

Implementing the Work-life Balance Directive in times of COVID-19: new prospects for post-pandemic workplaces in the European Union?

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Abstract

The COVID-19 pandemic has affected workers', especially women's, ability to combine their paid work and care obligations in an unprecedented way. However, it has also raised the political relevance of the work-life balance issue. The moment is timely as the Work-life Balance Directive adopted by the European Union (EU) in 2019 comes to its implementation deadline in August 2022. The combination of these two events can lay the ground for new ways of configuring the workplace and new rights to working parents which might enhance work-life balance for workers in the EU.

Keywords

Work-life balance - Gender equality - COVID-19 - European Union - Teleworking

1 Introduction

The COVID-19 pandemic has highlighted the difficulties workers face in combining their work and family responsibilities on a daily basis. With workers being asked to adjust their schedule and working patterns to fluctuating measures for mandatory telework, on-site presence, contact-tracing and school closures, juggling between work and care obligations has become an ever-growing daily complexity.

Work-life balance has been difficult, if not impossible to find for many workers with care obligations, be it because of children, elderly, or dependents. For some workers, teleworking arrangements has given new opportunities to combine care and work, while for others, especially parents with young children, imposed teleworking has caused organizational hassle, a loss of productivity and an increase in work-related stress.¹ The COVID-19 crisis has thus worsened the situation for many carers and deteriorated their work-life balance, as a consequence of school closures, reductions in informal help received from grandparents and a diminished access to formal personal care and domestic workers, added to the necessity to stay at home with children after a positive COVID test in the home or in the classroom.² In particular women suffered from a disproportional increase in domestic work and diminished working opportunities.³

In the last 30 years, the European Union (EU) has progressively committed to enhancing work-life balance across Member States. The adoption of the Work-life Balance Directive in 2019 is a paramount achievement in this sense, marking an important step for gender equality and the right of workers with care obligations in the EU.⁴ While the Directive is coming to its implementation deadline in August 2022 and the COVID-19 pandemic is still continuing its effects, the moment is crucial for Member States to ensure better rights for caring workers, and to implement long-term reforms of the labour market to make work more compatible with care responsibilities. This paper assesses the opportunities as well as the obstacles for the implementation of the Directive in light of the effect of the COVID-19 pandemic.

The article starts by discussing the notion of work-life balance and explaining its relationship with gender equality (I). It then explores the double-edged sword of the COVID-19 pandemic in this area (II), and the progressive commitment of the EU to work-life balance (III). Finally, it assesses the opportunities and obstacles for greater work-life balance in the EU in the wake of the COVID-19 pandemic (IV).

2 Work-life balance, a crucial battlefield for gender equality policy

¹ See *European Institute for Gender Equality*, [11]; *Anderson and Kelliher* [1]; *Galanti et al* [13].

² *European Institute for Gender Equality*, [11], p. 36.

³ *European Institute for Gender Equality*, [11] p. 22.

⁴ Directive 2019/1158/EU of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU [2019] OJ L 188, 12.7.2019, 79–93.

Work-life balance is being debated more than ever, and this can be interpreted as a positive step for gender equality. Indeed, this notion highlights worker's difficulties in trying to juggle their family obligations and working life, whilst struggling to stay healthy and productive while navigating through long working hours, inflexible working time, low paid parental leave, lack of adequate care facilities and a culture of presenteeism which values presence rather than performance. In a world of increasing demands on employees for productivity and availability, the concept of work-life balance, or work-life reconciliation, designates a safeguard to render work more compatible with care obligations and to allow carers to enter or to stay in the job market while catering for their responsibilities. Successfully combining personal life and career is of uttermost importance for individuals, families, organizations, and society. The consequences of unsatisfactory work-life balance can be devastating both for workers and employers: it increases risks of health complications and of stress related disorders, leads to absenteeism, poor retention levels, and has an indirect negative influence on the success of companies.⁵ On the contrary, adequate work-life balance increases workers' well-being and sense of fulfilment, and benefits organizations by improving employee productivity, the retention of workers and the attractiveness of the organization.⁶ At the societal level, poor work-life balance can contribute to delayed parenting, declining fertility rates and a decrease in labour supply, work-life balance is important for society at large.⁷

