THE CONCEPT OF FAMILY LIFE
AND ITS LEGAL PROTECTION UNDER LABOUR LAW
IN SELECTED EUROPEAN STATES

“The future of humanity passes by way of the family. It is therefore indispensable and urgent that every person of good will should endeavour to save and foster the values and requirements of the family.”

(John Paul II, Familiaris consortio, 86)

Introduction

People have always divided their time into work, relaxation, diversion and family. For thousands of years the work-life routine has been primarily determined by the seasons of the year and the day and night cycle. A serious conflict between work and family life became apparent for the first time in the 1970s. The incessant labour and continuous pressure to spend more and more time on it has given rise to the situation when it is very hard to reconcile work with private life, family life in particular. In the globalising environment technology enables, and frequently even forces, one to work in any place and at any time. The professional life permeates family life, which has an impact on the deteriorating quality of life of employees and negatively affects enterprises and society as a whole. Ever more alarming demographic forecasts, including the continuously low fertility rates,¹

¹ It is assumed that the fertility rate ensuring generation replacement is around 2.1. In Poland, this rate stands at around 1.3 births per woman, which places the country at the end of the world rank (in 2015 Poland was ranked 216 out of 224 surveyed countries). It is forecasted that if the current trend is maintained, the population in Poland will decrease to 32 million before 2060 from the present 39 million. The population structure will also change as there will be more people in the retirement age, whereas the number of working-age people will fall. One-third of the population will work to
require legal solutions which would help employees to balance their professional and family life.

According to Eurostat, the population of the EU will increase by 3.6% before 2050, while in Poland it will decrease by around 10%. After 2024 the share of people aged 65 and more will exceed 20% of the Polish total population, and after 2060 this proportion will amount to 33%.²

According to a study conducted by the Central Statistical Office of Poland (GUS), all scenarios envisage a gradual fall in the population in Poland. In extreme scenarios, the population of the country in 2050 is estimated to account for 32.1 million to 36.3 million, respectively. The decrease in the population will result primarily in urban depopulation as it will be the cities where more advanced processes of ageing among potential mothers can be expected. The projected changes in fertility rates in the time span up to 2050 will not lead to the rise in the number of births, due to strong adverse changes in the number and structure of the female population in the reproductive age. Currently, the age of the highest fertility, that is between about 25 and 35 years, is reached by ever decreasing number of women. This is caused by a rapid fall in births in the period of 1984–2003. In 2003 the number of girls born was around a half lower than in 1984. In 2013 both people in the pre-working age and in the retirement group accounted for slightly over 18% of the total population in Poland. The remaining 63% embraced the working-age people. In 2050 the potential workforce will be responsible for 56% of the population, while the share of people in the retirement age will be twice higher than the share of the younger pre-working age population. By 2050 the dependency ratio of people aged 0–17 before 2025 will stand at 26 persons per 100 of those employed.³

It is presumed that the replacement fertility rate is around 2.1 births per woman. In Poland the rate stands currently at around 1.3 births per woman, which places the country at the end of the world rank (in 2015 Poland was ranked 216 out of 224 surveyed countries).⁴ Among the European Union countries, only Ireland maintains the fertility rate of above 2 births. Within the EU, the rate shows relatively positive values also in France and Sweden, i.e. in the countries with a stable and developed social policy, and in the United Kingdom, where the fertility rate is influenced by a large number of immigrants who have settled there often as families.⁵

provide for the remaining two-thirds (children and pensioners) (cf. the latest data on the fertility level in Poland in the article Najnowsze dane. Poziom dzietności w Polsce dramatycznie niski, „Wprost”, https://www.wp­rost.pl/523361/Najnowsze-dane-Poz­iom-dziesz­nosti-w-Polsce-dramatycznie-niski [ac­cess 6.02.2017].

⁴ Cf. latest data on the fertility level in Poland in the article Najnowsze dane...
⁵ Cf. D. Głogosz, Demograficzne i społeczno-ekonomiczne przesłanki zatrudnienia przyjaznego rodzinie [in:}
The literature on the subject indicates that the projected changes will bring about such societal and economic effects as the decline in the potential of the population with higher qualifications, creativity, willingness to take risks, better health, and increased professional, educational or spatial mobility. All those factors are necessary for the societal and economic development of the country. The growth in the number of elderly people will result in an increased dependency on the pension, social security, welfare and healthcare systems. The decreasing number of family members, in turn, will contribute to a higher demand for nursing services provided to the elderly. Actions undertaken in order to prevent the fall in the fertility rate are, therefore, in the interest of the whole society, including employers.  

The concept of family and family life

The protection of family life of employees finds its axiological justification in the significance and functions that family has in everyone’s life and in every society. It seems a cliché to say that family is the foundation of the society and that it would be impossible to imagine its operation without family. It is family that shapes the individual and provides the basis of the social life. Despite numerous institutions established in order to support individual development, none of them is capable of replacing family which continues to be the most significant environment for human life and growth. “Family always remains the primary community and is the most important for the human being.”

The family organisation is present in all societies, epochs and economic systems, and its responsibilities are hardly replaceable by any other social or state institutions. It is only family that grows not through acceptance of new members from the outside but by reproduction of its members. Consequently, it is the only social unit which sustains biological continuity of the society. Therefore, the function of the family is primarily to ensure the biological continuity of the society and to hand down the key values of that society’s cultural heritage.

An attempt at formulating the definition of family is, however, not an easy task. Family is most often described as the basic social unit “composed of persons united by means of one of the two types of social relations: a marriage relation-

7 Cf. G. Cęcelek, Rodzina i jej przemiany oraz zagrożenia i problemy wychowawcze, „Mazowieckie Studia Humanistyczne” 2005, nr 11–12, p. 239.
10 Ibidem, p. 27.
ship and a parents-children relationship.”

This means that it is “a group characterised by lasting and legalised sexual relations of two people who bring their children into the world and make them dependent on their parents at the initial stage of their life, and at the same time, who assume the obligation of preparing their children to live independently.”

The Popular Encyclopaedia issued by PWN defines family as “the basic primary group (social group) composed of a married couple and their children (also adopted children) and the whole of relatives of both spouses. The essence of family are two types of social relations: the marital relationship and the parental relationship, and in some sorts of families – also the affinity relationship.”

René Köning describes family as “a group uniting its members in a relationship of intimate affection, cooperation and mutual support.”

Charles Horton Cooley, due to the nature of social bonds (close, intimate, frequent and indirect relations) among its members, regards family as a primary group, as differentiated from secondary groups, which are more numerous in terms of members and bound mainly by formal and organizational relations.

Zbigniew Tyszka is the author of the definition of family which takes into account both its group and institutional nature and allows the distinguishing of a structured family from a community of relatives who are only colloquially covered by the term ‘family’. “Family is a structured and functionally related group of individuals, specific social substructures and microelements which form a microgroup and simultaneously a social institution united internally by means of marriage, consanguinity, affinity or adoption, and performing a number of vital, important, mutually integrated functions with respect to individuals and the society, based on the regulatory responses of the behavioural culture.”

