EU working time regime, work-family reconciliation, and gender equality:

Getting the balance right

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INTRODUCTION

The proposed right to request flexible working arrangements for caregivers is a major development.

But, does it have the potential to transform the EU’s bifurcated working-time regime, and facilitate gender equality?

★ Proposal for a directive on work-life balance, COM (2017) 253 final
“By providing parents and carers with greater choice in how to organise work and caring responsibilities [the Directive] will help avoid that they drop out of the labour market altogether. Moreover, ..., improving the gender-balanced design of [work-life balance] arrangements can help rebalancing the distribution of care within the household.”

EC, Proposal for a directive on work-life balance, COM (2017) 253 final

Towards a ‘universal breadwinner/care parity’ model, and a recognition of a right to care?

Feminist labour lawyers have long argued that if care really recognized as an essential activity that is as valuable as paid labour to individual and social development, a different normative worker emerges as the basis for regulation. Work – and design of temporal norms – must be rethought with a worker-carer in mind.

SO, can the right to request move us closer to this progressive vision?

My view:

It is a good start, but needs to be much more robust and bolstered by other rights to challenge gender-time gaps.

This is especially in light of current developments in work organization (both, quantitative and qualitative aspects of time).

OUTLINE

1) Working-time regulation and work-family reconciliation – A brief history
2) What works what doesn't work?
3) The enduring gender time gap and new developments
1) Right to request – assessment and recommendations
EU WORKING TIME AND WORK-FAMILY RECONCILIATION
A BRIEF HISTORY of a BIURCATED APPROACH

Working Time Directive
health and safety organization of work

Part-time workers Directive
equal treatment, work-family reconciliation, flexibility, accommodation of care

Parental leave Directive

EU WORKING TIME DIRECTIVE – DEVELOPMENT OF RATIONALES...

70s
To facilitate worker’s choice, leisure, consumption, work-life balance
Recommendation affirming the 40-hr workweek and a 4-week annual leave, 1975

80s
To maximize productivity gains, create jobs, promote women’s employment and create conditions that ‘would allow a greater sharing of family responsibilities’ Draft Council Recommendation, 1983

90s
Health and safety, adaptation of work (with extensive derogations)
Working Time Directive, 1993
"The regulation of working hours is fundamental to society. It was one of the original trade union demands, and now lies at the heart of Social Europe. It is a key aspect of health and safety in the workplace, and recognizes that allowing people time to raise their families (‘the short-term and long-term reproduction of the labour force’) is vital to the interests of workers, societies, and economies. And it is crucial to achieving gender equality at work."

ETUC, Position of the First Stage Consultation of the Social Partners at the Community Level on the Reconciliation of Professional, Private and Family Life, December 2006
A BIURCATED APPROACH

Working Time Directive

health and safety
organization of work

Part-time workers Directive

equal treatment, work-family
reconciliation, flexibility,
accommodation of care

Parental leave Directive

Figart and Mutari 2000, Zbyszewska 2016

CURRENT PATTERNS OF WORKING TIME (EU28)

Current statistics (6th EWCS) reveal some positive trends but clearly demonstrate that the EU model of working-time regulation has not challenged gendered time polarization and patterns of work, and flexibility, still mostly determined by employers.
CURRENT PATTERNS OF WORKING TIME (EU28)

Gradual decline in work hours
BUT, growth in short, involuntary part-time work
AND gender time gap still significant: 39.2 vs 32.7

15.7% men and 6.2% women work 48+ hours
40% of self employed work 48+ hours
21% women work under 21 hours/week

More employees report control over working schedule
But, 70% still have little autonomy, and 64% no control

Source: Eurofund (2017)

WORKING TIME, WORK-FAMILY RECONCILIATION & TIME REDISTRIBUTION

What works?
• Limitations on excessive work hours
• Low polarization of work hours
• Flexibility (but not all forms)
• Predictability, regularity, control, autonomy

What doesn't work?
• Excessive hours and atypical work
• Very short hours
• Lack of control and choice
• Intensification, boundary blurring

QUALITY OF TIME, POROSITY, BOUNDARY BLURRING

An increasingly significant dimension of time is its quality.

Reduced work hours and flexible work arrangements may still pose a problem from the perspective of work-family reconciliation and overall wellbeing if the actual time of work is intensified and boundaries between work and non-paid work time blurred.

- Reduced hours can become intensive if workload not adapted.
- Tight deadlines, short lead times, customer demand contribute to intensification.


QUALITY OF TIME, POROSITY, BOUNDARY BLURRING

The ICT-enabled ‘work anytime, anywhere’ flexibility can be beneficial for work-family articulation.

BUT, also tends to:
- extend total work hours,
- lead to ‘third shifts’,
- increase work at asocial times (18:00-24:00),
- increase the likelihood of unpaid overtime (80%),
- and can significantly intrude in personal life.

17% EU28 workers engaged in ITC
Generally report better work-life balance regardless of the above

Source: ILO (2017)
A more robust right to request flexible work! (paired with employer obligation to consider and grant but for demonstrable organizational disadvantage disproportionate to workers' benefit)

Other possible rights:

to be informed of schedule changes
to decline overtime work hours
to disconnect?

Remaining problems:

Working Time Directive ‘opt-out' and derogations

PUBLICATIONS


Blog Posts

http://www.labourlawnetwork.eu/

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REFERENCES