While the lack of adequate work-life balance can affect all workers, it mostly concerns workers with care obligations, particularly women, which still face the bulk of care responsibilities in our society. In Europe in 2020, 81% of women provided care on a daily basis, against only 48% of men, and women spent an average of 20 hours more a week on unpaid care work compared to men.⁸ While both men and women tend to increase their unpaid working hours when having children, the share of the housework and care is far from equal between parents. Women's working lives are thus significantly more impacted by parenthood and care responsibilities. Because of the impossibility of reconciling paid employment with family obligations, women are hindered to stay or to fully engage in the labour market. In the EU, in 2018, 82 % of people reducing their working hours to facilitate childcare responsibilities were women, and 18 % of employed women reported a reduction in working hours compared to 3 % of employed men.⁹

The impossibility to combine paid work with care responsibilities also prevents women to take up full-time employment, and ultimately lead to labour market segregation with women being trapped in part-time, often low-skilled and low paid occupations. For example, 29 % of women employed in part-time work cite care duties as their main reason for working part-time, compared to only 6% of men.¹⁰ The difference between male and female employment participation rates, the "gender employment gap", is especially high for mothers and women with caring responsibilities and for single mothers. All these elements testify to the fact that work-life balance is a gendered problem, and that no gender equality policy aiming at women's economic independence can afford to overlook the importance of this issue.

With this being said, how can greater work-life balance be achieved? Labour laws and policies have a crucial role to play to this regard, in protecting workers from the distressing consequences of not being able to adequately combine work and family life. Some of the most important instruments for this are flexible working arrangements, time off from work to care in the form of parental leave, maternity leave and carers' leave, and protection against dismissal on the grounds of care obligations. However, in order not to reinforce gendered inequalities, these arrangements need to be taken up in an equal manner by men and women. Achieving work-life balance and thus greater gender equality would require a consistent reorganization of work to make greater space for care obligations. The COVID-19 pandemic has influenced working patterns and behaviours, and hence to a certain extent reorganized the workplace.

3 COVID-19, teleworking, and work-life balance: a curse or a cure?

Governments' responses to the COVID-19 pandemic have exacerbated gender inequalities in work and care. School closures, mandatory teleworking, limited access to care services and reduced work opportunities have led women to face greater care burdens, and have widened the employment gap between men and women.¹¹ In Italy,

⁵ See Yu [23]; Davis [8]; Karkoulian *et al.* [16].

⁶ See Deery and Jago [9]; Bloom *et al.* [3].

⁷ See Brough *et al.* [5].

⁸ European Institute for Gender Equality [12] p. 15.

⁹ Eurostat, Reconciliation of work and family life – statistics (2019); available at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Reconciliation_of_work_and_family_life_-_statistics&oldid=450412#Childcare_responsibilities_effect_work_arrangements ; European Institute for Gender Equality, [12] p. 49.

¹⁰ European Institute for Gender Equality, [12] p. 10.

¹¹ European Institute for Gender Equality, [12] p. 35; Nivakoski and Mascherini [19] p. 254.

the percentage of women who lost their jobs in 2020 was twice as high as that of men, and women had much lower chances of re-entering the labour market compared to men.¹² The closure of schools and day care centres have put high pressure on women to increase their care responsibilities, sacrificing their work-life balance and impeding them in many cases to pursue their paid employment. In particular, vulnerable groups of women in Europe such as low-skilled women or women working in flexible and precarious employment, as well as migrant women, domestic workers and self-employed which have been disproportionately impacted by the pandemic.¹³ Indeed, women are over-represented among precarious workers, but also essential workers, particularly in health and social care.¹⁴

