Chapter 10

WORKERS WITH FAMILY RESPONSIBILITIES AND CHILD CARE

Background

The ILO General Survey of the Committee of Experts 1978¹ emphasised that:

“all measures promoting equal rights may prove meaningless for a vast proportion of women if – as a result of their family responsibilities – they must either give up their jobs entirely, or lose any chance of advancement because they can give only a smaller part of their attention and energy to their professional work.”

The first seeds for measures of protection of workers with family responsibilities were already sown in the Employment (Women with Family Responsibilities) Recommendation No. 123 in 1965. Family responsibilities were a barrier to equality in employment and a major source of direct and indirect discrimination against women. On 25 June 1975 the ILO adopted a Resolution concerning a plan of action with a view to promoting equality of opportunity for women workers² The ILO Conference recognized that:

“in order to make women’s right to work outside the home without discrimination fully effective measures should be taken ... to encourage a more equitable sharing among family members of household tasks.”

The equitable sharing of family responsibilities at home makes the sharing of work responsibilities more effective. In addition the importance of child care facilities has become a focus and was put on the agenda for action by the social partners.

² International Labour Conference. 1975 Part I, 8 (1) and (2).
ILO Standards

The adoption in 1981 of both the ILO Convention No. 156 on Workers with Family Responsibilities and Recommendation No. 165 marked a shift in traditional attitudes concerning the role of women, and a recognition that family responsibilities affect not only women workers but the family and society as a whole. Under this Convention all workers regardless of sex are to enjoy effective equality not only between men and women with family responsibilities, but between these and other workers. The twofold aim of the Convention is, first, to enable workers with family responsibilities to engage in employment without discrimination, and secondly, to reconcile work and family responsibilities, especially by providing child-care.

This Convention is ratified today by 156 countries including all 27 EU Member States.

Article 5 of the Convention provides that:

“All measures compatible with national conditions and possibilities shall further be taken (a) to take account of the needs of workers with family responsibilities in community planning; and (b) to develop or promote community services, public or private, such as child-care and family services and facilities.”

Child-care facilities are indispensable if both parents are working. The Recommendation spells out concrete measures to create employment and working conditions that meet the needs of workers with family responsibilities – such as reduced working hours, flexible working schedules, parental leave, child care and family services and facilities, tax relief, etc.

EU Legislation

Community law realised already in the 1970s that discrimination on the ground of marital or family status should be banned and the Equal Treatment Directive 1976 expressly provided in Article 2 (1) that:

“For the purposes of the following provisions, the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status.”

The 2002 amending Directive has reproduced the same provision without change. The fourth paragraph of Article 7 of the amending Directive provides in addition that: