutional affinity between reconciliation and equality has however undergone a profound transformation since the turn of the century.

**Table 2. EU resources linked to reconciliation issues (1990s)**

Policy domains	Resources	Objective
Maternity leave	Directive 1989/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work.	Directive 92/85 stipulates that a woman on maternity leave shall be entitled, after the end of her period of maternity leave, to return to her job or to an equivalent position on terms and conditions which are no less favourable to her and to benefit from any improvement in working conditions to which she would have been entitled during her absence. Article 8 states that Member States should introduce leave of at least 14 weeks and compulsory maternity leave of at least two weeks. During the maternity leave, the maintenance of payment or entitlement to allowances should also be provided (article 11).
	Directive 92/85 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	
Childcare	Third medium-term Community action programme, 1991–1995	In the third action programme, the issue of childcare is mentioned in the section on employment.
Equal treatment and training	NOW (New Opportunities for Women), 1991–1999	This training programme, developed specifically for women, is designed to help women overcome the barriers to attaining ‘good’ employment.
Childcare	Council Recommendation of 31 March 1992 on child care (92/241/ CEE)	This recommendation states that ‘[Member States], (...) should take and/or encourage initiatives in the sharing of occupational, family and upbringing responsibilities arising from the care of children between women and men.’ It also encourages flexibility and diversity of child-care services.
Flexible work	Directive 1992/85/ EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding	This directives states, in Article 7, that ‘Member States shall take the necessary measures to ensure that workers (...) are not obliged to perform night work during their pregnancy and for a period following childbirth.’

Policy domains	Resources	Objective
Flexible work	Directive 1993/104/EC concerning certain aspects of the organisation of working time	<p>This directive states that the following measures should be enacted by the Member States:</p> <ul style="list-style-type: none"> <li>– the minimum daily rest period of 11 consecutive hours per period of 24 hours;</li> <li>– not less than four weeks annual paid holiday</li> <li>– an average weekly working period of not more than 48 hours, including overtime, for each seven-day period.</li> <li>– normal hours of work for night workers must not exceed an average of eight hours in any 24-hour period.</li> </ul>
Equal opportunities	Fourth medium-term Community action programme on equal opportunities for women and men, 1996–2000	The fourth action programme emphasises the need for measures aimed at encouraging the reconciliation of work and family responsibilities for both women and men.
Parental leave	Directive on parental leave 1996/34/EC, implementing the framework agreement on parental leave concluded by the Social Partners, UNICE, CEEP and the ETUC on 14th December 1995 (extended to the UK by Council Directive 97/75/EC of 15th December 1997)	This Directive stipulates that Member States should grant for men and women ‘an individual right to parental leave on the grounds of the birth or adoption of a child to enable them to take care of their child, for at least three months until a given age up to eight years.’ The directive states also that this right should in principle, be granted on a non-transferable basis.
Flexible work	Directive 1997/81 on part-time work	This directive specifies that part-time workers shall not be treated in a less favourable manner than comparable full-time workers solely because they work part-time unless different treatment is justified on objective grounds.
Equal treatment and anti-discrimination	Directive 1997/80/EC on the burden of proof in discrimination cases	This directive introduced the principle that it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

Policy domains	Resources	Objective
Flexible work	Directive 1999/70 Concerning the Framework Agreement on Fixed-Term Work Concluded by ETUC, UNICE and CEEP	The agreement develops three principles: non-discrimination, prevention of abuses, information and consultation on non discrimination
Balanced participation to the labour market and family life	Resolution of the Council and of the Ministers for Employment and Social Policy, meeting within the Council of 29 June 2000, on the balanced participation of women and men in family and working life	The resolution recognizes that 'the principle of equality between men and women makes it essential to offset the disadvantage faced by women with regard to conditions for access to and participation in the labour market and the disadvantage faced by men with regard to participating in family life. These gender-based disadvantages result from predetermined social models that tend to presuppose that women are chiefly responsible for unpaid work related to looking after a family. On the other hand, paid work derived from an economic activity tends to be seen to be mainly the responsibility of men.'