The COVID-19 pandemic restrictions have entailed a massive increase in teleworking as a way to ensure social distancing and to limit the spread of the virus. To the extent that this particular way of working can be considered as a flexible working arrangement, it is legitimate to question whether working from home could represent a new opportunity for enhancing work-life balance. The straight answer is that teleworking arrangements are a double-edged sword. Working from home has increased women's care responsibilities, especially as the closing of school and caring facilities has caused them to take on a disproportional share of extra childcare and home-schooling tasks.¹⁵ Due to decrease in work-life balance, women have faced higher levels of stress when teleworking with children. Yet, working from home has also been the opportunity for fathers to get more involved, and in households in which mothers are engaged in paid work outside of home, this might have left room for some reversal of roles, albeit temporary. In addition, the experience of teleworking and the subsequent adaptation of employers to it might also help in the long term to erode some of the corporate culture based on presenteeism, which notably penalises women. Hence, depending on how teleworking arrangements are designed and implemented, they can help respond to workers' demands for enhanced flexibility and challenge some of the unequal gender division at home.¹⁶ However, before jumping to conclusions, one needs to consider the consequences of remote working on career progression, training opportunities, remuneration and workers' representation. If equal opportunities are not guaranteed, teleworking might put workers at disadvantage. In addition, teleworking must be complemented by accessible high-quality care services for children and elderly, to allow workers to stay productive while working from home and to lessen the care burden on women. In addition, there must be consideration of whether an arrangement is presented as a right for workers, a prerogative of the employer, or the responsibility of the State to impose on workers whenever considered necessary. The question of a legal basis for teleworking across Europe is utterly important. As Birte Böök *et al.* argue, the current lack of a clear legal framework is creating uncertainty in several Member States, despite international organizations arguing for the implementation of a right to telework.¹⁷

Hence, while the pandemic has accentuated gender inequalities in work and care, it has also opened a window of opportunity to reorganize working patterns and make it more adaptable to care obligations. In that sense, teleworking could represent a tool to enhance gender inequality, if implemented in gender-sensitive ways.

4 The growing and changing commitment of the EU in relation to work-life balance: from soft law to the Work-life balance Directive

Reconciliation of work and family life has been on the European agenda since the early 1990s. From that moment on, the European Commission (the Commission) and to a lesser extent the Council of the European Union (the Council) have increasingly acknowledged the issue of care, insisting on the need for Member States to enhance work-life reconciliation and to allow parents to reconcile their paid and unpaid work. The first step was the adoption in 1992 of the Council Recommendation on Childcare, which recognized the importance of providing childcare facilities and leaves to parents, of rendering the working environment more family-friendly and promoting a more equal share of childcare responsibilities between parents.¹⁸ Important EU legislation was adopted in the 1990s, setting rights and protection for pregnant workers with the Pregnant Workers Directive in 1992, and for working parents with the Parental Leave Directive in 1996.¹⁹ By setting out common standards for

¹² Openpolis, Il divario di genere nel lavoro e gli effetti della crisi da Covid-19 [2020]. Available at <https://www.openpolis.it/il-divario-di-genere-nel-lavoro-e-gli-effetti-della-crisi-da-covid-19/>.

¹³ European Institute for Gender Equality [12], p. 9.

¹⁴ Cook and Grimshaw [7] p. 220.

¹⁵ European Institute for Gender Equality [11], p. 34; Böök *et al.* [4] p. 36.

¹⁶ Böök *et al.* [4] p. 36; Tomei [22]; Nivakoski, and Mascherini [19] p. 255.

¹⁷ Böök *et al.* [4], p. 138.

¹⁸ Council Recommendation on Child Care of 31 March 1992, 92/241/EEC [1992] OJ L 123, 8.5.1992, 16–18.

¹⁹ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) [1992] OJ L 348, 28.11.1992, 1–7; Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC [1996] OJ L 145, 19.6.1996, 4–9, updated in 2010 and repealed with the Work-life Balance Directive in 2019.

the rights and protection offered to working mothers and parents, in 1996 the EU had set a framework, albeit minimum, for allowing European parents of young children to reconcile paid employment with care obligations by the way of leaves and protection against dismissal. In 2000, the Council's Resolution on the balanced participation of women and men in family and working life marked another important step in the EU's commitment to work-life balance.²⁰ With this resolution, the Council argued for the equal sharing of caring responsibilities between working fathers and mothers and encouraged Member States to grant working men an individual and non-transferable right to paternity leave while maintaining their rights relating to employment.

