

The emergence and changing nature of a polysemic category: European resources in the field of reconciliation between paid work and private life

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Working Papers on the Reconciliation of Work and Welfare in Europe

The emergence and changing nature of a polysemic category.

European resources in the field of reconciliation between paid work and private life

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The emergence and changing nature of a polysemic category. European resources in the field of reconciliation between paid work and private life

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Abstract

European policies regarding the reconciliation of paid work and private life have undergone substantial changes since the 1950s. This paper analyses how European resources related to reconciliation policies have been incrementally developed through layering and conversion processes. Three phases can be distinguished. Beginning with early initiatives at the Community level, reconciliation policies transformed into an instrument of equality policy and finally an instrument of employment policy. Beyond tracing these historical developments, the paper addresses the various definitions of reconciliation and their different functions as cognitive and legitimising resources. It suggests a larger and encompassing definition of reconciliation in order to acknowledge the potentially diverse and numerous usages of Europe by domestic actors.

Keywords

Reconciliation policy, European Integration, Usages, Welfare State Reforms, Work-Life Balance

Introduction¹

European policies regarding the reconciliation of paid work and private life have undergone substantial changes since the 1950s. This paper analyses how European resources related to reconciliation policies have been incrementally developed through layering and conversion processes. Three phases are distinguished. Beginning with early initiatives at the Community level, reconciliation policies transformed into an instrument of equality policy and finally an instrument of employment policy. Beyond tracing these historical developments, the paper addresses the various definitions of reconciliation and their different functions as cognitive and legitimising resources. It suggests a larger and encompassing definition of reconciliation in order to acknowledge the potentially diverse and numerous usages of Europe by domestic actors.

This working paper is part of a research project developed within the European network of excellence RECWOWE (Reconciling Work and Welfare). A research team gathered in order to analyze the linkages between national ‘employment-friendly’ welfare reforms and the EU’s possible inputs and influence. In this perspective, it has been decided to focus the common comparative framework developed on the analysis on one policy domain: reconciliation between paid work and private life, this field being at the same time profoundly entrenched within national gender and welfare state regimes and subjected to intense European action (legislation, case law, soft law, intergovernmental coordination, discourses and norms). Empirically, we have chosen 9 European countries to be studied (Belgium, Czech republic, Finland, Hungary, Italy, France, Portugal, Spain and Turkey), on the base of their representativeness in terms of time of accession to the EU (old or new or to become members), and in terms of welfare and care regime belonging (countries represent the five distinct families of care and welfare regimes present in the EU).

The general common question of this collective research project is: “whether and how has the EU contributed to change national reconciliation regimes?”. In order to investigate the question of the mechanisms according to which the various EU initiatives matter at the national level, the analytical path chosen is that of the “usages of Europe” (Jacquot and Woll 2003, 2010). In this perspective, analysing how the EU can influence domestic politics is mediated by the analysis of the way national actors have made and are making use of EU resources and constraints.

Most of the time in the literature, Europe is perceived as a specific constraint which leads to negative integration, limiting national governments room for maneuver or sovereignty (Scharpf, 1999; Leibfrid and Pierson, 1995). But 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 been taken up, translated, shaped in order to follow their own national strategy. This large range of resources highlights the fact that studying the usages of resources is not synonymous to only discourse analysis. Implementing EU regulation or directives, using EU funds is also part of the usages of European resources. European opportunities and

constraints provided by the EU have to be transformed into specific national resources 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, etc.

In order to study the usages developed by national actors at the domestic level, it is then necessary to have a panoramic view of the resources provided by the EU – be they legal resources (primary legislation, secondary legislation, case law, etc.), budgetary (budgetary constraints but also new funding opportunities), cognitive and normative (communications, ideas, etc.) or political resources (argumentation, blame avoidance mechanisms, multi-level games, etc.) – to these national actors in the field of reconciliation between paid work and private life. The main aim of this article is then, to trace the emergence and development of these European reconciliation resources, to list them as exhaustively as possible and to analyze their changing nature. More precisely, analysing these resources implies firstly to distinguish the different sequences that led to the introduction of policy tools, so that the sequences in national policies could be related to the European ones. Secondly, understanding the framing of the policies at the European level and the meaning of what reconciliation policies means at this level might also help in order to identify whether the European definitions and the images and discourses they convey were used by national actors.

The main argument of this text is that the diverse European resources related to reconciliation policies have been incrementally developed through layering and conversion processes, i.e. attachment of new institutions or rules onto or alongside existing ones and change in the enactment of existing rules due to their strategic redeployment (Streeck and Thelen, 2005).