#### 4. RECONCILIATION AS AN INSTRUMENT OF EMPLOYMENT POLICY: THE NEW MILLENNIUM

At the end of the 1990s, the objective of reconciling work and family life was progressively detached from its exclusive relationship with equality policy in order to be integrated into the Union's strategic priorities as defined in the European Employment Strategy and reasserted in the Lisbon Strategy. In the quest to 'modernise social protection', the reconciliation objective offered the twin advantages of proposing a solution (among others) to problems that were challenging all social protection systems in Europe, and of aggregating many diverging interests. On this basis, public policies favouring reconciliation were rationalised and re-organised around three principal poles: family-related leave, childcare and the provision of care services, and flexible working conditions.

##### 4.1. RECONCILIATION AT THE JUNCTURE OF DIFFERENT CONCERNS: A NEW CONSENSUS

At the end of the 1990s, social Europe entered a new period. The Economic and Monetary Union worked to its detriment as national governments' room to manoeuvre in the area of social policy was drastically reduced due to the tighter connection between

European and national policies in the budgetary and monetary fields. Problems related to ageing populations and decreasing fertility, and to the sustainability and durability of social protection systems, all became increasingly acute (Bruno, Jacquot and Mandin 2006). In light of harsh demographic and budgetary difficulties and constraints, it became imperative to adopt a new approach 'to focus the attention on employment and on the employment potential that unoccupied people represent [...]. The low employment rate in Europe is indicative of a large, untapped workforce offering a significant potential for economic growth. Furthermore, taking account of demographic evolution and ageing populations, a higher employment rate would increase the number of contributors to employee benefit plans and thus alleviate these schemes' financial difficulties' (Favarel-Dapas and Quintin 2007). From this perspective, women were considered to be an under-utilised reservoir of labour and measures reconciling family and occupational life became useful, if not crucial, to achieving target rates of the economically active population. The reconciliation of work and family life was thus at the core of modernising goals for social protection, promoted by advocates of social investment theory (see Esping-Andersen, Gallie, Hemerijk and Myles 2002).

This theory was also central to the Lisbon strategy and it increasingly gained traction at the European level in the 2000s as demonstrated by the impact of the report: 'Towards a new architecture for social protection in Europe?' produced by Gøsta Esping-Andersen and his co-authors for the Belgian presidency of the Union in 2001 that was thereafter published as a book (Esping-Andersen, Gallie, Hemerijk and Myles 2002). The authors dedicated a whole section to the 'reconciliation of work and family life' (see Jenson and Saint-Martin 2006 for a critical assessment).

Within this framework, the role of reconciliation was mentioned in order to highlight the potential that women represented for the labour market in terms of: 1) increasing domestic employments rates, 2) combating the under-utilisation of human resources and the waste of equally under-utilised investments in education and training, 3) making the labour market more 'attractive', 4) combating social exclusion and poverty, particularly that of children, by firmly embedding parents in the labour market, 5) combating falling birth-rates, and 6) taking the aging population and the burdens on those caring for dependent persons into account.

The reconciliation 'solution' was able to obtain a consensus and exit the gender equality sector to which it had thus far been confined, to join the realm of the European Union's macroeconomic and 'strategic' objectives, particularly those surrounding the EU's central area of concern: employment policy.

#### 4.2. THE RENEWAL OF PROVISIONS FAVOURING THE RECONCILIATION OF PAID WORK AND PRIVATE LIFE

From 1998 onwards, in the wake of the launch of the European Employment Strategy in 1997, Member States adopted 'employment guidelines' that aimed to structure the

coordination of national employment policies. These guidelines were centred on four pillars. Reconciliation measures appeared in the pillar dedicated to equal opportunities; they included parental leave, part-time work, high-quality care for children, and the facilitation of a return to work, particularly for women (see Table 3). The adoption and implementation of the Lisbon Strategy was accompanied by the establishment of quantitative objectives for 2010. While Lisbon focused on female participation in the labour market, Barcelona sought to specify the means to achieve this goal (women's employment rate should reach 60 per cent by 2010, childcare should be available for 90 per cent of children between 3 and the mandatory school age and for at least 33 per cent of children under 3). The emphasis was placed on care services rather than on other instruments such as parental leave, which could have served as a deterrent.

