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**COMMISSION STAFF WORKING DOCUMENT**

*accompanying the*

**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**

**Impact Assessment Report**

{COM(2008)637}  
{SEC(2008)2595}

**Disclaimer: This impact assessment report commits only the Commission's departments involved in its preparation; it has been prepared as a basis for comment and does not prejudice the final form of any decision to be taken by the Commission.**

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## COMMISSION STAFF WORKING DOCUMENT

Proposal for non-binding measures and for legislative action to promote better reconciliation of private, family and working life and to supplement the existing EU framework

### Extended Impact Assessment

#### 1. EXECUTIVE SUMMARY

##### Executive summary:

The Commission prepared this Impact Assessment on the basis of the legislative options designed to improve reconciliation which were outlined in the 2007 second-stage consultation of the European social partners<sup>1</sup>. In July 2008 the social partners confirmed their intention to engage in the negotiation procedure under Article 138 EC on the basis of certain of the options. The Commission is limiting its current proposal to a reform of the existing Directive 92/85/EEC on maternity protection and leave, since the social partners have confirmed that they do not intend to cover this in their negotiations. However the Impact Assessment is published in full since the option of amending the maternity leave provisions has to be seen in the broader context of family related leave provisions.

Gender equality is one of the main objectives of the European Union to be achieved via all the Union's policies<sup>2</sup>, and the Commission's Roadmap on Equality between women and men<sup>3</sup> highlights the need for women and men to participate to an equal extent in the labour market. The importance of policies to support the reconciliation of professional, private and family life is now widely recognised<sup>4</sup> – and has become an economic imperative as demographic and competitive pressures highlight the need to optimise labour market participation. Furthermore, there is a positive correlation between fertility rates and labour market participation: Member States with more women in employment are the countries where the fertility rates are higher.

But in practice, it is mainly women who – for reasons of economic necessity rather than free choice - make use of reconciliation facilities like family-related leave, flexible working hours, part-time work and so on in order to balance their private and professional lives. As a consequence there is a gap in women's and men's participation in the labour market. The employment rate of women falls when they have children while the opposite is true for men. In 2007, the employment rate of women between 25 and 49 with dependent children was 65% compared with 92% for men with dependent children. The gender pay gap is also caused to a certain extent by reconciliation problems women face: they have disjointed, slower and shorter careers which are thus less financially rewarding. The fact that mainly women and not men take long parental leave periods perpetuates gender-related stereotypical assumptions about women's domestic responsibilities and aptitudes for employment.

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<sup>1</sup> [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/reconciliation2\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/reconciliation2_en.pdf)

<sup>2</sup> Article 2 and 3(2) EC Treaty.

<sup>3</sup> COM (2006)92.

<sup>4</sup> COM(2008) 599

The current legal framework<sup>5</sup> provides for a minimum entitlement of 14 weeks of maternity leave paid at least at the level of sick leave, and for a three-month unpaid parental leave entitlement for each parent. The duration and the exact conditions of adoption leave are not fixed in the current framework nor is the right to paternity leave and 'filial' leave (leave to care for dependent family members).

The Commission consulted the European social partners in a two-stage process in 2006 and 2007 as well as Member States and NGOs in 2007 and 2008 to obtain their view on possible legislative and non-legislative measures in the area of reconciliation.

The objectives of any action would be to achieve more gender equality in labour market participation rates and a better reconciliation of professional, private and family lives. These main objectives would translate into boosting the employment rates of women with children, widening the scope of family-related leave and making it more worthwhile as well as reducing the gender imbalance in doing so, providing financial support during family-related leave and reducing discrimination. A number of possibilities were examined and then narrowed down to the following options: no action at EU level, dissemination of good practice, amending the maternity leave rules (Directive 92/85/EEC), amending the parental leave rules (Directive 96/34/EC), making more specific provision for adoption leave and introducing two new forms of leave - paternity and filial leave.

The conclusion is that failing to act at EU level is not an option. Raising the female employment rate is a central part of the Growth and Jobs strategy and, given the impact that having children has on women's labour market participation, the Commission has identified enhanced reconciliation as one of the six priorities in its Roadmap on Equality between women and men. There is widespread support from Member States and stakeholders for action, though views differ on its form.

Non-legislative measures (exchanges of good practice, social partners' initiatives, for example) will continue in any case as will other measures to increase the employment rate of women. But they will not be enough to address the specific problem of gender imbalance in the take-up of family-related leave. Action at the EU level is justified in order to adapt the already existing provisions to the new challenges and continue to maintain a level playing field between Member States in terms of protection of pregnant women.

Taking into account the results of the consultation process as well as the results of a study commissioned by the Commission, the remaining options are considered to be of value in helping to better reconcile work and family life and achieving more gender equality in labour market participation rates.

The option of extending the duration of maternity leave and offering better compensation was considered to be a good way to improve the ability of women to reconcile childbearing with remaining in the labour market. It would give the mother longer to recover from giving birth and to bond with the child. (It should be noted that no change would be needed in many Member States.) Also, it seems appropriate to provide for the right to ask for flexible working conditions when coming back from maternity leave in line with the revised working time

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<sup>5</sup> 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; Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave.

directive currently under discussion in the Council and the European Parliament. Taken together, these measures could make it easier for women to return to work after childbirth and so avoid that they drop out of the labour market altogether. This is especially relevant for the 14% of households with dependent children which are managed by a single parent, usually the mother.

The costs of this option arise from longer leave and higher compensation in the Member States where change is needed as well as the costs of replacing the absent worker. To avoid that these costs fall unduly on businesses especially smaller ones, the Commission proposal allows Member States to cap the maternity allowance. Member States also remain free, as now, to determine the share of the allowance which is financed by the state.

For two parent households in particular, an important complement to maternity leave would be to extend parental leave for one month under the condition that both partners take a certain amount of that leave and ensuring a payment for this leave as well as the introduction of other/new forms of leave (adoption leave equal to parental leave, 10 days paid paternity leave and 1 month unpaid filial leave).

Safeguards should be introduced to ensure that parents taking these forms of leave will not suffer discrimination.