The family group is most often distinguished from other groups by such features as a shared dwelling, surname, joint property, biological continuity and common non-material culture.

At the same time, the literature on the subject draws attention to the fact that the multifaceted forms of private life, alternative models of marital and family life recognised by some countries, and a lower number of contracted marriages give rise to the need of a new definition of family which would acknowledge the observed changes. The term is, for instance, increasingly used with reference to cohabitation.

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11 Ibidem, p. 27.
12 Ibidem, p. 27.
14 R. Köning, Materialien zur Soziologie der Familie, Bern 1946, p. 119.
16 Z. Tyszka, System metodologiczny poznańskiej szkoły socjologicznych badań nad rodziną, Poznań 1997, p. 35.
17 Cf. F. Adamski, Rodzina..., p. 29.
18 See, for instance, B. Balcerzak-Paradowska, Polityka rodzinna w Polsce..., p. 2.
Most frequently encountered family typologies are based on the criterion of the number of members or generations living together. Families categorised by the number of their members dwelling together (usually in the same household) may be divided into nuclear families, which comprise a wife, a husband and children, and single-parent ones. Considering the criterion of the number of generations living together, families are classified as small two-generation families, consisting of parents and children, and large extended ones which are composed of at least three generations.

In the Polish legal environment the concept of family is invoked, among others, in the provisions of the Act of 19 April 1969 – Criminal Code, hereinafter the Criminal Code, the Act of 25 February 1964 – Family and Guardianship Code, hereinafter Family Code, the Act of 29 August 1997 – Tax Ordinance, hereinafter Tax Act, or the Social Welfare Act of 12 March 2004. Each of the above-mentioned acts uses the concept of family in the meaning adopted by the legislator for a particular purpose. Yet, in the Family Code the term has not been defined at all. For instance, Art. 111 § 3 of the Tax Act names as family members descendants, ancestors, siblings, descendants’ spouses, persons in adoptive relationship and actually cohabiting with the taxpayer.

The Constitutional Tribunal defined the concept of family in a fairly extensive way in its judgement of 28 May 1997 (K 26/96), in which it held that the term implies the protection of a complex social entity comprising a total of relations of primarily parents and children, although in a broader sense family involves also other relations based on blood or adoptive relationships.

De lege lata, in order to determine the scope of protection of family life in the labour law, the sociological rather than normative definitions of family seem more useful as they describe more aptly the subject of protection than the definitions developed for the purpose of different law branches and their particular aims.

Family performs different functions which should be understood as “specialised and permanent actions and cooperation of family members resulting from tasks more or less realised by them, undertaken in accordance with the binding standards and models, and leading to particular main and supplementary effects.”

According to Anna Kotlarska-Michalska, the function of family is “a combination of actions and mutual influences based on developed attitudes, more or less
specified tasks, and leading to particular results such as meeting family members’ needs and coming up to the expectations of the global society.”

Zbigniew Tyżska differentiates the following family functions: bio-psychological, economic, societal-identifying and socio-psychological. Earning a living by family members performs primarily the economic function, which secures the material needs of those members. The economic function consists, in turn, of material-economic and caring-protective aspects. The latter “secures material and physical needs of a small (two-generation) family or an extended family, or also relatives living separately who are totally or partially devoid of financial means, or who are still or already physically handicapped and requiring care. The respective actions involve in particular nursing care of infants and young children, but also financial help for the elderly (parents, grandparents, etc.) and actual care (related with mental support) of the infirm due to old age or prior disability.”

Maria Ziemska, in turn, discerns the following functions which family performs: reproductive, economic, caring-educational, socialising and psycho-hygienic. The reproductive function contributes to ensuring continuity of generations and allows the married couple to satisfy their intimate needs in a socially accepted manner. The last of the listed functions allows proper psychological development of family members.

The Popular Encyclopaedia by PWN enumerates such family functions as: 1) reproductive, aiming at securing biological continuity in the society; 2) socialising, the objective of which is to educate the young generation about the standards and models of community life, to take care of the youth and prepare them for independent performance of social roles; 3) maintaining cultural continuity of the society by handing down the cultural heritage to next generations; 4) running a household and acting as a production unit (especially in agriculture); 5) arrangement of family members’ life, social supervision of their conduct, ensuring their emotional balance, providing assistance and care in case of illness or old age.

The concept of family is closely related to the notion of family life. Every employee’s life is composed of professional and private spheres. The professional life concerns “time and energy which people, based on a contract, agree to offer to someone else in exchange of defined remuneration.” The private life, in turn, may be described as “a possibility of achieving goals in variously defined contexts.”

29 Ibidem, p. 61.
32 Encyklopedia Powszechna PWN..., p. 45.
Family life is one of the most important components of private life and may be defined as “a possibility of engaging in all activities which give the sense of fulfilment for the sake of forming, sustaining and nurturing bonds and relationships with immediate kin and related persons in the same household.”\(^{35}\) Moreover, it seems that family life concerns not only people of the same household and not always involves solely relations between spouses or between parents and children. Family life “refers to a set of interpersonal relations resulting from permanent blood ties or from the provisions of law.”\(^{36}\)

The concept of family life has, therefore, a dynamic nature, due to the changing contemporary model of family as a marital relationship of a man and a woman having children. The discussed concept should be regarded in a wider context with reference to interpersonal relations resulting from marriage, consanguinity, affinity or adoption. After all, it cannot be assumed that a person without a husband or wife, or children does not have a family life as it consists, among others, in relations with parents, siblings and distant relatives.\(^{37}\)

When determining the existence of family life, a decisive criterion should be the actual situation. This is confirmed by the judgment of the European Court of Human Rights (hereinafter the ECHR) of 12 June 2001,\(^{38}\) in accordance with which existence or non-existence of family life is essentially a question of facts and depends upon the actual presence of close personal ties. Some typical forms of interpersonal relations fall within the scope of the term of ‘family life’, due to the fact that “their occurrence alone gives rise to the conjecture (presumption) of the existence of ‘family life’. This refers in particular to relations between the spouses and between parents and children.”\(^{39}\)

Family life between the spouses exists from the time of concluding marriage until its dissolution. The presumption of family life between the spouses may be refuted in case it is proved that the relationship has actually stopped to exist or if the spouses do not live together (though lack of a shared dwelling is not always evidence for non-existence of family life\(^ {40}\)).

The problem of presumed family life arises in case of domestic partnerships and same-sex couples. It seems that if domestic partnerships are recognised by the law of a given country, e.g. in France or the United Kingdom, it should be assumed that from the legal point of view they involve family life which is subject to protection.\(^ {41}\) The case of same-sex couples is not so obvious, though. Lech


\(^{38}\) Judgment in *K. and T. vs. Finland*, para. 150.

\(^{39}\) Cf. L. Garlicki, *Komentarz do art. 8 Konwencji...*, p. 519.

\(^{40}\) See the judgment of the ECHR of 21 June 1988 in *Berrehab vs. the Netherlands*, para. 21.

Garlicki rightly notes that “although it is evident that the attitude of public authorities towards same-sex couples imposes respect for ‘private life’, the problem of redefinition of the scope of ‘family life’ may well be brought before the Court in Strasbourg.”

