

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Directive on parental leave and leave for family reasons*(COM(83) 686 final)**(Submitted by the Commission to the Council on 24 November 1983)*

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the
European Economic Community, and in particular
Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European
Parliament,

Having regard to the opinion of the Economic and
Social Committee,

Whereas the Commission, in its communication to
the Council of 9 December 1981 on a new
Community Action Programme on the promotion of
equal opportunities for women 1982-1985 ⁽¹⁾,
undertook to take action to promote parental leave
for family reasons;

Whereas the Council, in its resolution of 12 July 1982
on the promotion of equal opportunities for
women ⁽²⁾, approved the general aims of the
Commission communication and expressed the will to
implement the appropriate measures to achieve such
aims;

Whereas there are disparities between the Member
States in national provisions on parental leave and
leave for family reasons, great enough to affect the
compatible functioning of the common market;
whereas it is appropriate to remedy this by an approxi-
mation of laws towards the most advanced provisions
in the terms of Article 117 of the Treaty, under
conditions such as will improve the standard of living
and working conditions of the labour force;

Whereas it is necessary to ensure respect in this area
for the principles of equal treatment as laid down in
Council Directive 76/207/EEC of 9 February 1976
on the implementation of the principle of equal

treatment for men and women as regards access to
employment, vocational training and promotion, and
working conditions ⁽³⁾,

HAS ADOPTED THIS DIRECTIVE:

SECTION 1

General provisions*Article 1*

For the purpose of this Directive:

Parental leave shall mean entitlement to leave of a
given duration to wage-earners, fathers, mothers,
including staff working in the public sector, conse-
quential upon the birth of a child, during the period
following the termination of maternity leave, or to
workers, as defined above, on the adoption of a child
during the period following its reception in the
adoptive parents' household, during which period of
leave the beneficiary takes responsibility for the actual
care of the child.

Leave for family reasons shall mean entitlement to
short periods of leave granted for pressing family
reasons to workers with family responsibilities.

Article 2

1. This Directive is designed to entitle workers to
parental leave and leave for family reasons under
harmonized conditions in the Member States.

2. Provisions for the implementation of this
Directive ensure that there shall be no discrimination
whatsoever on grounds of sex whether directly or
indirectly by reference, in particular, to marital or
family status.

⁽¹⁾ COM(81) 758 final.

⁽²⁾ OJ No C 186, 21. 7. 1982, p. 3.

⁽³⁾ OJ No L 39, 14. 2. 1976, p. 40.

3. This Directive shall be without prejudice to provisions granting paternity leave to a father on the birth of a child.

Article 3

1. All wage-earners, including staff working in the public sector, are entitled to parental leave and leave for family reasons.

2. Part-time workers shall be entitled to parental leave and leave for family reasons. Any allowance granted or period of insurance credited shall be calculated on the same basis as and in proportion to those of full-time workers in the same situation.

SECTION 2

Parental leave

Article 4

1. Parental leave shall be granted to enable a working parent to stay at home in order to take sole or principal charge of his or her child.

2. Parental leave shall constitute a right and not an obligation. It shall be granted to a working parent on request subject to the following provisions:

- the workers shall give adequate notice of their intention to take parental leave;
- the workers shall give adequate notice of their intention to return to work after parental leave;
- in no case shall the period of notice required exceed two months.

3. The period of parental leave to which workers are entitled shall be at least three months.

4. The duration of parental leave may be extended for the single parent in the case of one-parent families or for both parents where the child is handicapped and lives at home.

5. Entitlement to parental leave shall cease when the child reaches the age of two years, or five years in the case of a handicapped child living in the household of the entitled parent, or of an adopted child.

6. A worker's right to parental leave shall not be transferable.

Article 5

1. Parental leave shall be accorded as a continuous period of either full-time leave or, with the agreement of both the individual parent and the employer concerned, as part-time leave, the period during which leave is taken being extended proportionately.

2. Where parental leave is taken in part, entitlement to the remaining part shall cease.

3. Parental leave may be made subject to a requirement regarding length of service or employment, which must not, in any case, exceed one year.

4. Parental leave shall be suspended in the event of the illness of the parent on leave, within the limitations set in Article 4 (5).

5. Periods of parental leave or leave for family reasons shall not prejudice any entitlements acquired or in the process of being acquired.

6. Periods of parental leave shall be credited in the same manner as periods of maternity leave for the purposes of periods of insurance as regards sickness, unemployment and invalidity benefit and old-age pensions.

7. On termination of the leave, the worker shall return to the same job or be assigned to an equivalent job.

Article 6

1. During parental leave, workers may receive a parental leave allowance.

2. This allowance should be paid from public funds, social security systems included.

Article 7

Provisions limiting recourse to temporary work shall not prevent employers from replacing workers absent on parental leave.

SECTION 3

Leave for family reasons

Article 8

1. Workers shall be entitled to claim a minimum number of days leave per annum (to be laid down by the Member States) for pressing family reasons.

2. The following amongst others shall be considered as pressing family reasons:

- illness of a spouse;
- death of a near relative;

- wedding of a child;
 - illness of a child, or the person caring for the child.
3. The duration of this leave as provided for in paragraph 1 may be extended where:
- the beneficiary is head of a single-parent family;
 - the beneficiary concerned has three or more children living at home, under an age limit to be determined.
4. For the purposes of remuneration, social security contributions and allowances and pension entitlements, periods of leave for family reasons shall be assimilated to paid holidays.

SECTION 4

Final provisions

Article 9

Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves wronged by failure to apply this Directive to pursue their claims by judicial process, possibly after recourse to other competent authorities.

Article 10

Member States shall take the necessary measures to protect workers against dismissal by the employer as a reaction to any steps taken by the worker aimed at enforcing compliance with the provisions of this Directive.

Article 11

This Directive shall be brought to the attention of employers and workers, emphasizing the availability of parental leave and leave for family reasons to working parents of both sexes.

Article 12

1. Member States shall introduce the laws, regulations and administrative provisions necessary in order to comply with this Directive and put it into effect at the latest by⁽¹⁾.

2. Member States shall abolish or amend any laws, regulations or administrative provisions contrary to the provisions of this Directive and shall take the measures necessary to ensure that similar provisions in collective agreements, individual contracts of employment and internal rules of undertakings are likewise abolished or amended.

3. Member States shall immediately inform the Commission of measures taken in compliance with this Directive.

4. Member States shall ensure that adequate machinery exists to enable measures introduced in implementation of this Directive to be enforced especially with regard to the principle of equal treatment of male and female workers.

Article 13

1. By⁽²⁾ at the latest, Member States shall transmit to the Commission all relevant information to enable the latter to draw up a report on its application for submission to the Council and the European Parliament.

2. By⁽²⁾ at the latest and every three years thereafter, the Member States shall transmit information to the Commission with respect to progress made in the application of this Directive, trends in the use of the provisions contained therein and the evolution of public childcare facilities and services to enable the Commission to draw up a report for the Council every three years.

Article 14

This Directive is addressed to the Member States.

⁽¹⁾ Date to be inserted, being two years from the date of notification.

⁽²⁾ Date to be inserted, being three years from notification.