This has first resulted in the progressive institutionalization of a field of action at the EU level, which framing and objective have largely evolved across time. In short, reconciliation measures initially formed an instrument of equality, work/family balance and division of labor between women and men; they have become an instrument of modernization and budgetary sustainability of social protection by contributing to increases in member state fertility rates and, most importantly, employment rates. Second, the very category of “reconciliation”, even as it has been diffused in the most recent years at the EU level, is both polysemic and narrowly constructed from an analytical and gender-informed point of view. This absence of stabilization allows for greater room for manoeuvre at the domestic level and for even more diverse patterns of national usages of Europe.

From equality to employment: the European sequencing of the objective of reconciliation between paid work and private life

The trajectory of European public policy promoting the integration of paid work and private life is particularly interesting insofar as it reveals more profound transformations pertaining on the one hand, to the nature and orientation of

European social policy in general and, on the other hand, to the place of gender and of the issue of gender equality within social policy.

In brief, social and equality policies have become utilitarian instruments of competitiveness and economic growth (Lewis 2006, Jenson 2008). Equality policy previously had, to quote the terms of the second *Defrenne* ruling, a “double aim, which is at once economic and social,” that is its economic and social objectives could be pursued at the same time and were equally legitimate. However, these objectives were subsequently realigned to serve the EU’s macroeconomic goals, and the norm of equality ended up subordinate to the norm of the market [Jacquot 2009].

Within a gradual process of change, measures promoting reconciliation evolved in three phases: from an unlikely sphere of activity at the Community level (1), they emerged as an instrument of equality policy (2) before consolidating into an instrument of employment policy (3). The measures grouped in the Community texts under the categories “ensure that the family responsibilities of all concerned may be reconciled with their job aspirations”² and “reconciliation of family and work life”³ first appeared on the European agenda in 1974 with the Commission’s first social action program. However, it is only since the beginning of the 1990s that instruments to implement this general objective started developing under the impetus, and within the purview, of European gender equality policy. It is at the heart of this specific area that a policy to promote reconciliation was built step by step, based on binding and non-binding texts, funding schemes, networks and an institutional structure geared towards combating gender discrimination and creating equality, particularly in the labor market. With the turn of the century and the increasing importance of growth and economic competitiveness objectives among European political priorities, reconciliation was gradually disconnected from equality policy and absorbed by employment policy.

The unlikely emergence of the reconciliation issue on the European agenda

The issue of reconciling work and family life fell outside of 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 remit in social policy was extremely limited both in right and principle by what was later to become known as subsidiarity, and by a purely functional approach to managing the common market. Moreover, the development of prospective policy regarding reconciliation was hampered by two conceptual limitations: the notion of “professional life” was pigeonholed into a narrow perspective that reduced it to pay, work conditions, and vocational training, and the notion of “family life” lacked any foundation at all. Consequently, the linkage 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 of the Community’s remit, and was particularly unlikely to appear on the European agenda.

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” (art. 2. However, the powers granted to the EEC were principally geared towards preserving the founding states’ sovereignty over their national social protection systems, and eschewing any social dumping and race to the bottom that might occur because of gaps in social protection levels (Palier, 2009). Even if upward harmonization was mentioned as an objective in the Treaty of Rome (art. 117), the treaty only granted the power to coordinate social security regimes, linked to the free movement of workers (art. 48-51); furthermore, collaboration in the social arena was subjected to unanimity (art. 118), and the limited budget of the Community was also an indirect help for 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” thus fell short of encompassing the range of different life stages between paid work and private life. European social policy was characterized by its intrinsic link to the market-building process. As Stephan Leibfried and Paul Pierson remarked, “EU social policy interventions have grown up as part of the process of market-building itself. Never before has the construction of the markets so visibly and intensively shaped the development of social policy initiatives” (Leibfried and Pierson 2000: 289). This requisite link to economic dynamics constituted a considerable limitation, with issues relating to what would today be placed under the banner of “reconciliation between work and family life” falling outside of the Community’s scope.

This first limitation was compounded by a second one concerning the restriction of European action in the public sphere, as clearly underscored by European Court of Justice (ECJ) decisions through the mid 1980s. These decisions changed the enactment of article 119, so that a conversion process has been at work during the first phase after the signing of the treaty of Rome (Streeck and Thelen 2010). Since the landmark *Defrenne* ruling, which declared the direct effect of Article 119, 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 judges, who only considered equality and the combat against gender-based discrimination within the realm of the market. As the ECJ explained in its *Achterberg* ruling of June 27, 1989 “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.”⁴ Thus, 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 on labor market equality. 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).