In conclusion, improving the entitlement to family-related leave alongside other measures notably the better provision of childcare will help women and men to achieve better reconciliation between work and private life. The starting point is an adequate maternity leave provision for the mother complemented by parental leave to be taken by either parent. The impact assessment therefore concludes that a proposal for amending the maternity leave rules (Directive 92/85/EEC) remains at this stage a very useful measure in order to improve reconciliation and can be taken into account by the social partners in their negotiations on other forms of family-related leave.

## 2. INTRODUCTION

Gender equality is one of the main objectives of the European Union to be achieved via all the Union's policies<sup>6</sup>. The Lisbon Strategy is one of the means to achieve it. Measures to improve gender equality can contribute to the goal of more growth and better jobs. Europe's welfare states are confronted with new family models and gender roles as well as with demographic pressure from an aging population. As Europe shifts towards 'dual earner' families<sup>7</sup>, employees increasingly face new challenges, such as reconciling work and family life, single parenthood, providing care for relatives and insufficient social security coverage<sup>8</sup>. Among the major instruments available to help women and men cope with a changing society are reconciliation measures and reconciliation policies<sup>9</sup>.

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<sup>6</sup> See in general, on development in this area 2008 report of the Commission on equality between women and men, COM(2008)10 final.

<sup>7</sup> Commission Communication: Access and solidarity: towards a new social vision for 21<sup>st</sup> century Europe, COM(2007) 726 final.

<sup>8</sup> The EU and new social risks: the need for a differentiated evaluation, Treib/Falkner, paper 2004.

<sup>9</sup> Measures supporting a combined professional, family and private life, and as such may refer to a wide variety of policies, including childcare services, leave facilities, flexible working arrangements and other measures, such as financial allowances during family-related leave.



## 2.1. Background and institutional context

Gender equality has been an objective of the **European Employment Strategy (EES)** since its inception in November 1997 and since the entry into force of the Amsterdam Treaty, when the EES was launched. The new EES is framed in the (renewed) Lisbon Strategy for Growth and Jobs establishing the Integrated Guidelines<sup>10</sup>. At the Lisbon European Council (March 2000), the European Union set itself a new strategic goal for the next decade — the '**Lisbon Strategy**' — to make Europe more dynamic and competitive. The importance of gender equality in the Lisbon process is reflected in the quantitative targets to be achieved by 2010, namely a female employment rate of at least 60%. The Barcelona European Council in March 2002 concluded that Member States should remove disincentives to female labour force participation and fixed targets for childcare<sup>11</sup>.

The **Joint Employment Report 2006/2007** called for further policies to promote child and elderly care and stated that reconciliation of work and family life would continue to improve the position of women<sup>12</sup>. The Joint Employment Report 2007/2008<sup>13</sup> recognised that '*the progress in the field of gender equality has been mixed*'. It also stated that Member States '*are far from reaching the childcare targets and most do not even refer to them in their national strategies*'.

The **European Parliament** has consistently called for improvements to the existing Community legislation on maternity and parental leave<sup>14</sup> and, in its May 2008 proposals to amend the new Employment Guidelines, called for the provision of parental and other leave schemes<sup>15</sup>. In its resolution of 21 February 2008 on the demographic future of Europe<sup>16</sup>, Parliament called on the Member States to adopt best practices as regards the length of maternity leave and pointed out that it is possible to influence birth-rate curves favourably through coordinated public policies, by creating a family- and child-friendly material and emotional environment. In its resolution of 27 September 2007<sup>17</sup> it urged the Member States to mutualise the costs of maternity and parental leave allowances in order to ensure that women no longer represent a more costly source of labour than men and welcomed the consultation procedure on reconciliation with the social partners. It also called on the Member States, in conjunction with both sides of industry, to combat discrimination against pregnant women on the labour market and to take all necessary steps to ensure a high level of protection for mothers, and asked the Commission to make a more detailed assessment of

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<sup>10</sup> In the Integrated Guidelines 2008-10, gender equality is mentioned as a general principle (gender mainstreaming), and is also dealt with under Guideline 18 ('promote a lifecycle approach to work'), see COM(2007)803, part V, [http://ec.europa.eu/growthandjobs/pdf/european-dimension-200712-annual-progress-report/200712-annual-report-integrated-guidelines\\_en.pdf](http://ec.europa.eu/growthandjobs/pdf/european-dimension-200712-annual-progress-report/200712-annual-report-integrated-guidelines_en.pdf)

<sup>11</sup> Provision for at least 90% of children between three years and the mandatory school age and for at least 33% of children under three years.

<sup>12</sup> See footnote 6, p. 10.

<sup>13</sup> Of 3 March 2008 adopted by the Council (EPSCO) at its session on 29 February 2008, page 9. Moreover, the Joint Employment Report 2007/8, page 4, makes the point that '*the responsiveness of European labour markets to the challenges of globalisation and ageing remains insufficient*'. For example, Resolution 2003/2129(INI), P5\_TA(2004)0152), point 26.

<sup>15</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0207+0+DOC+XML+V0//EN&language=EN>

<sup>16</sup> 2007/2156 (INI), points 14 and 15, at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0066+0+DOC+XML+V0//EN&language=EN>.

<sup>17</sup> 2007/2065(INI) at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2007-0423>, point 13, 28 and 29.

compliance with Community law in this area and to determine whether it needed to be revised.

The Commission's approach to gender equality is to combine mainstreaming with specific actions. The **Roadmap for equality between women and men 2006-2010**<sup>18</sup> sets six priorities for action, the first being to achieve equal economic independence for women and men. Another of the priorities, reconciliation, directly contributes towards this.

The Commission's approach and its priorities were backed by the March 2006 European Council in the **European Pact for Gender Equality**<sup>19</sup>. The Pact encourages the Member States to implement policies to promote women's employment and a better work-life balance for all (Barcelona targets in childcare, care facilities for other dependents, and promotion of parental leave). The Council conclusions of December 2007 on 'Balanced roles of women and men for jobs, growth and social cohesion'<sup>20</sup> called on the Commission to act in the area of reconciliation.

The **European social partners** play an important part in the area of reconciliation, too. Their framework agreement on parental leave in 1995 was enacted, in its totality, via the 1996 Parental Leave Directive. This was the first agreement between the social partners to benefit from the provision under Article 139(2) EC Treaty which gave the social partners a privileged role in creating Community legislation. Furthermore, they adopted, in March 2005, a Framework of Actions on gender equality including as one of the priorities actions to support work-life balance (see further reference below under 5.1.).