**Table 3. EU resources linked to reconciliation issues (2000s)**

Policy domains	Resources	Rationale
Labour market participation	European Council, Lisbon, 23 and 24 March 2000, Presidency Conclusions	The Presidency's conclusions set a quantitative objective of 60 per cent employment rate for women by 2010.
Labour market participation and training	European Social Fund regulation	Efforts of the European Social Fund in the area of employment and training policies have focused, above all, on improving women's access to, their participation and position in, the labour market and on ways of reconciling work and family life.
Equal treatment and anti-discrimination	EQUAL funding programme, 2000–2006	EQUAL is a specific programme that was funded by the ESF between 2000 and 2006, in order to test new ways of tackling discrimination and inequality experienced by those in work and those seeking jobs. Within this programme, a thematic group on equal opportunities undertook reports on the theme of reconciling work and family life.
Childcare	European Council, Barcelona, 15 and 16 March 2002, Presidency Conclusions	This document sets precise objectives for 2010. The aim is 'to increase the number of women in employment from an average of 51 per cent today to more than 60 per cent in 2010'. In addition, 'Member States should remove disincentives to female labour force participation and strive, taking into account the demand for childcare facilities and in line with national patterns of provision, to provide childcare by 2010 to at least 90 per cent of children between 3 and the mandatory school age and at least 33 per cent of children under'.

Policy domains	Resources	Rationale
Equal treatment and anti-discrimination	Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services.	These directives provide the possibility of fighting discrimination against pregnant women or parents who take leave.
	Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).	
Parental leave	Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)	This Directive provides specific rules on paternity and adoption leave.
Childcare	Directive 2006/123/EC on services in the internal market	This Directive excludes from the market regulation of services those in the areas of 'childcare and support to families and persons in need which are provided by the State at national, regional or local level by providers mandated by the State or by charities'.
Balanced participation to the labour market and family life	COM/2008/0635 final Communication from the Commission "A better work-life balance: stronger support for reconciling professional, private and family life"	This Communication underlines the fact that reconciliation measures will enable the achievement of 'major policy objectives of the European Union', which are led by growth and employment and only secondarily by the 'social inclusion of vulnerable groups and gender equality'.

When the Lisbon Strategy and its guidelines were reviewed in 2003 and 2005, the pillar that had been specifically dedicated to equal opportunity *per se* disappeared and the recommendations related to reconciliation were disaggregated from gender equality policy. The guideline steering national reforms of employment and social protection policies, thus suggested that Member States should promote 'better reconciliation of work and private life and the provision of accessible and affordable childcare facilities and care for other dependents'.<sup>6</sup> The challenge of work/family life balance was linked to that of work organisation and, more generally, to quality of work and productivity.

Overall, when compared to the concept of reconciliation that prevailed during the preceding period, the perspective that emerged in the 21<sup>st</sup> century had a utilitarian

<sup>6</sup> Council Decision of 30 June 2008 regarding guidelines for the employment policies of Member States (10614/08).

dimension and was viewed as a means to an end – taking into account the conditions in the private sphere that create obstacles to the occupational activities of women. However, this end was no longer to combat gender-based discrimination, but to increase employment rates, regardless of the quality of employment, be it full-time or part-time. The concern was no longer equality of opportunities, but rather employability. The definition of ‘family life’ covered by reconciliation measures was extended beyond childcare to include care for all dependent persons (the aged and handicapped). With this shift, elements like the division of household labour, the modification of men’s behaviour, and the redistribution of gender roles disappeared from the Community’s radar (Jacquot 2009, Jenson 2008, Lewis 2006).