Policy domains	Resources	Rationale
Equal treatment and training	European Social Fund	Specific guidelines and measures in the Fund for the training of women workers, especially women returning to work.
Equal treatment and anti-discrimination	Directive on Equal Pay for Equal Work (1975/117/EEC)	This directive recommended to Member States to introduce into their national legal systems measures necessary to apply the principle of equal pay. These measures should enable all employees who consider themselves wronged by failure to pursue their claims by judicial process after possible recourse to other competent authorities.
Equal treatment and anti-discrimination	Equal Treatment Directive (1976/207/EEC)	This extended the fields in which discrimination should be fought, including the access to employment, promotion, vocational training, and working conditions and, on the conditions referred to in paragraph 2, social security.
Equal treatment and anti-discrimination, Social Security	Directive on Social Security (1979/7/EEC)	This aimed at assuring the progressive implementation of the principle of equal treatment in matters of social security. The directive excluded from its scope the determination of individual age for the purposes of granting old-age and retirement pensions and fields in which familial care providers or wives could have special advantages.
Equal opportunities	Action programme on equal opportunities for women, 1982-1985	The first action programme addressed the issues of child care and the weight of family responsibilities, and proposed the much later to be voted directive on parental leave.
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 realization 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 on the protection of self-employed women during pregnancy and motherhood.
	Directive 86 /613/EEC	

Table 1: EU resources linked to reconciliation issues (1957-1990)

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 organization of the family, or to alter the division of responsibility between parents.”⁵ The Community’s definition of equality was

thus strictly curtailed and did not take into account the web of problems surrounding the labor market – what Ilona Ostner and Jane Lewis have called “the Paid Employment Nexus” or the confluence of the philosophy behind European equality laws, the Council of Ministers’ unanimity rule, and the lack of Member State consensus on extending intervention beyond issues solely related to paid employment (Lewis and Ostner, 1995).

The absence of a legal foundation, the preservation of national sovereignty over the definition and modus operandi of social protection systems, and economic and public-private boundaries – all played a role in casting a veil of illegitimacy over the potential development of Community policy relating to the reconciliation of paid work and private life. Even though 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.

Reconciliation as an instrument of equality policy: the 1990s

Throughout the 1980s, the unlikely aspect of the development of measures relating to the reconciliation of work and family life gave way to the acknowledgement that gender-based employment inequalities had persisted. Equal opportunity approaches started to receive consideration as possible remedies to the shortfalls of equal treatment policies. At this time, reconciliation was promoted as a means to create substantial equal opportunities 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 is 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 to achieve equality both on the labour market and in the household. New measures were added to the existing one through a layering process.

From equal treatment to equal opportunities

As a part of European social policy, Community gender equality policy was initially based on the principle of equal treatment policies were 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 conceptualization 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. In concrete terms, the objective was to facilitate and legitimate women’s access to the labor market by eliminating the unequal treatment that obstructed it. Equal treatment and *market-making* were tied at a deep, or even ideological, level drawing from the liberal theory of free agency. This guarantee of individual freedom was anchored in the law and in formal equality.

Starting in the mid-1980s, the inadequacies of this conception and its attendant policy prescription became increasingly manifest. The equal treatment strategy was in large part contingent on legislators, the evolution of jurisprudence and the

enforcement of new norms. It relied, at one end, on the good faith of the state and its institutions to ensure the implementation of legal rules and, at the other, on the good faith of courts of justice and on the mobilization capacity of women's and feminist interest groups. This mechanism granted an important role for the mobilization and collective action of plaintiffs in developing jurisprudence. However, national collective mobilization structures linked to this type of activity had varying characteristics (organizational structure, ties to the state and state feminism, repertoire of collective action including legal action, etc.) that yielded an unclear impact (Caporaso and Jupille, 2001]. Equality through law had been necessary to correct direct inequalities – the most flagrant type. However, it 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. The gap started to transpire during this period.