The **Commission's work programme 2008 (CLWP)** includes a proposal to amend Directive 92/85/EEC as a priority initiative<sup>21</sup> while the catalogue complementing the CLWP 2008 contains, firstly, a proposal amending Directive 96/34/EC<sup>22</sup> in view to enhance the reconciliation of professional, private and family life by improving existing parental leave provisions and, secondly, a proposal for a Directive providing for adoption, paternity and 'filial' leave<sup>23</sup> in line with the Commission's intention to review the existing EU gender equality legislation not included in the 2005 recast exercise.

### 3. CONSULTATIONS

As the Commission consulted the social partners, the Member States and several European NGOs active in the area, the information received was considered to be sufficient in terms of representation of the different interests. An additional public consultation was not considered necessary.

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<sup>18</sup> COM(2006) 92 final

<sup>19</sup> See paragraph 40 of conclusions in [http://ue.eu.int/uedocs/cms\\_Data/docs/pressdata/en/ec/89013.pdf](http://ue.eu.int/uedocs/cms_Data/docs/pressdata/en/ec/89013.pdf).

<sup>20</sup> <http://register.consilium.europa.eu/pdf/en/07/st14/st14136.en07.pdf>, particularly paragraphs 12 and 13.

<sup>21</sup> See under 2008/EMPL/025 in the catalogue of priority initiatives, [http://ec.europa.eu/atwork/programmes/docs/clwp2008\\_roadmap\\_priority\\_initiatives.pdf](http://ec.europa.eu/atwork/programmes/docs/clwp2008_roadmap_priority_initiatives.pdf) and in COM(2007)640 final, Commission Legislative and Work Programme 2008, COM(2007)640 final, p.26.

<sup>22</sup> See 2008/EMPL/024 in the Forward programming 2008.

[http://ec.europa.eu/atwork/programmes/docs/forward\\_programming\\_2008.pdf](http://ec.europa.eu/atwork/programmes/docs/forward_programming_2008.pdf).

<sup>23</sup> See 2008/EMPL/026, [http://ec.europa.eu/atwork/programmes/docs/forward\\_programming\\_2008.pdf](http://ec.europa.eu/atwork/programmes/docs/forward_programming_2008.pdf).

### 3.1. Consultation of social partners

The European social partners were consulted by the Commission in 2006 and 2007 in two stages<sup>24</sup>, following the procedure laid down in Article 138(2) and (3) of the EC Treaty. In the light of the responses to the first consultation, the Commission identified a number of options for change, namely to amend the provisions for maternity leave, and an option to introduce other types of leave (paternity leave, adoption leave and 'filial leave' in order to care for dependent family members). A number of options for possible amendments to the framework agreement on parental leave annexed to Directive 96/34/EC were also identified. In response to the second-stage consultation, four social partners<sup>25</sup> decided to set up a joint working group within the context of the European social dialogue to carry out a review of the framework agreement on parental leave. The social partners confirmed in July 2008 that they will enter into formal negotiation in accordance with Article 138 EC.

### 3.2. Consultation of the Member States and the Advisory Committee

In December 2007 the Commission consulted the Member States to gather information on the legal situation regarding all forms of family-related leave arrangements and to ascertain their views on options for amending the existing legislation. The Member States' views on possible amendments to the *acquis* vary significantly<sup>26</sup>. Nine Member States are against any alteration of the leave arrangements at EU level<sup>27</sup>, three Member States<sup>28</sup> are in principle opposed to changes but could support changes in some areas and the rest of the Member States supports changes.

The Advisory Committee on Equal Opportunities for Women and Men<sup>29</sup> adopted an opinion on the introduction of new forms of leave (paternity leave, adoption leave and 'filial' leave) in written procedure on 3 July 2008<sup>30</sup>. The majority of the Advisory Committee believes that there is a need for further European Union legislation in this policy area of reconciliation of work and family life with a particular emphasis on further developing statutory leave entitlements. The Advisory Committee further develops the possible content of modernised legislation.

The positions of the Member States and of the Advisory Committee on Equal Opportunities are addressed later in this Report in the assessment of the different options.

### 3.3. Consultation of European non-governmental organisations (NGOs)

In December 2007 the Commission consulted several European NGOs by questionnaire to ascertain their views on options for amending and supplementing the existing legislation on leave arrangements in connection with reconciliation. In general, they welcome the idea to offer better reconciliation facilities. The results of the consultation are given in Annex II.

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<sup>24</sup> Details in Annex II under 'Consultation of European Social Partners'.

<sup>25</sup> ETUC, BUSINESSEUROPE, CEEP and UEAPME (find explanations for the abbreviations in Annex II).

<sup>26</sup> See Annexes II and III.

<sup>27</sup> Czech Republic, Denmark, Ireland, Latvia, The Netherlands, Malta, Poland, UK and Sweden.

<sup>28</sup> Estonia, Finland and Romania.

<sup>29</sup> Including members from Member States, equality bodies, social partners and NGOs.

<sup>30</sup> see under

[http://ec.europa.eu/employment\\_social/gender\\_equality/docs/2008/opinion\\_newforms\\_en.pdf](http://ec.europa.eu/employment_social/gender_equality/docs/2008/opinion_newforms_en.pdf).

### 3.4. External and other expertise

In December 2007 the Commission commissioned a study on costs and benefits of reconciliation measures from the ECORYS Group (cited as 'ECORYS study'). The final results, entitled *Study on the costs and benefits of options to improve provisions for the reconciliation of work, private and family life*, is published on the website<sup>31</sup>. The executive summary is reproduced in annex VI. The study categorised the Member States according to the main characteristics of their parental leave and maternity leave schemes and their type of welfare scheme. ECORYS then selected eight Member States<sup>32</sup> considered to be representative of the 27 Member States to calculate the costs and benefits of amended family leave schemes. The assumption in the study is that the implementation of the improved leave forms would start from 2008 and then the results show the consequences for a twenty-year period, 2008-2027. (A full explanation of the methodology is explained in the appendix to the study.)

The network of national legal experts on gender equality delivered a report in 2007 on *Pregnancy, Maternity, Parental and Paternity Rights*<sup>33</sup> and in 2008 a report on *Legal Approaches to Some Aspects of the Reconciliation of Work, Private and Family life* (i.e. on questions such as part-time work, adjustment of working time, job sharing, lifecycle approaches in working patterns, support for child-care facilities) in thirty European countries<sup>34</sup>.

In order to have input from other Commission services, an internal Interservice Group was established<sup>35</sup>. It met twice.

### 3.5. Amendments to the impact assessment following the opinion of the Impact Assessment Board

Following the opinion from the Impact Assessment Board of 16 July 2008, a more thorough analysis of the problem has been developed and the discussion of the different options in sections 7 and 8 is better related to the achievements of the two objectives of more equality in labour market participation and better reconciliation of professional, private and family life as well as to the specific objectives (the overview table after each option have been adapted). The problem definition under point 4 now highlights how the options address the problems and how the situation can be influenced by better reconciliation measures. The analysis of the problem related to the lack of childcare facilities has been deepened and is addressed in more detail under point 4.2.2. The differences between the social models in the Member States are explained under point 5. using the example of parental leave. The choice of the respective options has been explained more fully in the beginning and linked more clearly to the problems and the objectives.

The conclusions for the different options now take into account Member States' need to adapt. A table on the comparison of the different options has been added under point 8.4. Following analysis of the opinion of the Advisory Committee on Equal Opportunities for Women and Men, and the announcement of the social partners to negotiate in this area, the judgement on

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<sup>31</sup> [http://ec.europa.eu/employment\\_social/gender\\_equality/legislation/new\\_legislation\\_en.html](http://ec.europa.eu/employment_social/gender_equality/legislation/new_legislation_en.html).

<sup>32</sup> Belgium, Denmark, Estonia, Spain, France, Hungary, Poland and UK.

<sup>33</sup> [http://ec.europa.eu/employment\\_social/gender\\_equality/legislation/report\\_pregnancy.pdf](http://ec.europa.eu/employment_social/gender_equality/legislation/report_pregnancy.pdf).

<sup>34</sup>

<sup>35</sup> Members from the following Directorates General: LS, ENTR, ECFIN, ESTAT, JLS, SG.

the options has been revisited taking into account the evolving political context. In particular, the evaluation of the option to improve the conditions of maternity leave has been changed.

As this resulted in significant changes in comparison to the original draft impact assessment on which the Impact Assessment Board delivered an opinion on 16 July 2008,, a revised draft of this impact assessment was submitted to the Impact Assessment Board on 17 September 2008 in order to receive a renewed opinion.

Following the second opinion of the Board of 23 September 2008), further modifications to the report were introduced, mainly in Sections 1 (Executive summary), 5 (Description of existing EU legislative instruments and the situation in the Member States) and 8 (Impact analysis), in order to, i.a., demonstrate more clearly why the Maternity Leave Directive should be amended and provide a more thorough assessment of the impact of the proposed amendments.

## 4. PROBLEM DEFINITION

### 4.1. An overview of the problem

The need for reconciliation policies is now accepted at EU level. As explained in a recent Commission Communication<sup>36</sup>, successful reconciliation is relevant to a number of key policy objectives while, at the personal level, they mean that women and men do not have to make trade-offs between having a fulfilling private, family and professional life. They can enable both women and men to exercise real choices in this area and, in particular, they can result in an increase in the employment rate of women and a decreased women's unemployment rate. They can also reduce gender segregation in the labour market and close the gender pay gap. However, the reality is that, even where various flexible working arrangements have been put in place to support reconciliation, they are used much more by women than by men for reasons of economic necessity rather than free choice. This means that these arrangements do not have the impact on female labour market participation that they could.

As noted in the Impact Assessment<sup>37</sup> supporting the Commission Communication on A Renewed Social Agenda<sup>38</sup>:

*Both women and men do not always have sufficient opportunities to strike a work-family life balance (for instance, through access to childcare facilities and flexible working arrangements), but this affects women more: domestic and family responsibilities are still unequally distributed. The disadvantaged position of women in accessing the labour market has consequences in terms of the higher risk of exposure to poverty among women, particularly older women. Among people over 65 years, the risk was significantly higher for women than for men in the EU-25 in 2005 (21% as against 16%).*

Despite the increase in the participation of women in the labour market, the **pay gap** has remained steady at 15% from 2003 to 2007, and has narrowed by only one point since 2000<sup>39</sup>. This pay gap is to a certain extent due to the problems women face in reconciling professional

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<sup>36</sup> Cf COM(2008)599

<sup>37</sup> SEC(2008)2156

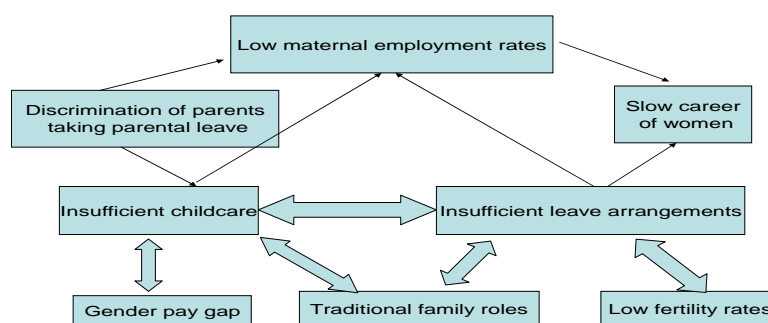
<sup>38</sup> COM(2008)412

<sup>39</sup> Definition used by Eurostat: 'The gender pay gap is given as the difference between average gross hourly earnings of male paid employees and of female paid employees as a percentage of average gross hourly earnings of male paid employees.'

and private obligations. In its 2007 Communication<sup>40</sup> on the Gender Pay Gap, the Commission pointed to the link to the imbalance in this area:

*Although part-time work may be a personal choice and encourage the involvement of women in the workplace, the gap between women and men underlines the fact that they do not use their time in the same way and that the task of looking after dependent family members is largely borne by women. The lack of accessible, affordable and good quality childcare reinforces this lack of balance. In the same way, far more women than men choose to take parental leave. Parenthood permanently reduces the employment rate of women but not that of men. As a result, women have careers which are more disjointed, slower and shorter and thus less financially rewarding.*

This part of the Report reviews the difficulties women and men – but especially women - face in reconciling their professional and private/family lives and the impact that this has both on gender equality and on growth and jobs. The interdependence of the problems is illustrated by the following diagram:



The following sections look first at the factors related to reconciliation which influence female/maternal employment rates, then at workplace discrimination experienced by the parents of small children, and lastly at the gender imbalance in the take-up of family-related leave.

## 4.2. Factors influencing female employment rates

### 4.2.1. The impact of family responsibilities on labour market participation and on careers

Female employment has been the main factor in the steady growth of employment in the EU in recent years. Between 2000 and 2007 employment in EU-27 grew by nearly 16 million, including almost 10 million women. The employment rate gap between women and men fell from 17.1 percentage points in 2000 to around 14 percentage points in 2007. However, these figures conceal the stark impact of having children : the employment rate for women with dependent children in 2007 was only 65.5%, compared with 91.7% for men<sup>41</sup>, a difference of more than 26 points. The figures for 2007 show that the employment rate of women between the age of 25 and 49 falls by around 12 percentage points when they have children<sup>42</sup>, while that of men risers by around seven points<sup>43</sup>. Maternal employment rates are particularly low for

<sup>40</sup> COM(2007)424, 'Tackling the gender pay gap between women and men'.

<sup>41</sup> See Table 7a in Annex IV.

<sup>42</sup> See Table 6a in Annex IV.

<sup>43</sup> Eurostat, Labour Force Survey, see Annex IV Table 7a.

women with two or more children<sup>44</sup>. Time series about the development of employment rates of women with and without children can be found in Annex IV, Table 6b. It can be seen that for both groups labour market participation increased by around 5% from 2000 to 2007, but the gap between these two groups remains stable at EU level at around 12 percentage points. Therefore, the impact of having children on employment rates of women remains stable at EU level.

In general, closing the gap between male and female employment rates would boost GDP significantly<sup>45</sup>. In EU-25 in 2003 the employment rate of women aged 20-49 whose youngest child was between 6 and 11 was 67%, falling to 60% when the youngest child was between 3 and 5, and declining to 52% when the youngest child was between 0 and 2<sup>46</sup>. The impact of motherhood on employment rates is more pronounced in some Member States than in others. According to tables compiled by Eurostat in 2007, the employment rates for women with children are highest<sup>47</sup> (over 70%) in Slovenia, Lithuania, Denmark<sup>48</sup>, Portugal and the Netherlands, followed by Cyprus, Finland, Latvia and Belgium. The rates are lowest (less than 60%) in Malta, Hungary, Italy, the Czech Republic, Greece, Slovakia and Ireland. The general employment rate of men aged 25-49 without children in EU-27 was 84.4% in 2007, while that for men with children was 91.7%<sup>49</sup>. The Nordic countries, namely Finland, Denmark and Sweden, plus the Netherlands, are those with the smallest differences between male and female part-time workers. Spain, Germany, Austria and Luxembourg show the widest differences between male and female part-time rates<sup>50</sup>.

Family responsibilities mean that women are more likely to work part-time than men do<sup>51</sup>. This has negative implications for their career prospects and wages. According to figures for EU-27<sup>52</sup>, 31.4% of women work part-time compared with 7.8% of men and more than three-quarters of part-time workers are women (76.5%). A quarter of EU part-time workers state that 'child and adult care reasons' lie behind their decision to work part-time. 75% of women reported that they did not work full-time because of care responsibilities for children<sup>53</sup>.

Women today have achieved higher levels of education than ever before and they account for over 40% of the global workforce. Yet, as a result of the dual burden that many face, women often do not find jobs and working hours that fit in with their family arrangements<sup>54</sup>. They are

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<sup>44</sup> See Table 7b in Annex IV.

<sup>45</sup> See Global Economics Paper No 154, Goldmann Sachs 2007, p.7: For Spain, GDP would be 19% higher, the Eurozone 13%, Germany 9%, France 9%, the US 9%, the UK 8%, Denmark 5% and Sweden 3% .

<sup>46</sup> Eurostat, statistics in focus, Gender gaps in the reconciliation between work and family life, 4/2005; in France, a child decreases women's labour market participation by 1 hour/week per child, see Majnoni d'Intignano, *Egalité entre femmes et homes*, Paris 1999, p. 95.

<sup>47</sup> Eurostat, Labour Force Survey, see Annex IV, Table 6a.

<sup>48</sup> Data for Denmark are not included in Table 6a of Annex IV, but Denmark's employment rates have been around 80% for women with and without children; in Sweden the employment rate for women with children is traditionally very high too.

<sup>49</sup> Eurostat, Labour Force Survey 2006, see Annex IV, Table 7a.

<sup>50</sup> European Foundation for the Improvement of Living and Working Conditions, *Part-time work in Europe*, 2007, pp. 3 and 4.

<sup>51</sup> See Table 8 in Annex IV.

<sup>52</sup> See Table 4 in Annex IV; see also European Foundation for the Improvement of Living and Working Conditions, *Fourth European working conditions survey*, 2007, p. 7;

<sup>53</sup> *Ibid*, Table 39.

<sup>54</sup> *Working Conditions in the European Union: The gender perspective*, European Foundation for the Improvement of Living and Working conditions 2007, p. 45.

also under-represented in the area of self-employment<sup>55</sup>. A study conducted in Italy in 2006 shows that one out of seven women gives up her job in the first year after the birth of a child<sup>56</sup>. More than 35% of mothers with small children who stayed in employment reported difficulties in reconciling work and family life. Inflexible working hours are given as the main difficulty in this respect. According to another study carried out in Italy, 40% of women with children give up working completely<sup>57</sup>. It transpires from a study carried out in France<sup>58</sup> that on average 50% of women declared they had put aside their career intentions to care for their children. 14% of workers and employees and 9% of women in management reported they had been pensioned off because they took maternity leave<sup>59</sup>. A study carried out in Germany in 2003 came to the conclusion that 40% of women who had been in employment before giving birth did not return to work after the child was born<sup>60</sup>. According to a study carried out in 2002 in 16 European countries, the preference of couples was for working time to be more equally distributed between partners. However, in 47% of households with a child under six years of age, women were not in paid work, even if they wanted to be. Thus the present division of paid work corresponds much less to a voluntary choice than to necessity<sup>61</sup>.

Furthermore, there is a positive correlation between high fertility rates and high female labour market participation. Europeans have a fertility rate which is insufficient to replace the population<sup>62</sup>. Member States with high female employment rates are also countries where the fertility is higher<sup>63</sup>. Research points to the role of work-family reconciliation policies<sup>64</sup>. Some fear that the changing traditional family model is contributing to lower fertility, but the evidence contradicts this view<sup>65</sup>. A significant trend in recent years has been the reversal in the correlation between fertility and female labour force participation rates across OECD<sup>66</sup>. Until the mid-1980s, the correlation was consistently negative: countries with high average female participation rates displayed lower period fertility rates. During the late 1990s, the correlation started to become positive in some countries and by the early 2000s, the EU Member States with the highest female participation rates also displayed the highest fertility rates. The Member States that currently have the lowest levels of fertility (Spain, Italy and Greece) are those with relatively low levels of female labour force participation, while the

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<sup>55</sup> See table 9 in Annex IV.

<sup>56</sup> S. Vogliotti, *Der Wiedereinstieg in die Arbeit nach der Mutterschaft*, 2006, p. 8; see also [http://www.eurofound.europa.eu/eiro/studies/tn0703019s/tn0703019s\\_8.htm](http://www.eurofound.europa.eu/eiro/studies/tn0703019s/tn0703019s_8.htm).

<sup>57</sup> See EIRO at [http://www.eurofound.europa.eu/eiro/studies/tn0703019s/tn0703019s\\_8.htm](http://www.eurofound.europa.eu/eiro/studies/tn0703019s/tn0703019s_8.htm).

<sup>58</sup> Direction de la recherche des études de l'évaluation et des statistiques, DRESS No 531, October 2006, p. 6.

<sup>59</sup> Ibid, p. 6.

<sup>60</sup> Bundesministerium für Familie, Senioren, Frauen und Familie, *Betriebswirtschaftliche Effekte familienfreundlicher Maßnahmen, Kosten-Nutzen-Analyse 2003*, p. 14; around one out of seven women in the 'Trentino-Alto Adige' Region in Northern Italy gave up working in their child's first year; see: *Der Wiedereinstieg in die Arbeit nach der Mutterschaft*, Vogliotti, 2006, p. 8.

<sup>61</sup> *Working time preferences in 16 European countries, 2002*, European Foundation for the Improvement of Living and Working Conditions, p. 99; only 14% to 15% of couples wanted the woman not to be gainfully employed at all; see also table 13 in Annex IV.

<sup>62</sup> Communication from the Commission, Green paper "Confronting demographic change: a new solidarity between the generations", COM(2005) 94 final.

<sup>63</sup> *The demographic future of Europe – from challenge to opportunity*, Communication of the Commission, COM(2006) 571 final, p. 18; see also Table 6c and 6d in Annex IV.

<sup>64</sup> H. Engelhardt et al., *Fertility and female employment reconsidered: A macro-level time series analysis*, MPIDR Working paper n° 21, 2001.

<sup>65</sup> See Global Economics Paper No 154, Goldmann Sachs 2007, p.7.

<sup>66</sup> D'Addio A. C. and M. Mira d'Ercole (2004) "Trends and determinants of fertility rates and the role of policies" OECD social policy division [www.oecd.org/dataoecd/7/33/35304751.pdf](http://www.oecd.org/dataoecd/7/33/35304751.pdf)



countries with higher fertility levels (Denmark, Sweden, Finland, Netherlands, France, UK) have relatively high female labour force participation rates.

#### 4.2.2. *Provision of care facilities*

Childcare facilities in the Member States are insufficient<sup>67</sup> and are not always adapted to family needs<sup>68</sup>. In Denmark and Portugal only, formal childcare for more than 30 hours per week is available for over 30% of children under the age of three. A Commission report on childcare<sup>69</sup> gives more details on the current situation in the Member States. From the report it transpires that only 10 Member States have more or less achieved the targets agreed in 2002 at the Barcelona European Council of 30% childcare coverage for children under 3 years, whereas 10 Member States provide for less than 10% coverage for this age group. Some of the MS with a low childcare coverage for this age group also show the lowest employment rates of women (CZ, MT, PL, EL, HU for instance). According to research carried out in Germany, around 90% of women who gave up employment because of small children reported that the main reason for not working was a lack of childcare facilities<sup>70</sup>.

Women also bear the main responsibility of caring for the elderly. A Eurobarometer survey conducted in 2007<sup>71</sup> indicates the huge difficulties in meeting work and caring commitments. According to research carried out in the Member States, from one quarter to one fifth of the population reported extra responsibilities for caring for someone who had a long-term illness, was disabled or elderly<sup>72</sup>. One of the dominant features of demographic change over the coming decades will be the rise in the number of people aged 80 years and over. Their share in the total EU population will increase three- to four-fold, rising to around 12% by 2050. A large percentage of these over-80s will be frail and dependent on help from others, frequently for prolonged periods<sup>73</sup>. A study completed in 2003 shows that in 1999, 29% of persons over 75 in EU-15 were severely hampered in everyday life<sup>74</sup>.

Problems in this respect vary widely among the Member States. These include the availability of affordable, quality care for dependants. In many cases, informal care for dependent relatives at home is the only available option. Between 65 and 80% of the informal carers are women. According to studies carried out in the UK, more than 54% of those caring for disabled family members, the elderly and others (more than six million in the UK) give up work in order to be able to do the caring work. Two out of three working-age carers are not in paid employment<sup>75</sup>. German and Austrian statistics also show that providing care may have an

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<sup>67</sup> See tables 11 and 12 in Annex IV on childcare coverage in the Member States.

<sup>68</sup> See recent report: Platenga/Remery, *The Provision of Childcare Services*, 2008.

<sup>69</sup> COM (2008)598

<sup>70</sup> Rump/Eilers, *Beschäftigungswirkungen der Vereinbarkeit von Beruf und Familie*, 2006, p. 98; however, verification of this result might be difficult, it thus only reflects the answers women gave.

<sup>71</sup> See [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_283\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_283_en.pdf): *Health and Long-Term care in the European Union*, December 2007.

<sup>72</sup> *Family matters*, European Foundation for the Improvement of Living and Working conditions, 2007, p. 13.

<sup>73</sup> *The demographic future of Europe – from challenge to opportunity*, Communication of the Commission, COM(2006) 571 final, p. 3.

<sup>74</sup> *Feasibility Study, Comparative Statistics in the area of care of dependant adults in the European Union*, Office for Official Publications of the European Union, 2003, p. 83.