## 5. CONCLUSION: RECONCILIATION BETWEEN PAID WORK AND PRIVATE LIFE – AN EVOLVING AND CONTROVERSIAL CATEGORY

The trajectory of ‘reconciliation of work and family life’ issues at the Community level is that of a piece of public policy with inauspicious beginnings that has nonetheless become a policy mainstay. Reconciliation is now firmly rooted in European social policy and draws on a great array of binding (Directives) and non-binding (Council Recommendations, etc.) legislative instruments, as well as budgetary (action programs) and coordination (guidelines established within the open method of coordination) instruments.

However, the content and cognitive framework of these resources underwent a profound transformation in the process. What started as a means of attenuating gender-based inequalities in the labour market is today promoted as a means of achieving other objectives – the modernisation and sustainability of social protection regimes through an increase in female labour participation. In forty years, social and equality policies have progressively become utilitarian instruments of competition and economic growth (Jacquot 2009, Jenson 2008, Lewis 2006).

Through these changes, the meanings of the ‘reconciliation’ issue and its related policies have evolved and become more diverse. The issue of reconciliation firstly appeared at the EU level in the 1974 social action programme referring to the articulation between ‘family responsibilities’ and ‘job aspirations’. In the Charter on fundamental social rights of workers of 1989, reconciliation is framed as a means of reconciling ‘family life and occupation’ and the Commission programme that followed shows that family life means having children. The introduction of reconciliation policies is also associated with the acceptance that policies may interfere with giving birth and providing education, whereas the Court refused that the EU should go that far until the mid-1980s. In these initial usages of the concept, the main domain associated with reconciliation was childcare and the instruments related to it were the different forms of parental leave and childcare facilities (Letablier 2007). During the



1990s, the domains concerned have been extended. The 1998 employment guidelines take into account the caring practices for the elderly as belonging to the work / family reconciliation dilemma, as well as working time and the duration of the contracts.

According to the EU texts, the main policy domains related to the reconciliation issues are parental, maternity and paternity leave, childcare facilities, care for relatives, entry into the labour market, the regulation of flexible, fixed-term and part-time jobs. Several meanings have been associated with each of these policy domains. European institutions consider parental leave as implying the risk that parents' skills become outdated, and as possibly providing the opportunity for discrimination against women. But they also see it as a way of increasing low fertility rates in the EU. Member States are thus encouraged by the EU to create training opportunities for parents before their re-entry into the labour market and to create incentives to make fathers participate in caring activities. Childcare institutions have been seen as a means of providing women with the possibility of a better employment rate, so that they can adopt male behaviour in the labour market while outsourcing their caring activities. The Commission also considered the provision of infrastructure for the elderly as an instrument for increasing the female employment rate. In the regulation of the labour market, the European authorities have seen benefit payments for inactive persons as disincentives, and education and training as a way of maintaining and updating skills. European institutions have outlined the advantages and disadvantages of atypical jobs, arguing they are 'better than nothing' for workers, they help companies face short term demands, and they may provide an opportunity to have both a family life and a working life.

As a result, the European orientations on work and family can thus be considered as 'polysemic' (Jepsen and Pascual 2005), as able to encompass different models of gender arrangements (Bothfeld 2008), and as an area which has progressively taken new domains of action and new instruments into account. Overall, if we adopt a long-term perspective as to the meaning of the 'work and family reconciliation' category at the European level, we can see that: (1) it has always been tackled in articulation with the employment issue because of the EU competencies and because of the restrictive reading of the ECJ concerning matters in the private sphere; (2) within the framework of employment, it was initially considered as an end in its own right and it has since become a tool to fulfil the work activation objectives of having more women in the labour market; (3) moreover, it has been progressively extended – including first to child care, then to family care (care for the elderly and the disabled), and also to targeting men. These different successive policy goals, policy domains and policy instruments are summarised in Table 4.