Acting as a “purposeful opportunist” (Cram, 1993), the European Commission sought to expand the legitimate areas of Community intervention, as well as its own powers. The Commission marshalled its bureaucratic resources to this end, especially through the command and coordination of expertise. It also created thematic expert networks to deepen knowledge of the situation of women in the labor market and their relationship to work. These networks gathered a wealth of facts that enabled the Commission to conduct an informed evaluation of the Community's equality policy. Throughout the 1980s, increases in women's employment rates were mainly achieved through so-called “atypical” employment (part-time, fixed term, and flexible hours). Consequently, pay gaps remained significant, as did the women's unemployment rate, which was consistently higher than the rate for men, as well as horizontal and vertical segregation.⁶ These facts suggested that the Community's equality policy had borne little effect on the social constraints affecting women's employment models (Silvera, 2002). Consequently, a new idea gained traction: the pursuit of equal treatment was insufficient to achieve real equality but equal opportunities might bridge the gap between norms and reality (Calvès, 2004). The goal became recognizing the existence of groups of collective victims of discrimination, put in place temporary measures contravening equal treatment in order to rebalance women's opportunities as a group, and overcome *de facto* inequalities that were considered to be indirect because they were extra-legal.

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

Reconciliation as means to improve occupational equality and division of labour

At the close of the 1980s the Community embraced a new logic, which first posited a link between gender-based discrimination on the labor market and the gender-based division of labor within the family; second, 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 1986.⁷ This network crucially contributed to expanding the debate on equal opportunity; its work emphasized 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 realization of equality. It implied, on the one hand, a better integration of women into the labor market and, on the other hand, a modification of the social behavior of men, who were expected to shoulder a greater share of family life obligations.

This viewpoint revealed a correlation between the distribution of tasks within the household and gender discrimination in the professional sphere, thus legitimating Community intervention in labor 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 policies 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 equality between men and women) of the Community Charter of the social fundamental 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, which marked the first official recognition of a right to equal opportunities derived from Community law; it accepted that women could be treated differently as a group in order to promote a more equal result. 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): the Directive on parental leave granted women and men a parental leave of three months after the birth or adoption of a child; the Directive on part-time work sought to guarantee to workers employed in so-called new “forms of flexible work”, a comparable treatment to that enjoyed by full-time and unfixed-contract personnel; the Directive on fixed-term contracts aimed to eliminate all discrimination in salary, leave, social protection and retirement, and to facilitate the development of new forms of work and a more flexible organization of work time. 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.

Policy domains	Resources	Rationale
Maternity leave	<p>Directive 1989/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work.</p> <p>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</p>	<p>The 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 post 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 a leave with of at least 14 weeks and a compulsory maternity leave of at least two weeks. During the leave, the maintenance of payment or entitlement to allowances should also be provided (article 11)</p>
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)	This training programme, developed specifically for women, is designed to help women overcome the barriers to attain "good" employment.
Childcare	<p><i>Non binding</i> Council Recommendation of 31 March 1992 on child care (92/241/ CEE)</p>	<p>This recommendation, which is not binding, states that « 'child-care services' means any type of child care, whether public or private, individual or collective. (...) [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.</p> <p>As regards child-care services, it is recommended that the Member States (...), should take and/or encourage initiatives to:</p> <ol style="list-style-type: none"> 1. enable parents who are working, following a course of education or training in order to obtain employment or are seeking employment (...) to have as much access as possible to local child-care services (...). 2. encourage flexibility and diversity of child-care services [...] 3. endeavour that the training (...) of workers in child-care services is appropriate to the importance and the social and educative value of their work; (...) 4. encourage national, regional or local authorities, management and labour (...) to make a financial contribution to the creation and/or operation of coherent child-care services which can be afforded by parents and which offer them a choice »

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 »
Flexible work	Directive 1993/104/EC concerning certain aspects of the organization of working time	This directive states that following measures should be enacted in Member States : - the minimum daily rest period of 11 consecutive hours per period of 24 hours; - the minimum period of one rest day on average immediately following the daily rest period in every seven-day period; -not less than four weeks' annual paid holiday -an average weekly working period of not more than 48 hours, including the overtime for each seven-day period. normal hours of work for night workers must not exceed an average of eight hours in any 24-hour period. Moreover, Member States may stipulate reference periods (...)
Equal opportunities	Fourth medium-term Community action programme on equal opportunities for women and men, 1996-2000	The fourth action programme emphasizes 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 (article 2)

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. « As far as possible, employers should give consideration to: - requests by workers to transfer from full-time to part-time work that becomes available in the establishment; - requests by workers to transfer from part-time to full-time work or to increase their working time should the opportunity arise; - the provision of timely information on the availability of part-time and full-time positions in the establishment(...); - measures to facilitate access to part-time work at all levels of the enterprise (...)- the provision of appropriate information to existing bodies representing workers about part-time working in the enterprise”
Equal treatment and anti-discrimination	Directive 1997/80/EC on the burden of proof in discrimination cases	This directive introduced the obligation for Member States to change the burden of the proof for persons who consider themselves wronged because the principle of equal treatment has not been applied : it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.
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	<i>Non binding</i> 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 labor 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.”

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

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

Finally, in June 2000 the Council adopted a resolution on the balanced participation of women and men in family and working life that, in line with

precedent, recognized 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 labor 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.”⁸

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

Reconciliation as an instrument of employment policy: the 2000s

At the end of the 1990s, the objective of reconciling work and family life was progressively detached from its exclusive relationship with equality policy 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 “modernize social protection,” the reconciliation objective had the advantages of offering 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 rationalized and re-organized around three principal poles: family-related leave, childcare and the provision of care services, and flexible working conditions.

Reconciliation at the juncture of different concerns: a new consensus

At the end of the 1990s, social Europe entered a period of crisis. The Economic and Monetary Union worked to its detriment as national governments’ room for manoeuvre in the area of social policy was drastically reduced due to the tighter linkage between European and national policies in the budgetary and monetary fields. Problems related to aging populations and decreasing fertility, and to the sustainability and durability of social protection systems, all became increasingly acute (Bruno, Jacquot and Mandin, 2006)

Within this context, the objective of reconciling work and family life was presented as an adequate solution that would provide a multi-pronged response to these different problems. In light of harshly felt demographic and budgetary difficulties and constraints, a new approach became imperative “to focus the attention on employment and on the employment potential that unoccupied people represent (the unemployed and economically inactive) [...]. 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). The new approach was based on employment rates and on the "activation" and optimal use of human resources. In this light, women were considered to be an under-utilized reservoir of labor and measures reconciling family and occupational life became useful, if not crucial, to achieving target rates of economically active population. The reconciliation of work and family life found itself at the core of modernization goals for social protection, promoted by advocates of social investment theory. This theory was also central to the Lisbon strategy and it increasingly gained traction at the European level beginning 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 (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 employments rates, 2) combating the under-utilization of human resources and the waste of equally under-utilized investments in education and training, 3) making the labour market more "attractive," 4) combating social exclusion and poverty, particularly that of children, by firmly rooting parents into the labour market, 5) combating falling birth-rates, and 6) taking account of the aging of the population and of burdens on the aides to dependent persons. As Trudie Knijn and Arnoud Smit put it, the European public policy approach to the reconciliation of occupational and family life was "blind" because it was only concerned with prospective obstacles to labour market participation, without taking into account reverse causalities such as the influence of flexibility and part-time work on the formation of families, of the commercialization of care facilities on the quality of education and care, and of the increase of work mobility on divorce rates (Knijn and Smit, 2009).

Whatever the case may have been, the reconciliation "solution" was able to garner 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.

The renewal of provisions favoring the reconciliation of work and private life

Following the launch of the European Employment Strategy in 1997, member states adopted "employment guidelines" from 1998 onwards 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 return to work, particularly for women. The implementation of the Lisbon Strategy was accompanied by the establishment of quantitative objectives for 2010: first, a 60% employment rate for women (set in

Lisbon in 2000), then care facilities for at least 90% of children between three years of age and mandatory schooling, and for at least 33% of children under the age of three (set in Barcelona in 2002). While Lisbon focused on female participation in the labor market, Barcelona sought to specify the means to achieve this goal. The emphasis was placed on care services rather than on other instruments such as parental leave, which might serve as a deterrent.

When the Lisbon Strategy and its guidelines were reviewed in 2003 and 2005, the pillar that had been specifically dedicated to equal opportunities *per se* disappeared and the recommendations related to reconciliation were disaggregated from gender equality policy. The guideline (n°18) steering national reforms of employment and social protection policies, thus suggested that member states promote “better reconciliation of work and private life and the provision of accessible and affordable childcare facilities and care for other dependents.”⁹ The challenge of work/family life balance was linked to that of work organization and, more generally, work quality and productivity.

Finally, the European Parliament and the Council took into account the evolution of case law and in the recast version of the equal treatment version of the equal treatment directive (2006/54), it is clearly stated that discrimination is to be understood as “less favourable treatment regarding pregnancy or maternity leave (art. 2(2)c), and it also acknowledges and protects the right to paternity leave.