The EU has also pursued the aim of work-life reconciliation through policy coordination. Indeed, work-life reconciliation was a central goal of the "Lisbon Strategy for Growth and Jobs" adopted by the European Council in 2000 to raise women's employment rate.²¹ However, within this strategy, work-life reconciliation focused narrowly on women's activation and hence shifted from a social to a market-oriented objective of "equal employability", especially as it considered employment targets in terms of quantity and not quality.²² Pursuing such a strategy is likely to get women a job to combine with their care responsibilities, however it remains insufficient to promote an equal share of care responsibilities and to foster proper work-life balance for women.²³ In the follow-up of the Lisbon Strategy, the European Council established in 2002 the Barcelona targets, aiming to raise the provision of childcare services for young children in Member States.²⁴ While these targets became an essential part of the Council's strategy for gender equality in the 2000s and were reiterated in the European Pact for Gender Equality, just as the Lisbon Strategy however, the Barcelona targets considered childcare as a way to remove disincentives to women's participation in employment rather than as a way to promote greater social justice. Hence in the early 2000s, work-life balance was primarily pursued through women's activation policies rather than greater rights and protection for caring workers in employment.²⁵

The targets set in Lisbon and in Barcelona in the early 2000s were implemented through the European Employment Strategy (EES) and the Open Method of Coordination (OMC), allowing the Council to coordinate and to monitor national employment strategies. This allowed the EU to intervene in matters in which it otherwise has a very limited competence, such as childcare, and allowed also for processes of policy learning between Member States, of childcare.²⁶ It also increased the political relevance and visibility of the issue of childcare.²⁷ However, the latter had a minor influence in the actual design of national policies and on how these would affect work-life balance and gender equality.

In addition to these soft law initiatives, work-life reconciliation has been promoted to a fundamental right through Article 33 of the EU Charter of Fundamental Rights, which however crucial left out the objective of the equal sharing of care responsibilities between men and women. The European Court of Justice (CJEU) has on its part underlined the importance of the principle of work-life reconciliation, interpreting the rights and protection offered to workers in an often generous way.²⁸

The sharing of care responsibilities between men and women made its return on the European agenda with the adoption of the Work-life Balance Directive in 2019. The legislative process which led to its adoption started with the initiative for revising the Pregnant Workers Directive proposed by the Commission in 2008.²⁹ Such a proposal, which suggested extending the rights offered to pregnant workers under EU law, had to be withdrawn by the Commission in 2015 as the Council could not accept the Parliament's amendments to extend the scope of the

²⁰ 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 [2000] OJ C 218, 31.7.2000, 5–7.

²¹ European Council, Conclusions of the Lisbon European Council, 23–24 March 2000 [2000] available at https://www.europarl.europa.eu/summits/lis1_en.htm.

²² *Ostner* [20] 29; *Stratigaki* [21] 49.

²³ However, as Jacquot, Ledoux and Palier have pointed out, by leaving the gender equality sector to which it had previously been confined to and joining the policy area of the EU's economic and strategic objectives, work-life reconciliation obtained a new consensus in the Union. Indeed, as reconciliation appeared particularly suited to respond to the economic interests of the Union and tackling problems which were challenging social protection systems across the EU, it entered the core of strategies for modernizing social protection and was promoted by proponents of social investment theory. *Jacquot et al.* [14], p. 37.

²⁴ European Council, Presidency Conclusions, Barcelona, 15–16.03.2002.

²⁵ The Council was arguably well aware the political advantage of such a strategy: the provision of publicly supported childcare arrangement, being backed by well-established evidence, is considered the most effective way to increase women's participation in the labour market; *Leon* [17] p. 203.