**Table 4. EU perspectives on reconciliation: from equal treatment to employment**

Policy goals	Policy domains	Policy instruments
1970s–1980s Reconciliation as a consequence of economic integration	<ul style="list-style-type: none"> <li>– Gender equality policy (anti-discrimination)</li> <li>– Equal treatment at work and in the labour market</li> </ul>	<ul style="list-style-type: none"> <li>– Legal instruments (directives on equal treatment)</li> <li>– Financial instruments (positive action programmes)</li> </ul>
1990s Reconciliation as a means of promoting the right to equal treatment	<ul style="list-style-type: none"> <li>– Gender equality policy (anti-discrimination)</li> <li>– Equal treatment at work and in the labour market</li> <li>– Parental leave</li> <li>– Childcare</li> <li>– Working time</li> </ul>	<ul style="list-style-type: none"> <li>– Legal instruments (soft law measures and directives)</li> <li>– Financial instruments (positive action programs)</li> </ul>
2000s Reconciliation as a means of promoting employment, activation and economic growth	<ul style="list-style-type: none"> <li>– Gender equality policy (anti-discrimination)</li> <li>– Equal treatment at work and in the labour market</li> <li>– Parental leave</li> <li>– Childcare</li> <li>– Employment policy</li> <li>– Work organisation (flexible work patterns)</li> </ul>	<ul style="list-style-type: none"> <li>– Legal instruments (soft law measures – gender mainstreaming)</li> <li>– Political instruments (policy coordination – OMC)</li> <li>– Legal instruments (directives)</li> <li>– Financial instruments (positive action programs)</li> </ul>

However, European definitions do not subsume all the possible meanings that can be associated with reconciliation issues and policies. The European interpretation of the category ‘reconciling work and family’ has been strongly criticised by many authors. Some argue that the European institutions’ interpretation was too narrow. This notion tends to be understood as a way to make it easier for men and women to be active in the labour market, but these reconciliation policy tools do not consider to what extent the labour market may also be an obstacle for family relationships. For example, temporary jobs that provide less income security can make it difficult to obtain loans and housing and can lead to postponing the decision to have children or to live with a concubine or spouse: ‘continuously changing working schemes and insecurity about working hours are becoming a burden for family life’ (Knijn and Smit 2009: 6). It is also possible to consider the European public policy approach to the reconciliation of occupational and family life as ‘blind’, because it is only concerned with prospective obstacles to labour market participation. As such, it does not take into account reverse causalities such as the influence of flexibility and part-time work on the formation of families, or the impact of the commercialisation of care facilities on the quality of education and care, or the impact of the increase in mobility requirements at work on divorce rates (Knijn and Smit 2009).

Other authors criticise the category ‘reconciliation of work and family’ in itself (Junter Loiseau 1999), and this for three main reasons. On the one hand, this category is considered too consensual, tending to undermine the conflicts between the work

and family sphere. On the other hand, it also frames the question of ‘conciliation’ into an individual perspective which does not consider the institutional and structural conditions that link the spheres of family and work. Finally, this category excludes people who have a family and no work, or work and no family. For all these reasons, the category ‘(re)conciliation work / family’ has been denied relevance by some researchers, who prefer the notion of the ‘articulation of professional and personal life’ (Buseyne, Donlevy-Gomes and Silvera 2004, Silvera, 2002) or the links between private and public life (Commaille 1993).

Taking into account these findings and criticisms, we can gather under the broad category ‘reconciliation between paid work and private life’ the many policy goals, domains and instruments that correspond to the policies aiming to tackle the tensions between private life and paid work. This definition includes both policies aimed at changing the possible negative impact of paid work on family life, and also the policies targeting the impacts of the family on working behaviour (see Table 5).

**Table 5. The various definitions of ‘reconciliation between paid work and private life’**

Policy goals	Policy domains	Policy instruments <sup>7</sup>
<ul style="list-style-type: none"> <li>- Reconciliation as a means of promoting the right to equal treatment</li> <li>- Reconciliation as a means of promoting employment, activation and economic growth</li> <li>- Reconciliation as a means of preventing social exclusion and poverty</li> <li>- Reconciliation as a means of promoting fertility</li> <li>- Reconciliation as a means of fighting against the obstacles that work creates for private life.</li> </ul>	<ul style="list-style-type: none"> <li>- Gender equality</li> <li>- Employment</li> <li>- Working time</li> <li>- Family</li> <li>- Pensions</li> <li>- Poverty</li> <li>- Care</li> </ul>	<ul style="list-style-type: none"> <li>- Legal instruments (right to child care and leave, job protection, statutory arrangements for leave, pensions, unemployment)</li> <li>- Financial instruments (child allowances, care subsidies and care payments, subsidised leave, tax benefits, social assistance and social security, education benefits, financing of social services – childcare facilities, home help, residential care)</li> <li>- Cognitive instruments (policy discourse – campaigns, etc.)</li> </ul>