The existence of family life is always presumed in relations between parents and children, irrespective of whether the child in brought up in a marriage or in an extra-marital relationship. The presumption is strongest in case of the relation with the mother but is present also with reference to the child’s father, whether or not he is in a relationship with the mother, has acknowledged paternity and actually lives with the child. The presumption may be refuted by proving that real ties between the father and the child have never existed because the father has not, for instance, attempted to acknowledge or had relations with the child. A similar situation is the case when such relations have been irrevocably ended. Family life takes place also between parents and adoptive children or children entrusted to care in the adoptive proceedings.

The basic component of family life of parents and children is mutual joy of staying together.

In principle, family life exists between living people and discontinues upon death. The ECHR, in its several judgments, held though that circumstances related to the funeral of a close relative may also be considered in terms of showing respect for family life.

Economic, demographic and socio-cultural factors influencing reproductive attitudes and the quality of family life among employees

The effectiveness of actions undertaken in order to improve fertility rates and the quality of family life requires that factors impacting those matters are identified. Overall, the factors having an effect on decisions related to childbearing may be grouped into demographic, economic and those related to the situation on the labour market.

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43 See the judgment of the ECHR of 18 December 1986 in *Johnston vs. Ireland*, paras. 56–57.
44 See the judgment of the ECHR in *Berrehab vs. the Netherlands*, para. 21; the judgment of the ECHR of 29 June in *Nylund vs. Finland*.
45 See the judgment of the ECHR of 1 June 2004 in *Lebbink vs. the Netherlands*, paras. 37–40.
46 See the judgment of the ECHR of 28 October 1998 in *Süderbück vs. Sweden*, para. 24.
47 See the decision of the ECHR of 23 January 2007 in *J.Ł. and M.H.-Ł. vs. Poland*.
48 See the judgment of the ECHR of 22 June 1989 in *Eriksson vs. Sweden*, para. 58.
49 See the judgment of the ECHR of 30 October 2001 in *Pannullo and Forte vs. France*, para. 39; the judgment of the ECHR of 17 January 2006 in *Elli Poluhas Dödsbo vs. Sweden*, para. 24, or the judgment of the ECHR of 12 November 2002 in *Płoski vs. Poland*, paras. 30 and 32.
The concept of family life and its legal protection under labour law in selected European states

The fertility level is, to a large extent, influenced by the overall economic condition of a given country and by projections about its future development. Changes in fertility rates are strongly correlated with the improvement or deterioration of the country’s economic situation. This link is distinctly observable in all developed states.\(^{50}\) The fertility rate changes are visible in particular in relation to the unemployment rate, the rises or drops of which affect distinctly the perception of the economic situation. It can be seen that during the rises in unemployment the fertility rate also falls, whereas it rises along with falling unemployment.\(^{51}\)

Economy experts claim that founding a family and bringing up children involve expenditure and investment of time. Harvey Leibenstein identified two types of expenditure related with child-rearing: direct expenses, covering first of all the cost of living, and indirect expenses involving opportunities lost as a result of having a child.\(^{52}\) Time which needs to be devoted to raising a child, in turn, translates into missed benefits, i.e. actually or potentially lost income. Professional work undertaken by parents, especially by mothers while fulfilling other domestic duties, reduces the time which may be spent with their child.\(^{53}\)

Based on Leibenstein’s theory, the economics developed an economic theory of fertility and along with it a concept of quantity development of family. According to Gary S. Becker, a child has a certain utility and, as a result, reproductive decisions have their economic reasons. The prices of consumer durables compete with expenditure on children, and time which must be spent on raising children competes with time spent on professional work providing income to be used on consumables. The cost of having a child is related to the expenditure which must be incurred by parents on raising and educating the child, such as outlays on nursery care, schooling, language learning, interests and hobbies or health care. One of the causes of lower number of births is the aspiration for the ‘higher quality’ of children which consists in good physical and mental development, a high education level, meeting cultural and recreational needs.\(^{54}\) As evidenced by the research, the higher education of parents the bigger expenditure on children, i.e. more benefits lost. The time spent on caring for the child is then economically dependent on his/her parents’ monthly income.\(^{55}\)

Bożenna Balcerzak-Paradowska draws attention to the fact that the attempt at providing children with better living and development conditions is in con-


tradition with the fact that children are a group most threatened by poverty. In 2013, 9.8% of children and adolescents aged 0–17 lived in extreme poverty in Poland, while a similar share for the whole population was 6.8%. A bigger risk is evidenced in large families.\(^{56}\) The aim of the state family-friendly policy should be then creating of such legal and systemic solutions which would lower the expenses of having children. First of all, they should make it possible to combine raising children with professional career.\(^{57}\)

Poland, as a result of the societal and economic transformation in the 1990s, experienced a rapid fall of the fertility rate. The economic factors which contributed to such a situation include a change in the economic role of the state, enterprises and family. The state stopped performing the function of an entrepreneur and a body guaranteeing access to social welfare services and aid. The responsibility of households for their economic condition increased as a result of blurring of the social functions previously fulfilled by employers.

Furthermore, the lower fertility rates in Poland were an outcome of such factors as continuous, high threat of unemployment and a change in conditions of participation in the labour market related to economic reforms and globalisation.\(^{58}\) The property transformation led to the drop of employment in the public sector and to its partial increase in the private one. However, the number of new workplaces in the enterprise sector did not fully compensate for the lost jobs in the public area. New phenomena could be observed on the labour market: on the one hand, the ‘rat race’ was particularly visible in large enterprises and among employees with higher qualifications, and on the other hand, considerably longer weekly working time was evidenced among workers with lower qualifications and education, which was mainly driven by low pay schemes.\(^{59}\)

The situation on the labour market, increased competition and job insecurity result in the need to strengthen one’s professional position, which is to protect against job loss. In the absence of childcare support from the state, young couples frequently delay the decision to enlarge their family, or they do not make such decision at all and subordinate their family life to work.\(^{60}\)

Apart from the economic circumstances, the changes in fertility rates in Poland were influenced by demographic, cultural and ideological factors.

The demographic and socio-cultural factors which have an impact on decisions to have children include higher comfort of life and better education (or aspirations to achieve those aims), increased participation of women in social life (through education and the labour market), longer education, late joining the workforce and strengthening the position on the labour market (and the related

\(^{56}\) Cf. B. Balcerzak-Paradowska, *Polityka rodzinna w Polsce...,* p. 5.