<sup>75</sup> *Carers UK, the voice of carers*, May 2007, Carers UK's research into the financial impact of caring, see <http://www.carersuk.org/Policyandpractice/Research/ResearchLibrary/ResearchRealchangenotshortchangeMay2007.pdf>, p. 3.

adverse impact on labour market participation, particularly among women<sup>76</sup>. In Germany, for instance, the employment rate of women caring for someone other than a child is 75% percentage points lower than for women without such a responsibility<sup>77</sup>.

Cross-country studies, conducted by the OECD among others, find that subsidised childcare boosts female participation by raising the rate of return to work. Public expenditure on childcare averages 0.7% of GDP in the OECD. It is relatively low in countries such as Japan (0.3%), Spain (0.4%), the US and UK (both 0.5%); it is relatively high in Denmark (2.7%), Sweden (1.9%) and France (1.3%)<sup>78</sup>.

As regards care infrastructure, this report will not go into further details, because the Commission has no competence to act with legislative measures in this area and non-binding measures are already in place.

### **4.3. Labour market discrimination against parents of small children**

As long as mothers rather than fathers forgo participation in the labour force when they become parents and make use of parental-leave provisions, employers might perceive women as less committed to their careers than men and will be less likely to invest in female career opportunities<sup>79</sup>. According to a survey on parental leave conducted by the European Foundation for the Improvement of Living and Working conditions and published in 2007<sup>80</sup>, the fact that mainly women – and not men – take long family-related leave periods perpetuates gender-related, stereotypical assumptions about women's domestic responsibilities and aptitudes for employment<sup>81</sup>. In Germany, it was established that 20% of all firms feel a strong disincentive to employ young women<sup>82</sup>. Employers will try to limit women to jobs where absences are least costly, thereby increasing occupational segregation<sup>83</sup>. Some NGOs in their reply to the questionnaire sent out by the Commission<sup>84</sup> also report difficulties women experience in finding a job because employers expect them to fall pregnant and take parental leave<sup>85</sup>. One NGO reports difficulties fathers experience in taking paternity or parental leave because they face hostility and prejudice from their colleagues.

The former Equal Opportunities Commission (EOC) in Britain<sup>86</sup>, referring to a survey carried out among employment agencies, reported that more than 70% of these agencies had been

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<sup>76</sup> Feasibility Study, Comparative Statistics in the area of care of dependant adults in the European Union, 2003, p. 91.

<sup>77</sup> Ibid p. 93.

<sup>78</sup> See Global Economics Paper No 154, Goldmann Sachs 2007, p.7.

<sup>79</sup> See further research in: Babies and Bosses, Reconciling Work and Family life, OECD 2007, p. 59.

<sup>80</sup> Anxo, Fagan, Smith, Letablier, Perraudin, Parental leave in European Companies, European Foundation for the Improvement of Living and Working Conditions, Survey on Working Time 2004/2005, Luxembourg 2007.

<sup>81</sup> Ibid, page 9.

<sup>82</sup> Janneke Plantenga & Chantal Remery, Reconciliation of work and private life, A comparative review of thirty European countries, EU Expert Group, European Commission, 2005, page 76.

<sup>83</sup> C. Ruhm, The Economic consequences of Parental leave Mandates: lessons from Europe, (1998) Quarterly Journal of Economics, 131, pp. 285-317 (288) with further reference to research carried out for Sweden.

<sup>84</sup> See replies in Annex II.

<sup>85</sup> According to press information of 24 September 2004 about an online poll carried out in the UK by Croner, an UK-based provider of business information, four-fifth of human resource managers say that bosses think twice before employing women of child-bearing age.

<sup>86</sup> EOC, Fairness and Freedom, 2007, page 75.

asked by their clients to avoid hiring pregnant women or women of childbearing age<sup>87</sup>. There is a survey showing that extended and very long family related leave provisions which are mainly taken by women lead to employers shunning women<sup>88</sup>. In the UK, women are 23% less likely to be employed than men and women with a child under 11 are 49% less likely to be employed compared with men<sup>89</sup>. Women returning from family-related leave sometimes have to contend with the belief among employers that their skills have become obsolete. Women also suffer a long-term negative impact on their careers in terms of being sidelined or having relatively low-status jobs<sup>90</sup>. The discriminating act might be for instance allocation of inadequate work<sup>91</sup> or non-participation in training.

#### 4.4. Gender gap in the use of parental leave

Maternity and paternity leave are, by definition, taken by the mother or the father. But with parental leave, parents can choose which of them takes this form of leave. So it is relevant to examine whether they do in fact take up this leave and which parent does so. This will help to understand why there is a gender gap in the use of reconciliation possibilities. A comparative review of reconciliation policies in thirty European countries, published in 2005<sup>92</sup>, noted that the main factors affecting take-up of parental leave are:

*level of payment* (which affects whether the leave will be taken and by whom),

*organisational culture* (the report suggested that both sexes suffer from unsupportive organisational cultures when it comes to the take-up of parental leave),

*flexibility* (take-up is more likely if the leave can be taken in installments),

*labour market sector* (take-up seems to be higher in the public sector) and

*educational level* (the take-up rate of parental leave for men seems to be positively related to the educational level of the parent).

The evidence confirms that there are, indeed, major differences between women and men in the take-up of parental leave<sup>93</sup>, which is mainly taken by women<sup>94</sup>. According to a 2004 Eurobarometer survey for EU-15, on average 84% of men said they had not taken parental leave, nor were they thinking of doing so<sup>95</sup>. Rates of men taking parental leave were highest in Sweden and Denmark, with respectively 18% and 11% of fathers having taken or

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<sup>87</sup> Ibid, page 77; there is also evidence that in the UK discrimination against women in the workplace - with the lost tax revenue and increased welfare benefits it causes - costs between £15 billion and £23 billion each year, adding up to as much as 2% of GDP:

<http://www.guardian.co.uk/money/2008/apr/23/worklifebalance.discriminationatwork>.

<sup>88</sup> <http://www.management-issues.com/2007/8/2/research/legislation-making-women-less-employable.asp>

<sup>89</sup> EOC, Fairness and Freedom, 2007, page 70; Gallagher/O'Leary, Recruitment 2020: How recruitment is changing and why it matters, DEMOS 2007, page 40.