European policy orientations have been developed progressively, but they have fundamentally altered the possible meanings and resources that national actors may use in the field of reconciliation policies. New elements have been introduced alongside pre-existing ones and even the ways the European institutions themselves understand these instruments have evolved. Policy orientations have become more diverse and this diversity has paved the way for the development of multiple and various interpretations of reconciliation policies at the domestic level, as will be shown in the various articles in this special issue.

<sup>7</sup> The policy instruments box builds on the work done by Knijn and Smit (2009).

## REFERENCES

- BARNARD, C. (2001) 'L'égalité des sexes dans l'Union européenne', in AMSTON, P. (ed.), *L'union européenne et les droits de l'homme*, Brussels, Bruylant.
- BOTTFELD, S. (2008) 'Under reconstruction: Die Fragmentierung des deutschen Geschlechterregimes durch die neue Familienpolitik', Bremen, ZeS-Arbeitspapier.
- BRUNO, I., JACQUOT, S. and MANDIN, L. (2006) 'Europeanization through its Instrumentation: Benchmarking, Mainstreaming and Open Method of Coordination... Toolbox or Pandora's Box?', *Journal of European Public Policy*, 13(4), 519–536.
- BUSEYNE, N., DONLEVY-GOMES, V. and SILVERA, R. (2004) 'Articuler vie professionnelle et vie personnelle, les expériences des projets Equal Français, 2001–2004', *Les cahiers Racine*, Paris.
- CAPORASO, J. and JUPILLE, J. (2001) 'The Europeanisation of Gender Equality Policy and Domestic Structural Change', in COWLES, M.G., CAPORASO, J. and RISSE, T. (eds.) *Transforming Europe. Europeanization and Domestic Change*, Ithaca, New York, Cornell University Press, 21–43.
- COMMAILLE, J. (1993) *Les stratégies des femmes. Travail, famille et politique*, Paris, La découverte.
- COMMISSION EUROPÉENNE (1997) *Conciliation de la vie professionnelle et familiale et qualité des services de soins, Emploi et Affaires Sociales, Égalité entre femmes et hommes, Communautés européennes*, Brussels, European Commission.
- ESPING-ANDERSEN, E., GALLIE, D., HEMERIK, A. and MYLES, J. (2002) *Why We need a New Welfare State*, Oxford, Oxford University Press.
- FAVAREL-DAPAS, B. and QUINTIN, O. (2007) *L'Europe sociale*, Paris, La Documentation française.
- FRASER, N. (1996) 'After the Family Wage: A Postindustrial Thought Experiment', in FRASER, N. (ed.) *Justice Interruptus: Critical Reflections on the Post-Socialist Condition*, London and New York, Routledge, 41–68.
- HANTRAIS, L. (ed.) (2000) *Gendered Policies in Europe. Reconciling Employment and Family Life*, Basingstoke, Macmillan and New York, St Martin's Press.
- HOSKYN, C. (1996) *Integrating Gender. Women, Law and Politics in the European Union*, London, Verso.
- HOSKYN, C. (2000) 'A study of four action programmes on equal opportunities', in ROSSILLI, M.G. (ed.) *Gender Policies in the European Union*, New York, Peter Lang, 43–59.
- JACQUOT, S. (2009) 'La fin d'une politique d'exception: l'émergence du *gender mainstreaming* et la normalisation de la politique communautaire d'égalité entre les femmes et les hommes', *Revue Française de Science Politique*, 57(2), 547–577.