²⁶ *Annesley* [2] p. 199; *Jacquot* [14] p. 40; *Kantola* [15] p. 144; *Masselot and Caracciolo di Torella*, [18] p. 26.

²⁷ *Kantola* [15] p. 144.

²⁸ See for example Case C-243/95, *Hill v Stapleton*, EU:C:1998:298; Case C-284/02 *Ursula Sass*, EU:C:2004:722; Case C-586/10, *Bianca Küçük*, EU:C:2012:39.

²⁹ European Commission, Proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/85/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, COM(2008) 637 final [2008] 3.10.2008.

Directive to cover also work-life reconciliation.³⁰ However odd it may appear, for the Commission and the Council, work-life reconciliation was ill-fitted in a Directive concerning maternity protection.

In 2015, the Commission launched a Roadmap for a “New start to address the challenges of work-life balance faced by working families”, which considered a series of actions aiming to improve work-life reconciliation for carers.³¹ The adoption of the European Pillar of Social Rights in 2017, laying down the commitment of the EU to social rights, gave another important input for the proposal of legislation in the field of work-life balance.³² In 2019, the EU adopted the Directive on Work-life Balance, repealing and building upon the previous Parental Leave Directive in order to enhance work-life reconciliation for parents and carers by strengthening existing individual rights and introducing new ones.³³

The main novelty of the Work-life balance Directive is the change of paradigm it represents: it acknowledges work-life balance not only as a problem concerning women or parents with young children, but as a problem that can and will affect most workers. The Directive holds a strong gender equality agenda focusing on the need to allow men to take a greater share of caring responsibilities. It provides several opportunities for change, which are welcomed especially in the context of the effect of the COVID-19 pandemic discussed above. Nonetheless, the Directive has structural limitations which limits its ability to provoke significant and long-lasting improvements.

The Directive states that parents should have the right to four months of parental leave, which can be taken in a flexible way such as part-time in order to facilitate work-life balance in the first years of the child.³⁴ Two months of this leave should be non-transferable between the parents and provided on a “take-it-or-leave-it” basis in order to encourage fathers to take advantage of their leave and not to transfer it to the mother. However, this right can still be subject to a period of work qualification or length of service of maximum one year. This might have a negative impact for parents on temporary and atypical contracts. The Directive also provides that a payment or allowance should be attached to parental leave, set at an “adequate level” without however defining such a threshold and leaving the final decision to Member States.³⁵ As pay is crucial for incentivizing men to take parental leave (as they typically have higher earnings than women that they cannot relinquish), it is important that Member States implement this provision in a purposeful way.

The Directive also introduces the obligation for Member States to grant ten days of paternity leave in connection with the birth of the child, to be paid at the level of sick pay.³⁶ While paternity leave cannot be made subject to a period of work qualification or length of service, its payment can be made conditional on a length of service of up to six months. The recognition of such a right at EU level is a true novelty, and will oblige many Member States to either introduce or extend their paternity leave. However, the establishment of sick pay as a minimum threshold is problematic: such a payment varies greatly across Member States, and only half of the EU Member States have sick pay compensation that are well paid.³⁷

In addition, the Directive also provides for five days of carers’ leave per year for workers to care for a relative or person living in the same household. The objective of such a provision is to “to provide men and women with greater opportunities to remain in the workforce”, and appears as a step towards the recognition of care obligations other than young children, adopting a so-called life cycle approach.³⁸ It adds to the existing right, already provided for in the previous parental leave directive, to take time off on the grounds of force majeure and to take a period of unpaid leave in order to care for urgent family matters.³⁹ While carers’ leave is an important recognition, it is unlikely that five days a year will effectively make a difference in work-life balance, especially as the leave can be unpaid and that many Member States or employers already provide for such a leave.

³⁰ See Council of the European Union, 3099th Council meeting, Employment, Social Policy, Health and Consumer Affairs, Employment and Social Policy, Press release, 11574/11 [2011] Luxembourg, 17.06.2011.