\(^{60}\) Cf. B. Balcerzak-Paradowska, *Polityka rodzinna w Polsce...,* p. 5.
delay in concluding marriage and having the first child). The costs of motherhood are the higher, the better education a mother has. Individual life stages in case of women usually follow an education–work–family sequence, which results in delaying the decision about founding a family and having a child.\textsuperscript{61}

It is highlighted in the \textit{Young People 2011} report that for young people private and family matters are most important but, at the same time, the system transformation processes have led to a rapid transition from the traditional (altruistic) reproductive model, where a woman submits her own ego and activity to family and motherhood, to the modern (individualistic) model in which a woman does not want to give up her own ego and limit her activity to the role of mother and carer of hearth and home. "An equally important role has been played in those transformation processes by cultural factors related to the ever wider opening of Poland to globalisation, new ideologies and lifestyles. Consumerism and individualism are for the young generation particularly tempting and compete with traditional marriage and family life standards."\textsuperscript{62}

The increase in women’s activity and the widespread family model where the living is earned by both spouses are the socio-economic phenomena which have established in the cultural consciousness in Poland and Europe. In the past, women’s labour was a source of additional income when men’s labour did not provide sufficiently for family. At present, income earned by women is ever similar to, and at times even higher than, men’s income. Therefore, women’s labour is often not supplementary but of equal rank to men’s work. Women’s professional activity frequently is the main source of income for family.\textsuperscript{63} The traditional man’s role as the sole breadwinner in the family may be regarded as outdated. The delayed adaptation of men to equal participation in household duties is also a frequent source of conflict, especially when women try to reconcile their professional responsibilities with parental ones.\textsuperscript{64}

The decisions of women to take up professional career are also influenced by non-financial reasons, such as the desire to make use of obtained qualifications and skills, personal development, self-actualisation and achievement of a higher social status through work. Labour for young women often becomes a value competitive to values offered by family, which most frequently translates into


delaying matrimony, giving birth, and sometimes even abandoning the idea of founding a family.\footnote{Cf. B. Balcerzak-Paradowska, D. Graniewska, B. Kolaczek, J. Mirosław, Kobiety na stanowiskach kierowniczych..., pp. 35–36.}

Numerous studies prove that countries which have better adapted to the change in the traditional role performed by women in relationships, e.g. France or the Scandinavian states, report currently higher fertility rates than, for instance, Germany or Austria which favour the single breadwinner family model.\footnote{Cf. J. Sleebos, The Low Fertility..., p. 20; D. Coleman, The Road to Low Fertility, “Aging Horizons” Oxford 2007, no. 7, pp. 10–11; and A. Matysiak, A. Baranowska T. Słoczyński, Kobiety i mężczyźni na rynku pracy [in:] Zatrudnienie w Polsce 2008. Praca w cyklu życia, M. Bukowski (ed.), Warsaw 2009, p. 113.} According to data published by the Financial Times, in some of the developed countries with the highest birth rates, such as Sweden or the United States,\footnote{The fertility rate in the US is currently by 40% higher than that in Europe (zob. Cf. C. Freeland, Women are the hidden engine of world growth, “Financial Times” of 28.08.2006, quoted after: A. Wittenberg-Cox, A. Maitland, Kobiety i ich wpływ na biznes. Nowa rewolucja gospodarcza, Warsaw 2013, p. 42).} the paid employment level among women much exceeds that in, for instance, Japan or Italy which report lower birth rates.\footnote{Cf. C. Freeland, Women are the hidden..., p. 42.} This would mean that the appropriate family-friendly policy may contribute to the expected fertility rates, even if the women-in-employment rate is high.

The assumption that fertility rates fall mainly due to the fact that women cannot afford staying at home to raise children and promotion of schemes which would encourage professionally active women to give up their jobs and devote themselves to raising children are not supported by evidence. Women in the 20th century, when the divorce rates are high, if faced with a choice between work and founding a family, would select employment. Birth rates go up when both the government and employers support families in which both parents are in employment. The probability of having a larger family increases along with the growing number of solutions which make it easier for both parents to combine the professional and family responsibilities.\footnote{Cf. A. Wittenberg-Cox, A. Maitland, Kobiety i ich wpływ na biznes..., pp. 44–45.}

The factors which had an effect on the drop in the fertility rates in the former socialist countries, including Poland, comprise also the rise in the share of people who remain in education longer, increased emigration of people from those countries and lack of family-friendly policy.\footnote{Cf. T. Frejka, Determinants of Family Formation and Childbearing During the Societal Transition in Central and Eastern Europe, “Demographic Reaserch” 2008, No. 19, Art. 7, pp. 163–164.} In Poland, from the beginning of the 1990s, the gross enrolment ratio has grown almost fourfold in the tertiary education.\footnote{Cf. I. Białecki, Biedni płacą za studia, bogaci dostają się na uczelnie bezpłatne, „Gazeta Wyborcza” 2003, no. 156; E. Świerzbowska-Kowalik, Wykształcenie środowisk rodzinnych i miejsce zamieszkania jako wyznaczniki szans na podjęcie studiów, „Nauka i Szkolnictwo Wyższe” 2000, no. 2, p. 16; K. Wasielewski, Społeczne zróżnicowanie uniwersytetu, „Studia Socjologiczne” 2006, no. 1; K. Szafrianiec, Wartość wykształcenia na wsi – fakty, tendencje, konsekwencje. Wieś i Rolnictwo na przełomie wieków, I. Bukraba-Rylska, A. Rosner (eds), Instytut Rozwoju Wsi i Rolnictwa PAN, Warsaw 2001.} However, those changes have not secured employment, and hence safe liv-
ing. This trend is described as the opposite or ‘downward lift effect’ and increasingly concerns not only the underprivileged groups but also tertiary education graduates, including in economics or law which so far have been considered the faculties that guarantee employment.\(^\text{72}\)

The outcome of the cultural transformation in Poland are changes in the size and composition of households and in the family structure. Between 1988 and 2011, the average household size decreased from 3.1 to 2.8 persons, the percentage of one- and two-person households increased, and the share of households numbering three or more persons declined. The rise in the percentage of childless couples (from 22.8% to 25.9%) and single-parent families (from 15.4% to 22.8%) was recorded in the same period. The share of single people was also higher. In 1988, single men accounted for 27% of male population and in 2011 their share was 32%, whereas for single women the respective percentages were 19% in 1988 and 23% in 2011.\(^\text{73}\)

The analyses presented in 2004 by the European Foundation for the Improvement of Living and Working Conditions (Eurofound), based on the research of Eurobarometer conducted in 10 acceding and in three candidate states for the European Union, show that earnings, health and family are regarded as the most important determinants of the quality of life.\(^\text{74}\) Around 60% of women with completed fertility (aged 40–64) in the surveyed countries declared that their family size was in line with their expectations, while about 30% of them (mainly with higher education) claimed that their family size fell short of their aspired ideal. According to the survey results, this was due primarily to financial problems, high costs of raising children, problems with accommodation, and health and personal issues.\(^\text{75}\)

**Impact of systemic factors and working conditions on the reproductive decisions and the quality of life of employees**

Systemic factors which have an impact on the problems with balancing professional career and parental duties in Poland include a difficult access to childcare facilities.\(^\text{76}\) The results of international evaluative studies have proved that the increase in access to childcare facilities contributes considerably to the rise in the fertility rate. The survey conducted in Spain shows that a 1% rise in the

\(^\text{75}\) Ibidem, p. 3.
percentage of children in nurseries increases the probability of childbirth by 5%. The survey carried out in Norway, in turn, indicates that a gradual growth in the percentage of children in nurseries and pre-school care from zero to 60% results in the increase of the total fertility rate by 0.5–0.7 births per woman.\(^7\)

The quality of family life and reproductive decisions are doubtlessly influenced also by working conditions, such as working time, working schemes, intensity of work, working environment, remuneration, as well as threat of unemployment.\(^7\)

The GUS studies show that one of the key reasons for delaying in time or suspending decisions about having children is impossibility of combining professional career with child-raising.\(^7\)

In *Diagnoza Społeczna* study of 2013, the respondents were asked which pro-family solutions were in their opinion most important. Women most often pointed at flexible working time (56.9%), better possibilities of childcare outside home for children under 7 (37.1%), the possibility of working partly from home (24.1%) and longer maternity leave (24%).\(^8\)

It is also worth noting that in Poland the use of fixed-term contracts is widespread, which to a large degree lowers the sense of job security and, therefore, leads to delaying the decision about having children.