- JACQUOT, S. and WOLL, C. (2010) 'Using Europe: Strategic action in multi-level politics', *Comparative European Politics*, 8(1), 110–126.
- JENSON, J. and SAINT-MARTIN, D. (2006) 'Building Blocks for a New Social Architecture: The LEGO™ Paradigm of an Active Society', *Policy and Politics*, 34(3), 429–451.
- JENSON, J. (2008) 'Writing Women Out, Folding Gender In. The European Union "Modernises" Social Policy', *Social Politics. International Studies in Gender, State and Society*, 15(2), 1–23.
- JENSON, J. (1997) 'Who Cares? Gender and Welfare Regimes', *Social Politics*, 4(2), 182–187.
- JEPSEN, M. and PASCUAL, S. (2005) 'The European Social Model: An Exercise in Deconstruction', *Journal of European Social Policy*, 15(3), 231–245.
- JÖNSSON, A. (2002) 'L'extension de l'agenda communautaire dans le cadre des politiques d'égalité des chances', *Mémoire de DEA sous la direction de Pierre Muller*, Paris, Sciences Po.
- JUNTER LOISEAU, A. (1999) 'La notion de conciliation professionnelle et familiale', *Les cahiers du Genre*, 24.
- KNIJN, T. and SMIT, A. (2009) *The Relationship between Family and Work: Tensions, Paradigms and Directives*, REC-WP 11/2009, Working Papers on the Reconciliation of Work and Welfare in Europe, RECOWOE Publication, Dissemination and Dialogue Centre, Edinburgh, available at [www.socialpolicy.ed.ac.uk/recwoweputdisc/working\\_papers/archive\\_of\\_working\\_papers](http://www.socialpolicy.ed.ac.uk/recwoweputdisc/working_papers/archive_of_working_papers).
- LEIBFRIED, S. and PIERSON, P. (2000) 'Social Policy. Left to Courts and Markets?' in WALLACE, H. and WALLACE, W. (eds.), *Policy-Making in the European Union*, Oxford, Oxford University Press [4<sup>th</sup> ed.].
- LEITNER, S. (2003) 'Varieties of familialism', *European Societies*, 5(4), 353–375.
- LETABLIER, M.-T. (2007) 'Comment l'Europe agit-elle sur la question des acteurs? La famille et les politiques communautaires', *Informations sociales*, No. 139.
- LEWIS, J. and OSTNER, I. (1995) 'Gender and the Evolution of European Social Policies' in LEIBFRIED, S. and PIERSON, P. (eds.) *European Social Policy. Between Fragmentation and Integration*, New York, The Brookings Institution.
- LEWIS, J. (2006) 'Work/family reconciliation, equal opportunities and social policies: the interpretation of policy trajectories at the EU level and the meaning of gender equality', *Journal of European Public Policy*, 13(3), 420–437.
- LEWIS, J. (1992) 'Gender and the development of welfare regimes', *Journal of European Social Policy*, 2(3), 159–173.
- MAZEY, S. (1998) 'The European Union and Women's Rights: from the Europeanisation of National Agendas to the Nationalization of a European Agenda', *Journal of European Public Policy*, 5(1), 131–152.
- PALIER, B. (2009) 'L'Europe et les Etats-providence', *Sociologie du Travail*, 51(4), 518–535.

- ROSS, G. (1997) 'L'Union européenne, la performance d'un acteur sans rôle', in JENSON, J. and SINEAU, M. (eds.) *Qui doit garder le jeune enfant? Les représentations du travail des mères dans l'europe en crise*, Paris, LGDJ.
- SCHARPF, F. (1999) *Governing in Europe: effective and democratic?*, Oxford, Oxford University Press.
- SILVERA, R. (2002) *Articuler vie familiale et vie professionnelle en Europe*, Paris, La Documentation française.
- STRATIGAKI, M. (2000) 'The European Union and the Equal Opportunities Process', in HANTRAIS, L. (ed.), *Gendered Policies in Europe: Reconciling Employment and Family Life*, Basingstoke, Macmillan and New York, St Martin's Press, 41–44.