³¹ European Commission, Roadmap: New start to address the challenges of work-life balance faced by working families, 2015/JUST/012, 08.2015 [2015] available at https://ec.europa.eu/smart-regulation/roadmaps/docs/2015_just_xxx_maternity_leave.en.pdf.

³² Interinstitutional Proclamation on the European Pillar of Social Rights [2017] OJ C 428, 13.12.2017, 10–15; Its principle 9 provides that “Parents and people with caring responsibilities have the right to suitable leave, flexible working arrangements and access to care services. Women and men shall have equal access to special leaves of absence in order to fulfil their caring responsibilities and be encouraged to use them in a balanced way”.

³³ Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (Text with EEA relevance) [2010] OJ L 68, 18.3.2010, p. 13–20.

³⁴ Work-life Balance Directive, Article 5.

³⁵ Work-life Balance Directive, Article 8.3, Recital 29 and Recital 31.

³⁶ Work-life Balance Directive, Article 8.2.

³⁷ See *ETUC* [10].

³⁸ Work-life Balance Directive, Recital 27; *Caracciolo di Torella* [6] p. 198.

³⁹ Work-life Balance Directive, Article 7.

The Directive also gives workers the possibly to request flexible working arrangements for caring purposes.⁴⁰ This right is not a right to obtain such arrangements, but solely to request it: employers are merely obliged to consider and respond to such requests “taking into account the needs of both the employer and the worker”. Hence, the provision does not create a strong and enforceable legal entitlement, and might not make a difference for many workers, especially precarious ones, which find themselves unable to negotiate changes in their working patterns.

Lastly, the Directive also strengthens the protection for working carers by prohibiting less favourable treatment or dismissal and any preparation for dismissal on the grounds of applying for or making use of family-related leave and flexible working arrangements. This is a strong protection and is an efficient way to ensure the effectiveness of the above provisions. Yet, it might not be enough to protect workers when they are being discriminated against in situations not connected to taking care leaves. It is regretful that the EU did not choose to go further and to protect workers from discrimination because of caring responsibilities in general, such as caring for aging parents or disabled partners, on the model Family Responsibility Discrimination (FReD) in American employment law.

Hence, the Work-life balance Directive introduces, albeit in a cautious way, new rights for working parents in the EU legal panorama. However, the structural obstacles observed above might limit its sphere of action and its ability to bring about effective change in Member States and to enhance work-life balance for all workers.

5 Implementing the Work-life Balance Directive: an opportunity for long term reforms in the wake of the COVID-19 crisis?

As explained in the above sections, the rights offered by the new Work-life Balance Directive are timid steps in the right direction: they represent minimum standards, which often do not go far enough to make significant improvements in work-life balance. However, while its implementation deadline in August 2022 approaches, it represents an opportunity for legal reform, especially when considering the effects of the COVID-19 pandemic on ways of working, as discussed above. Indeed, while the thresholds established by the Directive are low, its implementation would however still oblige Member States to modify their legal framework. The most important change that needs to be implemented by August 2022 is the introduction of paternity leave: only 17 out of 27 Member States currently have a minimum of 2 weeks paternity leave, which means that at least 10 Member States will have to introduce or extend paternity leave for workers. In addition, 14 Member States will have to provide for or increase payment of paternity leave. Italy, Croatia and Slovakia will have to introduce paid paternity leave for the first time, and the length of paid paternity leave will be doubled in Czech Republic, the Netherlands, Portugal and Romania.⁴¹ As such, the transposition of the work-life balance is also the opportunity for Member States to revise their legal framework regarding work-life balance, and in countries where strong interest groups for women and parents exist, this could lead to more stringent provisions. Some have already made steps in this direction, such as France which have implemented a paternity leave of 25 calendar days, out of which 4 days are mandatory and during which it is prohibited to employ the worker.