According to data from the European Commission’s *Employment in Europe 2010* report, Poland is ranked second in Europe behind Spain in terms of the number of people employed under fixed-term contracts. In 2009 around 26.4% of employees in Poland had such contracts. The problem largely concerns people entering the labour market, which negatively affects the fertility rates.\(^8\)

As a rule, when a woman employed for a fixed term gets pregnant, she can no longer return to her job (this is related with either lack of possibility of combining career with care for a young child or the employer’s decision).\(^8\) Fixed-term workers frequently postpone having children due to too low and insecure pay and the related precarious financial situation of the household.\(^8\)

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\(^7\) Cf. A. Baranowska-Rataj, A. Matysiak, Czy znamy lekarstwo na niską dzietność. Wyniki międzynarodowych badań ewaluacyjnych na temat polityki rodzinnej, „Polityka Społeczna” 2012, no. 20, p. 8.


\(^7\) See Główny Urząd Statystyczny, Prognoza…


\(^8\) See Główny Urząd Statystyczny, Prognoza…, p. 52.


Working conditions, for instance flexitime, part-time work or telework, have a significant impact also on the quality of family life in case of employees caring of elderly or ill family members. Due to the society ageing, the problem of legal solutions which would make it easier for employees to stay on the labour market, while providing care for the elderly or ill family members, is becoming increasingly important.\(^{84}\)

The literature on the subject often lists the lack of flexible working hours among the factors making it difficult to combine the professional and family life.\(^{85}\) According to the GUS data published in 2010, the workplaces in Poland were characterised by low flexibility. Based on the same report, 86.7% employees worked under the fixed-hour or variable-hour work scheme defined by the employer. 61.0% of employees could not have a day off in exchange for overtime (or before overtime), or in case of shift work – exchange the days off with a co-worker. Only 14.0% of the surveyed employees could avail themselves of such an option, and 25.1% could benefit of the solution by way of exception.\(^{86}\)

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) conducted surveys in 2014 in 21 EU member states in 21,000 establishments, both in the public and private sectors. According to the surveys, 42% of the questioned employees regularly worked in non-standard hours, including at night between 10 p.m. and 6 a.m. and on weekends. The work in non-standard hours was most frequently performed on Saturdays (38% of the respondents). 24% of the respondents worked on Sundays, and 19% worked at night on a regular basis. Work on Saturdays was most often performed in Lithuania (56% of the respondents) and in the United Kingdom (53%). Those two countries also led in terms of work done on Sundays (48% and 41% of the respondents, respectively) and during the night (32% and 26%, respectively).\(^{87}\)

Too much time offered to the employer or a working time scheme inappropriately adapted to the employee’s needs often results in lack of time for family life and may lead to the trend of ageing society which is widespread in the highly developed countries. The literature on the subject points at the need of solutions which would allow balancing the professional and family life by removing conflicts of time, place and pressures arising between those two spheres. The conflict of time occurs primarily when family life must be subordinated to the working time scheme. In the case of the conflict of pressures, professional career enforces the conduct and actions which are dependent on the employee’s psychophysical


\(^{85}\) See, for instance, in M. Latos-Miłkowska, *Prawo pracy wobec prognoz* …, p. 3.

\(^{86}\) See in: *Praca a obowiązki rodzinne w 2010 roku*, GUS Warsaw 2012, pp. 29, 33 and 49.

aptitudes. This conflict arises, for instance, when the employee has to continue work after returning home.\textsuperscript{88}

The impact of working time on private life is well reflected in the eight-hour working day rule as stipulated by the First International of 1899 in Paris, which was promoted using a three eights slogan: eight hours of labour, eight hours of recreation and eight hours of rest.\textsuperscript{89}

According to Eurostat, in 2011 the average working time in the European Union stood at 37.4 hours per week. Those who worked the longest hours were employees in such countries as Greece, the Czech Republic, Bulgaria, Slovakia, Poland and Romania. The shortest weekly working time was noted in the Netherlands, Denmark and Ireland.\textsuperscript{90}

It should be mentioned that in Poland one of the reasons given for overtime work, not using annual holiday leaves and sick leaves is a widespread lifestyle where the highest and basic value is a professional career. In contrast with the real socialism period when a higher social status was associated with more leisure time, the free market economy gave rise to uneven distribution of time, and the attributes of a higher position on the labour market, professionalism and expertise became lack of time, acting in haste and under pressure, and exhaustion from overwork. Admitting to free time happens to be regarded as belittling. Such perception of both working and free time is undoubtedly much influenced by the threat of unemployment.\textsuperscript{91}

The quality of employees’ family life is impacted not only by the number of working hours but also by their distribution in particular days or weeks, as well as by the predictability of such working time schemes. Research shows that employees prefer work based on stable and regular schemes. Those result in a greater satisfaction with the work-life balance and any departure from regular schemes increase discontent. The best assessment of the work-life balance is achieved in the system based on regular work over five working days a week, performed during the day and standard work for 40 hours a week without long hours. “Regularity may be a more important condition for employees than flexible working hours adapted to other private duties.”\textsuperscript{92} A significant issue is also how much time in advance employees are notified of planned changes to their working time scheme. The shorter the notice about the changes, the worse assessment of the


work-life ratio. One of the most effective factors supporting the work-family life balance is the possibility of employees’ influencing their working time scheme.\textsuperscript{93} Awareness of the applicable working time scheme is a key issue for employees.

It should be noted that not every change in the working time introduced to the regulations with the aim to make it more flexible helps to reconcile the professional and family life. Those changes frequently serve especially the interests of employers who, aiming at liberalisation of the provisions, weaken the legal protection of employees.\textsuperscript{94}

Particular attention should be paid also to shift and night-time work, and its effect on fertility and the quality of family life among employees. Research shows that such work in case of women may bring negative results impacting even their fertility and reproductive capability. Continuous shift work which involves night hours may cause menstrual cycle disorders, increase the risk of a premenstrual syndrome, almost double the time needed to conceive, and is a risk factor in miscarriage, especially that occurring after 12 weeks of pregnancy. Shift and night-time female workers face the risk of premature birth and their babies are likely to have low birth weight and suffer from intrauterine growth restriction. Shift work aggravates also menopause symptoms and contributes to its earlier occurrence.\textsuperscript{95}

Protection of family life of employees by the European Union law and policies

The need of combining a professional career with family life has been recognised for years both globally and in Poland. The lowering rate of natural increase and the related negative socio-economic consequences, as well as the increased percentage of women in employment made the law-makers in Western Europe seek solutions enabling parents to attain the work-life balance (WLB).