Policy domains	Resources	Rationale
Labour market participation	European Council, Lisbon, 23 and 24 March 2000, Presidency Conclusions	The Presidency conclusions set a quantitative objective of 60% employment rate for women for 2010.
Labour market participation and training	European Social Fund regulation	Efforts of the European Social Fund in the area of employment and training policies area 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, 2001-2007	EQUAL is a specific programme that has been funded by the ESF between 2001 and 2008, in order to test new ways of tackling discrimination and inequality experienced by those in work and those looking for a job. The EU contribution to EQUAL has been of 3.274 billion €, matched by national funding. 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% today to more than 60% by 2010.” As well, “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% of children between 3 years-old and the mandatory school age and at least 33% of children under 3 years of age.”

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 give the possibility to fight against discrimination of pregnant women or parents taking leaves. It states that the Member States which recognise such rights shall take the necessary measures to protect working men and women against dismissal due to exercising those rights and ensure that, at the end of such leave, they are entitled to return to their jobs or to equivalent posts on terms and conditions which are no less favourable to them, and to benefit from any improvement in working conditions to which they would have been entitled during their absence.
	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 leaves.
Childcare	Directive 2006/123/EC on services in the internal market	This Directive excluded 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 (...) with the objective of ensuring support for those who are permanently or temporarily in a particular state of need because of their insufficient family income or total or partial lack of independence and for those who risk being marginalised. »
Balanced participation to the labour market and family life	(COM/2008/0635 final) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “A better work-life balance: stronger support for reconciling professional, private and family life”	The 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”.

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

Overall, when compared to the concept of reconciliation that prevailed during the preceding period, the one that emerged in the 21st century carried a utilitarian dimension and was viewed as a means to an end – taking into account private life conditions 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 gendered roles disappeared from the Community’s radar.

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

However, the content and cognitive framework of these measures underwent a profound transformation in the process. What started as a means to attenuate gender-based inequalities in the labour market is today promoted as a means to achieve another objective – the modernization of social protection regimes – by contributing to an increase in employment rates.

Reconciliation between paid work and private life: a controversial category

Since reconciliation policies have progressively been conceptualised as such by the European Union, it is first important to understand the meanings of this category at the European level, the images it promotes and its logical underpinnings. These definitions may have an influence on the strategies of national actors. It is important to understand how the definitions – as cognitive and legitimising resources – function.

Then, another important question remains, i.e. whether European definitions subsume all the meanings that can be associated with reconciliation policies. We will see that the academic definitions are different from the ones provided by political and social actors. A larger and encompassing definition has consequently to be taken into account in order to acknowledge the potential diverse and numerous usages of Europe by domestic actors in the field restrictively labelled as “reconciliation” by the EU.

The changing nature of the reconciliation objective at the EU level

As seen in the previous part, the extension of the European agenda to gender equality in the 1990s led to consider work / family life balance as a relevant problem: solving the reconciliation issues could give the possibility to better attain gender equality. This extension of the European agenda and policies corresponded also to an extension of the type of instruments used, of the policy fields of action and of the type of actors involved in the decision-making process. If this multiplicity of actors, instruments and policy fields allow for the development of a polysemic discourse on reconciliation issues, these issues were adapted to the new European agenda after 1997 and after the introduction of the Lisbon Strategy in 2000.

The changing meanings and domains of reconciliation

As previously mentioned, the question of reconciliation firstly appeared at the EU level in the 1974 social action programme referred 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 to reconcile “family life and occupation” and the Commission program following shows that family life means having children. The introduction of reconciliation policies is also associated with the acceptance that policies could interfere with birth giving and education, while the Court had refused such an action during the 1980s. In these first uses of the concept, the principle domain associated to reconciliation was childcare and the instruments related were the leaves 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 frail elderly as belonging to the work / family reconciliation dilemma¹⁰, working time and the duration of the contracts. In fact, the 1998 employment guidelines precises: “Policies on career breaks, parental leave and part-time work are of particular importance to women and men. (...) There must be an adequate provision of good quality care for children and other dependents in order to support women's and men's entry and continued participation in the labour market. The Member States will strive to raise levels of access to care services where some needs are not met”.