The COVID-19 crisis has already shown how government are ready to implement measures for work-life balance and to tackle the difficulties faced by parents and carers in employment. For example in 2020 the Italian Government adopted a decree to provide economic support to families to address the increasing need of care due to lockdown measures by extending parental leave (some of it on a paid basis) and paying for baby-sitting services.⁴² Likewise, Latvia, Belgium and Greece aimed to tackle the crisis by means of extended parental leave or pregnancy leave and accommodation of working hours.⁴³ Although the measures did not cover all types of workers and were not always implemented in a timely manner, it shows European governments’ responsiveness in time of crisis and their willingness to acknowledge the lack of work-life balance as an urgent matter and to tackle the problem through legislative means. Hence, since the effect of the COVID-19 pandemic are likely to be felt in the next years to come, it is crucial to combine this impetus at national level with the regained interest for work-life balance at the EU level. The imminent implementation deadline of the Work-life balance Directive should be taken as an opportunity to orientate the policy agenda in response to the crisis and to implement long term reforms able to respond to the growing demands for a societal recognition of caring needs and a greater questioning of gender roles in relation to care.

⁴⁰ Work-life Balance Directive, Article 9.

⁴¹ See *ETUC* [10].

⁴² Decree No. 18/2020, see, ‘A first intervention aimed at providing economic support to families to address the increasing need of care due to lockdown measures implemented to tackle the spread of COVID-19’, 7 April 2020, available at: <https://www.equalitylaw.eu/downloads/5109-italy-a-first-intervention-aimed-at-providing-economic-support-to-families-to-address-the-increasing-need-of-care-due-to-lockdown-measures-implemented-to-tackle-the-spread-of-covid-19-92-kb>.

⁴³ *Böök et al.* [4] p. 37.

The EU has a crucial role to play in pressurizing Member States to put work-life balance as a priority agenda. The Commission will have to take seriously its role in enforcing EU law and monitor the implementation of the Work-life Balance Directive starting from August 2022, activating infringement procedures against defaulting Member States.

6 Conclusion

Work-life balance is more actual than never, and it is a key element of any gender equality agenda. The COVID-19 crisis has severely impacted women's situation in employment and their ability to combine work and family life. The pandemic and the massive increase of telework might also represent a window of opportunity for revising certain rigid workplace configurations, such as the necessity of on-site presence for performing work and for eroding the culture of presenteeism, so prejudicial to workers with care obligations. For this to happen, teleworking arrangements need to be implemented in a gender-sensitive way and full attention needs to be given to the impact of remote working on vulnerable groups of women, such as low-skilled women, migrant women, domestic workers, and self-employed women.

The discussions above have recalled the different forms of the EU's ever-growing commitment to work-life balance. It has showed how the Work-life Balance Directive is the achievement of 30 years of involvement with the issue of care, but also that the EU has many other assets for influencing national policies on work-life balance, such as the EES and the OMC which promote policy coordination. The article has concluded that although the Work-life Balance Directive has structural limitations, such as the absence of a clear threshold for the parental leave pay, and the non-mandatory nature of the right to flexible working arrangements, its implementation represents an occasion for Member States to introduce changes in their legal system. As the COVID-19 pandemic has given an unprecedented visibility to care work and to the everyday struggle of women and families to find work-life balance, the implementation deadline of the Work-life Balance is very timely.

As work-life balance is a crucial instrument for achieving gender equality in employment and to allow women to stay in paid employment, to take up full time work, and to have the chance to earn a decent living even when single parenting, it is key that labour policies are guided by this principle. In addition, the participation of women to the labour market is vital to maintaining economic growth and ensuring the financial sustainability of social security systems.⁴⁴ Hence, any labour market policy or intervention in labour law should be guided by the principle of work-life balance.

Labour policies cannot alone solve the problem of work-life balance or the unequal share of care burden between men and women. Cultural norms and stereotypes about gender roles in childrearing might still be pervasive and hinder a more equal division of care responsibilities. However, it is the responsibilities of Member States to lead the way and to enhance resilience of the labour market in times of crisis and to show that new arrangements are possible in which men and women share the burden of care work.

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⁴⁴ See UNECE Policy Brief, Gender equality in ageing societies [2020] No. 23 March, available at <https://unece.org/policy-briefs>.

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