In the European Union three types of priority actions support employees’ family life: promotion of family-friendly employment, efforts to facilitate the work-life balance and flexicurity policy. All the above endeavours positively affect the protection of employees’ family life in the EU.

The family-friendly employment (FFE) endeavours were initially aimed at women. They were made in the English-speaking countries (the US, Australia, the UK) as a response to the limited workforce caused by falling fertility rates

\textsuperscript{93} D. Foden, \textit{European surveys on working time and work-life balance}, results of the surveys presented at the conference on: \textit{Working time and its organization in the new EU member states. Economic, legal and societal aspects}, which took place in Warsaw on 14 June 2007.


and were intended to meet the needs of women with family responsibilities who joined the labour market. With time, also the similar needs of fathers raising children were recognised, as well as the needs of other employees performing various family duties.96

The family-friendly employment is most commonly understood as the aid to young parents, in particular mothers, in reconciling their professional career with child-raising. However, the literature on the subject indicates that the term should have a broader meaning as “making an effort to meet employees’ family needs at different stages of their life”.97

Actions taken in order to achieve the work-life balance (WLB) extend the scope of family-friendly employment activities and aim at meeting the diversified needs of employees related to combining work with different areas of their private life. The efforts to secure the WLB focus on most of the workforce and various forms of their private activity.98

The work-life balance concept covers activities the aim of which is to attain the balance between work and family, social and private life, with equal distribution of time and involvement between those two spheres and equal satisfaction derived from both areas.99

With respect to family life, the work-life balance means the degree of involvement and satisfaction derived from work and family life.100 The balance between work and private life is observed when professional work does not invade the private sphere, and vice versa, when private life does not take place at the expense of work.101 The literature on the subject rightly points out that the balance point between work and private life is not identical for every employee and depends on such factors as personal characteristics (age, sex, health, education, self-motivation, family situation, religion, upbringing, etc.), organization of an establishment (organizational culture, management style, human resources management, enterprise financial standing, etc.), local (regional) and national culture, the country’s economic situation, in particular on the labour market.102

100 Cf. J. Jeffrey, H. Greenhaus, M. Karen, M. Collins, J. D. Shaw, The relation between work-family balance…
The beginnings of the work-life balance concept date back to the 1980s when in the United States of America the idea was developed as a result of expectations of workers for whom key issues at work were such factors as the working environment or the possibility of combining professional duties with private life.\textsuperscript{103}

In the Lisbon Strategy launched in 2000, one of the four action priorities to stimulate employment policy indicated by the European Council was support for equal treatment, among others, by creating favourable conditions for combining work with family life.\textsuperscript{104} The Lisbon Strategy reviewed in 2005\textsuperscript{105} focused more on economic growth and employment, and it was concluded that if the strategy was to be successful, a better use should be made of a great potential of women on the labour market.

Reconciliation of work, family and private life is also one of the priority areas defined by the European Commission in its “Roadmap for equality between women and men” adopted in March 2006.\textsuperscript{106} The Commission lists three issues of key importance to better balancing of professional, family and private life:

1) flexible working arrangements for both women and men;
2) increasing care services;
3) better reconciliation policies for both women and men.

In the Communication of 3 October 2008 on “A better work-life balance: stronger support for reconciling professional, private and family life”,\textsuperscript{107} the European Commission defined the support for balancing work and private life as one of the priorities in the “Roadmap for equality between women and men 2006–2010”.\textsuperscript{108} The fundamental policy measures in this area are, according to the European Commission, childcare facilities, right to take leave and flexible working hours.\textsuperscript{109}

In recent years, the ‘flexicurity’ concept in regulating the labour market has become popular in Europe. This recent coinage is a combination of the words flexibility and security. The idea behind this term is to fuse flexibility of employment with social security of the employed. It is to be a response to the challenges of global economy with ensuring confidence of employees, in particular those in a less advantageous situation on the labour market. The flexicurity model rejects the perception of flexible employment as an aspect beneficial only for employers,

\textsuperscript{103} Cf. E. Mazur-Wierzbicka, CSR w dydaktyce, czyli jak uczyć studentów społecznej odpowiedzialności, Szczecin 2012, p. 141.

\textsuperscript{104} Cf. Strategia Lizbońska. Droga do sukcesu zjednoczonej Europy, Department of Economic and Social Analyses, Office of the Committee for European Integration, https://www.slaskie.pl/STRATEGIA/strat_L.pdf [access 10.11.2016].

\textsuperscript{105} COM(2005) 24.


\textsuperscript{109} COM(2008) 635 final, Większa równowaga…
and security as an aspect crucial exclusively for employees. Both factors need to be harmonized and complement each other for mutual benefits.\footnote{110}

The European Commission in its \textit{Employment in Europe 2006} report defines flexicurity as an optimum balance between flexibility and security of employees on the labour market.

In November 2007, the European Parliament supported the Communication from the Commission entitled “Towards Common Principles of Flexicurity: More and better jobs through flexibility and security”, and in December 2007 the Council adopted eight common flexicurity principles. One of them reads that “flexicurity should promote equality between sexes and offer possibilities to reconcile work and family life.”\footnote{111}

\textit{Europe 2020} strategy of 3 March 2010, in the Agenda for new skills and jobs, among the planned actions stipulates faster reforms in order to improve flexibility and security on the labour market (flexicurity).\footnote{112}

Protection of family life is one of the fundamental rights guaranteed in art. 33 of the Charter of Fundamental Rights of the European Union of 30 March 2010,\footnote{113} referred to as the Charter of Fundamental Rights. In accordance with art. 33(2) of the Charter, in order to reconcile family and professional life, everyone has the right to protection from dismissal due to reasons related to maternity and the right to paid maternity leave as well as to parental leave following birth or adoption of a child.

The above-mentioned regulation covers not only people with the employee status but everyone, i.e. also those who pursue activities as the self-employed. The protection of family life is guaranteed to both women and men.

Under the Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC repealing Directive 96/34/EC,\footnote{114} the reconciliation of family and professional responsibilities is one of the key parental rights.

### Protection of family life in labour law of selected European countries

The above discussion proves that appropriate labour law regulations and their execution can contribute considerably to better protection of family life of employees and their sense of balance between professional and private responsibilities.

\footnote{111} Ibidem.
\footnote{113} Official Journal of the European Union C 83/389.
\footnote{114} Official Journal of the European Union L 68/13.
The protective role for family life should primarily be played by provisions on working time (including working time length, working time scheme, overtime work, stem of duties, and daily and weekly rest), telework, payment schemes, including hourly rate schemes, parental leaves, annual holiday, paid child care leave, special protection of pregnant women, or limits on fixed-term employment.