The main incentives promoted at the European level concern parental, maternal and paternity leave, childcare facilities, care for relatives, the entry on the labour market, the regulation of flexible, fixed-term and part-time jobs. Several meanings have been associated with each of these policy tools. Concerning parental leave, it is seen by European institutions as a risk to outdate the skills of the parents and to create discrimination for women, but also a way to increase low fertility rates in the EU. Member States are thus encouraged by the EU to create training opportunities for the parents before re-entry in the labour market and to create incentives to make the fathers participate to the caring activities. Childcare institutions have been seen as a means to give the possibility for women to have a better employment rate, so that women could adopt the male behaviour on the labour market while outsourcing their caring activities. The Commission also saw the provision of infrastructure for the elderly as an instrument to increase the female employment rate. In the regulation of

the labour market, the European authorities have seen benefits for inactive persons as disincentives, education and training as a way to better maintain and update skills. In the domain of atypical jobs, the European authorities underline their advantages and disadvantages: atypical jobs are better than nothing for the workers, they help the companies to face a short term demand, and they can give the opportunity to have both a family life and a working life. At the same time, they can “lack of security and opportunities for career development” (Knijn and Smit, 2009: 21) for the workers.

Different actors, different understandings

The different EU institutions associate different objectives to the concept of “reconciliation”. The Commission has recently become a fervent adept of the social investment perspective. In the 2006 Roadmap for gender equality, reconciliation policies are presented as a means to help the creation of “a flexible economy, while improving the quality of women's and men's lives. They help people enter and stay on the labour market, using the full potential of the workforce and must be equally available to women and men. Flexible working arrangements boost productivity, enhance employee satisfaction and employer's reputation. However, the fact that far more women than men make use of such arrangements creates a gender imbalance which has a negative impact on women's position in the workplace and their economic independence.”¹¹ Indeed, the Commission subordinates the reconciliation objective to the aim of employment and activation since the end of the 1990s. For example, the webpage of the Commission on “reconciliation between work and private life” opens up by stating that: “Boosting the numbers of women in work cannot be achieved without addressing the home and family commitments of both women and men. A good work-life balance – reconciling competing time demands at home and work – is key to boosting women's participation in employment and men's taking up of more responsibilities in the home”¹².

In Barcelona, the European Council showed that it followed the orientations of the Commission.

The European Parliament, and especially its gender equality committee, for their part, tend to prioritize differently the objectives contained in the reconciliation category. In 2004, it stated for example that equality between men and women is an objective in itself and that a balance should be achieved between the interests of the employers and those of the employees¹³.

The Court excludes men from several benefits, as in the *Lommer* case¹⁴, involving a father, official of the Dutch administration, whose request was rejected – he requested a nursery for his child while his ministry gave priorities to women.

Outside of the EU institutions, the Council of Europe has been deeply involved since the end of the 1980s in the reconciliation topics and seems to be the institution that less abandoned the objectives of the 1990s. Indeed, in 2008, it stated that “the involvement of men is a prerequisite for achieving equality between the sexes”¹⁵

As a consequence, the discourse on work and family can also be considered as a polysemic one (Jepsen and Pascual, 2005), able to encompass different gender

arrangements models (Bothfeld 2008) which has progressively taken into account new domains of action and new instruments. Indeed, reconciliation policies can correspond to a male breadwinner model, a modified one or a weak male breadwinner model (Lewis 1992) or caregiver parity (Fraser 1996), they can express different citizenship regimes (Jenson 1997) can be familialised or not (Leitner 2003). The European institutions and actors have not always used the exact same meaning: the conceptions of the Parliament and the Commission are not exactly on the same line and have varied across time.

In sum, if we adopt a long-term perspective on the meaning of the category “reconciliation between work and family” 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 private life matters; (2) within the framework of employment, it was first considered as a self-standing end to be sought for, and then it has become a tool used to fulfil activation objectives and to have more women on the labour market; (3) moreover, the notion has been progressively extended, including first child care, then family care (eldercare and care for the disabled); men have also become less of a target group.

Policy Goals	Policy Domains	Policy Instruments
<i>1970s-1980s</i> Reconciliation as a consequence of economic integration	<ul style="list-style-type: none"> - Gender equality policy (anti-discrimination) - Equal treatment at work and on the labour market 	<ul style="list-style-type: none"> - Legal instruments (directives on equal treatment) - Financial instruments (positive action programs)
<i>1990s</i> Reconciliation as a means to promoting the right to equal treatment	<ul style="list-style-type: none"> - Gender equality policy (anti-discrimination) - Equal treatment at work and on the labour market - Parental leave - Childcare - Working time 	<ul style="list-style-type: none"> - Recommendations on childcare - Directives on leaves - Financial instruments (positive action programs)
<i>2000s</i> Reconciliation as a means to promoting employment, activation and economic growth	<ul style="list-style-type: none"> - Gender equality policy (anti-discrimination) - Equal treatment at work and on the labour market - Parental leave - Childcare - Employment policy - Work organization (flexible work patterns) 	<ul style="list-style-type: none"> - Soft law measures (gender mainstreaming) - Policy coordination (OMC) - Legal instruments (directives) - Financial instruments (positive action programs)