One of the basic factors influencing the work-family life balance is the length and distribution of time which employees offer to their employer. A number of researchers consider the problem of the work-life balance first of all with respect to working time.\textsuperscript{115}

Numerous empirical studies confirm the claim that appropriate working time management and its proper length during the day, week, year and whole life as well as the amount of time off work, including intervals in the work schedule and annual holiday, have a significant impact on employees’ health and family life.\textsuperscript{116}

One of the most frequently mentioned solutions which support the reconciliation of professional and family responsibilities is part-time work. Overall, in 2004–2014 the EU countries recorded growth in the percentage of employees aged 15–64 who performed their basic work part time, from 16.7% in 2004 to 19.6% in 2014. The highest share of persons employed part time in 2014 was noted in the Netherlands (49.6%), followed by Austria, Germany, the United Kingdom, Denmark, Sweden, Belgium and Ireland, where almost one-fourth of the employed worked part time. Such employment model was relatively rare in Bulgaria (2.5% of the total employed), Slovakia, Croatia, the Czech Republic and Hungary (between 5.1% and 5.5%).\textsuperscript{117}

The part-time employment ratios differ by sex. In 2014 almost one-third (32.2%) of working women aged 15–64 were in part-time employment in the EU-28 member states, with only 8.8% of men employed on such basis. The highest share of women employed part time was recorded in the Netherlands. In 2014 over three-quarters (76.7%) of all women employed in that country worked on a part-time basis.\textsuperscript{118}

In practice, the above solution not always protects women from unequal treatment. An example may be the Netherlands where the government, for a number of years, strongly promoted part-time work by providing partial funding and conducting information campaigns. In the 1980s and 1990s, part-time work was regarded as a means to increase the number of women in the workforce. However, in the long-term it appeared that a high share of women employed part time led to discrimination against them on the labour market as most part-


\textsuperscript{118} See Eurostat, \textit{Employment statistics}...
time workers were women. Such form of employment sometimes proves to be a trap since women’s professional potential is not fully used. Moreover, part-time work is lower paid and limits promotion prospects. The increase in the number of working hours may, therefore, create favourable conditions for improvement of the professional status of women.

In the Netherlands, the numerous labour law solutions which support parenthood include, for instance, a ban on arranging the working schedule for pregnant women 28 days before the projected childbirth date (the period is extended by the time remaining between the probable and the actual childbirth) and for 42 days since confinement. A breastfeeding employee is entitled, during nine months after childbirth, to breastfeed her child or to express milk in comfortable conditions with respect to her privacy. If possible, the employer should provide for an adequate, private area which can be closed off. The duration and frequency of work breaks should be adapted to the needs and agreed on between the employee and the employer. The intervals are regarded as working hours and the employee preserves the entitlement to regular pay during them.

The regulation which does not find the equivalent the Polish Labour Code is the obligation of employers defining the working time schedules to communicate them to their employees 28 days ahead at the latest. Derogations from this rule may result exclusively from a collective agreement or, if such is not applicable to the employer, from a collective arrangement, or be permitted upon consent of the workers concerned if the collective agreement does not contain the relevant provisions. If there is no workers’ representation or works council in an establishment, the employer when drawing up or revising the working time schedule should discuss it in advance with the employees concerned.

Overtime work may be performed only sporadically. The collective arrangements often stipulate that permission from the labour inspector and/or the worker’s consent is required for work overtime. The Dutch Working Hours Act stipulates only the maximum (average and fixed) daily and weekly working time calculated together with overtime. The parties determine in collective arrangements the number of hours the exceeding of which should be regarded as overtime work.

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120 Cf. M. Gasińska, Czas pracy..., p. 90.
122 See Art. 4:8 ATW.
123 See Art. 4:2 (1-3) ATW.
124 See Art. 6:1 ATW.
On 26 October 1999, the Dutch Parliament adopted the Working Time Adjustment Act,\(^\text{125}\) which allows workers to request adjustment of the number and distribution of working hours to their needs. The employer is obliged to accept the request. The refusal to do so should be made in writing and may be justified by the business interest.\(^\text{126}\)

Among the labour law solutions supporting the reconciliation of professional and family life in force in eight post-communist countries out of ten covered by the 2004 enlargement of the European Union (the Czech Republic, Estonia, Lithuania, Latvia, Poland, Slovakia, Slovenia and Hungary), worth noting are provisions in some of those states which restrict overtime and night time work of persons raising children, limit employment during days officially defined as the days off or allow adjustment of the working time schemes to employees’ needs.

The Czech Republic and Slovakia have introduced the working time scheme where workers decide about the time of starting and finishing work. Based on this type of arrangement, the establishment’s working time scheme is defined where employees are required to be at work in a period of the day set by the employer and the remaining hours are left for the workers to arrange within the time scheme determined by the employer.

Labour law in most of the new EU member states treats Sundays as a particular day which should be the day of rest from work. There are diverse arrangements, though, as concerns the second day off in a week: in some of the countries (e.g. Estonia) this is Saturday, and in some other (e.g. Slovakia) such day is Monday. The legislation of all the states provides for situations where the employer may require work on Sunday, public holiday or any other day which is a day off.\(^\text{127}\) The solution in which the employee is entitled to another day off in a week just before or after Sunday is definitely better for combining professional and family life than two days off a week separated by working days.

The solutions favouring the work-family life balance may include the limitation on employment of workers raising children on days officially defined as public holidays or days off in the Baltic states, although the general regulations allow such possibility. For instance, in Lithuania, women after childbirth (until the child is one), breastfeeding women, workers raising a child up to three years of age, single parents of a child up to 14 years, or 16 years in case of the child’s disability, may be employed on days off work (i.e. Saturdays, Sundays and public holidays) only upon their consent.\(^\text{128}\)

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\(^{125}\) Wet aanpassing arbeidsduur (Working Time Adjustment Act).


In some EU member states, overtime work is restricted in various ways. The managing rights of the employer have largely been limited in Latvia and Estonia where overtime work may be performed only by those workers who give such consent. In Lithuania, inadmissible overtime work for people raising a disabled child without their consent also deserves approval. Employers in Latvia commissioning overtime work during six consecutive days have to seek permission of the competent labour inspector for further work under such schedule. In Hungary and Slovenia, it is required to provide a written request for overtime work.

The standard in many member states which joined the EU during accessions of 2004 is the prohibition of overtime work for pregnant women, which is unconditional (in Poland, Latvia, Estonia, Hungary) or conditional (in Lithuania). In Slovakia and the Czech Republic, part-time workers may not do overtime.\footnote{See in detail in M. Rycak, Prawne ograniczenia prawa do wypoczynku [in:] Czas pracy w nowych krajach członkowskich Unii Europejskiej. Aspekty ekonomiczne, prawne i społeczne, H. Strzemińska (ed.), pp. 214–234.}

A special attention should be paid to France which has successfully protected workers’ family life. It spends 3.8% of its GDP on family-friendly policy, compared to 2.4% on average in the OECD member countries. France ranks second in the European Union (behind Ireland) in terms of fertility rates (2.01 births per woman). 85% of women in France are professionally active. The social perception of a working mother is extremely positive in this country. She is regarded as proactive and participating in all spheres of life.\footnote{See Francja, kraj o jednym z najwyższych współczynników dzietności w Europie, http://www.amba-france-pl.org/Francja-kraj-o-jednym-z [access 10.11.2016].}

France for years has been pursuing family-friendly policy which is reflected, for instance, in a broad range of different family benefits and allowances, such as housing allowance, child benefit, child birth/adoption grant, parental leave for both parents of a child up to three years, availability and high quality of childcare in nurseries, tax reliefs, supplementary pension entitlements and special entitlements for families.\footnote{Ibidem, and Skąd we Francji tak wysoki przyrost naturalny?, „Gazeta Wyborcza” 27/06/2012, http://wyborcza.pl/1,76842,12018854,Skad_we_Francji_tak_wysoki_przyrost_naturalny_.html [access 10.11.2016].}

Parents of two or more children may give up work or reduce its time after childbirth and receive a flat-rate allowance due to providing care to the child until three years of age.

Maternity leave is mandatory and lasts for 16 weeks (two weeks of which must be taken before childbirth). The allowance paid during maternity leave amounts to 100% of the regular pay. The entitlement to benefits and allowances due to parenthood is available in respect of every person covered by social insurance for at least ten months before the predicted childbirth.

The state provides support also to parents taking care of ill or disabled children. Parents of a child with a grave illness or disability are entitled to paid leave or reduced working time (up to three years) until the child reaches 20 years of age. Single parents receive increased disability allowance for that period. A simi-
lar leave is available to workers who look after an elderly or ill family member residing with them in the same household.\textsuperscript{132}

Conclusions

1) The protection of family life of employees finds its axiological justification in the significance and functions that family has in everyone’s life and in every society;
2) The concept of family envisages protection of a complex social unit which is the sum of relationships primarily between parents and children, and in a broader sense, the term covers also other relations arising from blood ties or adoption;
3) The multitude of private life forms, alternative models of marital and family life recognised by some of the countries and the decreasing number of marriages give rise to the need for redefinition of family in order to acknowledge those changes;
4) Every employee’s life is composed of professional and private spheres;
5) Family life is one of the most significant components of private life and offers “a possibility of engaging in all activities which give the sense of fulfilment for the sake of forming, sustaining and nurturing bonds and relationships with immediate kin and related persons in the same household”;\textsuperscript{133}
6) Family life concerns not only persons residing in the same household and not always involves the relationship between spouses or between parents and children. The term “refers to the complexity of interpersonal relations resulting from blood ties or provisions of law”;\textsuperscript{134}
7) The term of family life, due to the changing family model regarded as the marriage-based relationship of a woman and a man having children, has a dynamic character;
8) Factors which influence reproductive decisions may be classified as demographic, economic and those related to the situation on the labour market;
9) Fertility rate is impacted considerably by the overall economic condition of a given country and projections of its future development. Changes of fertility rates are closely related to improvement or deterioration of the country’s economic situation;
10) In the absence of state support for childcare, young people frequently delay the decision about enlarging their family or they do not make such decision at all and subordinate their family life to work;

\textsuperscript{133} Cf. B. Kalinowska, Równowaga między życiem zawodowym a rodzinnym…, p. 84.
\textsuperscript{134} Cf. L. Garlicki, Komentarz do art. 8 Konwencji…, p. 518.
11) The increased activity of women and the widespread family model where the living is earned by both spouses are the social and economic trends which have established in the cultural consciousness in Poland and Europe;

12) Numerous studies prove that countries which have better adapted to the change in the traditional role performed by women in relationships, e.g. France or the Scandinavian states, report currently higher fertility rates than, for instance, Germany or Austria which favour the single breadwinner family model;

13) The assumption that fertility rates fall mainly because women cannot afford staying at home with children and promotion of solutions which would encourage professionally active women to give up work and focus on raising children are not supported by convincing evidence. An example of the opposite trend could be France which provides a relatively short 16-week paid maternity leave and which at the same time ranks second in the European Union in terms of fertility rate;

14) In Poland, a common practice is employment based on fixed-term contracts, which considerably lowers the sense of security, and hence has an impact on delayed childbearing;

15) Too long working hours at the employers’ disposal or working schemes not adapted to employees’ needs often result in lack of time for family life;

16) The work-life conflict affects not only employees but also, as research shows, enterprises where work-life balance is not ensured as those have trouble gaining a competitive advantage and sustaining profitability;

17) The work-life balance concept covers activities which aim is to attain the balance between work and family, social and private life, with equal distribution of time and involvement between those two spheres and equal satisfaction derived from both areas;

18) In the European Union, three types of priority actions support employees’ family life: promotion of family-friendly employment, efforts to facilitate the work-life balance and flexicurity policy;

19) The birth rate and female employment rate are distinctly higher in the EU member states which have introduced effective policies allowing women and men to reconcile their professional and family responsibilities;

20) A solution which entitles workers to another day off in a week just before or after Sunday favours the work-family life balance;

21) It seems that legal provisions which make the possibility of non-standard working schemes resulting from special requirements of the employer dependent on workers’ consent deserve approval in the context of family life protection;

22) The solutions which support the work-family life balance include, for instance, a restriction in force in the Baltic states on admissibility of work on the days officially off which applies to workers raising young children;
23) Flexitime, when employees partially decide about the hours of starting and finishing work, supports reconciliation of professional and family responsibilities;

24) Particular attention should be drawn to the example of France which for years has actively pursued a family-friendly policy, also with respect to parents looking after ill or disabled children;

25) The participation of workers’ representation, trade unions in particular, should be encouraged as regards shaping provisions supporting family life of the employed;

26) The above discussion substantiates the thesis that appropriate labour law provisions and their enforcement may considerably contribute to increased protection of employees’ family life and their satisfaction with reconciling professional and family responsibilities.

The concept of family life and its legal protection under labour law in selected European states

(Summary)

The paper entitled The concept of family life and its legal protection under labour law in selected European states, following the Introduction which presents alarming demographic forecasts, discusses the concept of family, its functions, as well as the idea of family life and its significance for every person, including an employee. Subsequent sections analyse the results of statistical and sociological studies on economic, demographic and socio-cultural factors which impact reproductive attitudes and the quality of workers’ family life. The author examines also the influence which systemic factors and working conditions exert on the workers’ quality of life, in particular such as working time and its schedule, pay, as well as parental leave. The subject of the discussion presented in the paper covers also the issue of protection of employees’ family life in the European Union policies and legislation, with special focus on the work-life balance and flexicurity concepts. The last section contains the review of labour law solutions with respect to protection of family life in selected European countries, like the Netherlands, France, the Czech Republic, Estonia, Lithuania, Latvia, Poland, Slovakia, Slovenia and Hungary. The Conclusions, including those de lege ferenda, encapsulate the discussion and support the claim that appropriate labour law provisions and their enforcement may contribute to increased protection of employees’ family life and their satisfaction with reconciling professional and family responsibilities.

Keywords: family, family functions, family life, protection of family life, balance between professional and family responsibilities, work-life balance, flexicurity, family-friendly employment, fertility rate, reproductive decisions, flexible working hours, flexitime schedule, maternity leave