Table 4. The EU policy on reconciliation: from equal treatment to employment

In search of a more encompassing definition

The European interpretation of the category “reconciling work and family” has been strongly criticised by many authors. First, some argued that the interpretation of the European institutions was too narrow. T. Knijn and A. Smit, for example, underline that the notion tends to be understood as a way to make it easier for men and women to be active on the labour market, but that reconciliation policy tools do not consider how far the labour market could also be an obstacle for family relationships. For example, temporary jobs, offering less income security, can make it difficult to get loans and housing and can postpone the decision to have children or to live with a concubine or a spouse: “continuously changing working schemes and insecurity about working hours are becoming a burden for family life” (Knijn and Smit, 2009: 6).

Second, other authors criticized the category “reconciliation of work and family” in itself (Junter Loiseau, 1999) for three main reasons. On the one hand, the category is considered as too consensual and tends to undermine the conflicts between the work and family sphere. On the other hand, this category also understands the question of “conciliation” as being an individual one, which does not refer to the institutional and structural conditions that link the family and the work sphere. Furthermore, the notion only takes an individual point of view, while the tensions between work and family have to be apprehended from a holistic perspective. Finally, this category excludes people who have a family and no work or no work and a family. For all these reasons, the category “(re)conciliation work / family” has been denied relevance by some researchers, who preferred the notion of “articulation of professional and personal life” (Silvera, 2002 ; Buseyne, Donlevy-Gomes and Silvera R., 2004) or the links between the private and public life (Commaille, 1993).

Taking into account these findings and criticisms, we could adopt a definition of the concept “reconciliation between paid work and private life” that would take into consideration as many policy domains as possible and take seriously into account each element of the phrase, so that we could study all the policies that are based on the observation of tensions between individual’s private life and paid work and that try to solve these tensions. This definition could include policies that aim at changing impacts considered as negative of paid work on family life, and also the policies targeting the impacts of family on the working behaviour.

To conclude, one can observe how European policy tools have been developed incrementally but deeply changed the possible meanings and resources that national actors could use in the field of reconciliation policies. Introduced through layering and conversion processes, these resources have not been the result of a direct change of former policies. On the contrary, new rules have been introduced alongside previously existing ones and their understanding by the European institutions have themselves been submitted to change. Policy tools have also been diversified and this diversity has allowed for the development of polysemic interpretation of reconciliation policies at the domestic level.

¹ We would like to thank Silke Bothfeld, and Yves Surel for their helpful comments.

² Council Resolution of 21 January 1974 concerning a social action program, OJEC n° C 013 of 12/02/1974.

³ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, “A roadmap for equality between women and men 2006-2010” (COM/2006/0092 final). This generic label includes measures such as the accommodation of career interruptions, parental leave, part-time work, and the development of services for dependent persons and childcare.

⁴ Judgment of the Court (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).

⁵ Judgment of the Court of 12 July 1984. *Ulrich Hofmann v Barmer Ersatzkasse*. Case 184/83.

⁶ In the context of sexual segregation in the labor 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.

⁷ Coordinated by Peter Moss, a British specialist affiliated with 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 favoring the reconciliation of family and professional responsibilities [Ross 1997].

⁸ 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.

⁹ Council Decision of 30 June 2008 on guidelines for the employment policies of the member states (10614/08).

¹⁰ Nevertheless, if care for relatives has been increasingly included within the European Agenda, “EU documents focus less however on care for relatives than on care for children” [Knijn and Smit 2009].

¹¹ Communication from the Commission of 1 March 2006 to the Council, the European Parliament, the European economic and social committee and the Committee of the regions, *A Roadmap for equality between women and men 2006-2010*, COM(2006) 92 final, p 9.

¹²http://ec.europa.eu/employment_social/gender_equality/gender_mainstreaming/familylife/family_life_reconciliation_en.html

¹³ European Parliament resolution on reconciling professional, family and private lives (2003/2129(INI)).

¹⁴ Case C-476/99 *Lommers* [2002] ECR I-2891.

¹⁵ Resolution 1641 (2008)

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