<sup>90</sup> Malo/Munoz-Bullon, Career breaks of women due to family reasons: A long-term perspective using retroactive data, 2004 working paper;

<sup>91</sup> See in this connection a German case pending, Focus online, 18/02/2008, [http://www.focus.de/jobs/berufsalntag/arbeitsrecht/diskriminierung\\_aid\\_261874.html](http://www.focus.de/jobs/berufsalntag/arbeitsrecht/diskriminierung_aid_261874.html); according to information in the Flash report 3/2008 of the Legal Experts Network on gender equality, Latvia has already introduced such a clause.

<sup>92</sup> [http://ec.europa.eu/employment\\_social/publications/2005/ke6905828\\_en.pdf](http://ec.europa.eu/employment_social/publications/2005/ke6905828_en.pdf).

<sup>93</sup> European Parliament Report on reconciling professional, family and private lives 2003/2129 (INI).

<sup>94</sup> European Foundation for the Improvement of Living and Working Conditions, Parental leave in European Companies, Establishment Survey on Working Time 2004-2005, p. 9.

<sup>95</sup> Eurobarometer- Europeans attitude to parental leave, published May 2004, p. 9.

considering taking parental leave, while in 2004 the average for EU-15 was 4%. In 2003, 42% of fathers reported that inadequate financial compensation was the main reason they did not take parental leave<sup>96</sup>. Again in 2003, 34% of fathers said they feared that taking parental leave would adversely affect their careers, while higher financial compensation during the period of leave and better guarantees with respect to their careers would encourage them to take leave<sup>97</sup>. The fact that in the majority of cases only women take parental leave perpetuates traditional gender roles in families.

## 5. DESCRIPTION OF EXISTING EU LEGISLATIVE INSTRUMENTS AND THE SITUATION IN THE MEMBER STATES

Two Directives deal with leave for family reasons and related rights, namely Directive 92/85/EEC<sup>98</sup> (hereinafter 'Maternity Leave Directive') and Directive 96/34/EC<sup>99</sup> (hereinafter 'Parental Leave Directive'). The two Directives date from 1992 and 1996 respectively. Annex I describes their content. Neither of these two Directives was included in the 'recast' directive 2006/54/EC which brought together seven other existing directives in the field of gender equality but their revision was addressed in the two rounds of formal consultations of European social partners that the Commission launched in 2006 and 2007 respectively. In July 2008, the European social partners indicated to the Commission that they would start official negotiations on a review of the Parental Leave Directive but not on the Maternity Leave Directive.

A possible revision of the Maternity Leave Directive was submitted to the European social partners' consultations because its present content seems outdated and in some respects inadequate. Thus, there are regularly ECJ cases on its implementation in the Member States, brought mainly by preliminary ruling requests. These cases concern the insufficient protection of women against dismissal or discrimination during or after maternity leave and show that there is room for improvement of the current Directive in force, in the sense of a strengthening of the protection and the rights of the women concerned. The Maternity leave Directive currently provides for remunerating maternity leave at the same level of sickness leave. While the Directive emphasises that this should not be interpreted as suggesting an analogy between pregnancy and illness, this is often how it is perceived. Finally, the Directive currently in force provides for a duration of maternity leave of 14 weeks.

As the tables in Annex III show, there are marked differences between the Member States in terms of policies adopted in order to enhance reconciliation. Maternity leave provisions range roughly from 14 to 52 weeks, with payments ranging from 55% and subject to a ceiling, to 100% with no ceiling. Parental leave provisions involve entitlement to leave ranging from three months to three years. Payments, where granted, are made for a period of between 15 days and two years. Entitlement to adoption leave varies from 10 days to that for parental leave. Some Member States provide for no payment, others provide for a payment similar to

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<sup>96</sup> Eurobarometer- Europeans attitude to parental leave, published May 2004, p. 20.

<sup>97</sup> Eurobarometer- Europeans attitude to parental leave, published May 2004, p. 18; see also Han/Ruhm/Waldfoegel, Parental leave Policies and Parents' Employment, IZA DP No. 3244, 2007, p. 5.

<sup>98</sup> 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 (OJ L 348, 28.11.1992, p. 1).

<sup>99</sup> Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC (OJ L 145, 19.6.1996, p. 4).

that for parental leave. There is no entitlement to paternity leave in a number of Member States. Where such entitlement exists, it covers from one to 10 days. In some Member States, a part of parental leave is earmarked for fathers. Some Member States provide for no payment at all, others for a flat-rate payment of up to 100% pay. Some Member States have no provision for any entitlement to filial leave. The duration varies from two to 10 days for a disabled or sick child and in some cases for other relatives too. In some Member States this leave is paid on a lump-sum basis at the rate applicable to sickness or another rate.

Not all the leave arrangements in place in the Member States contribute to more gender equality and support women, who may wish to go back to work. If the payment during family-related leave is low, this leave will be taken by the partner earning less, which very often will be the mother.

**5.1. Description of different legal and policy approaches in the Member States**

The following tables demonstrate different approaches towards the organisation of parental leave<sup>100</sup>, which can be seen as an example of how Member States organise family-related leave. The Member States are presented in the five tables below according to the level of payment for parental leave. From the second table on maternal employment rates it can be seen that Member States with high and moderate earnings-related payments for parental leave have high employment rates and relatively small differences between the employment rates of women with children and women without children (exception: Hungary). Some of these Member States, namely Denmark, Sweden, Slovenia and Finland are the ones where childcare is available for more than 30 hours per week for nearly (or over) 30% of children under the age of three (Barcelona target).

As regards the pay gap the situation is more complex. However, in the last two categories of moderate and high earnings-related payments there are Member States with a low pay gap like Slovenia and Hungary but also Member States which are clearly below the average of 15%, namely Estonia and Finland.

As regards fertility rates, the Member States in the last two categories three include three of the seven Member States with the highest fertility rates, namely Sweden, Denmark and Finland.

It can be seen from these tables that there seems to be no approach which could solve all the problems. However, a high or moderate earnings-related payment for family-related leave seems to correlate positively with high maternal employment rates and seems to have a positive impact on fertility rates too.

	No payment	Lump-sum payment	Low earnings-related payment	Moderate earnings-related payment	High earnings-related payment
Baltic States				LT	EE, LV

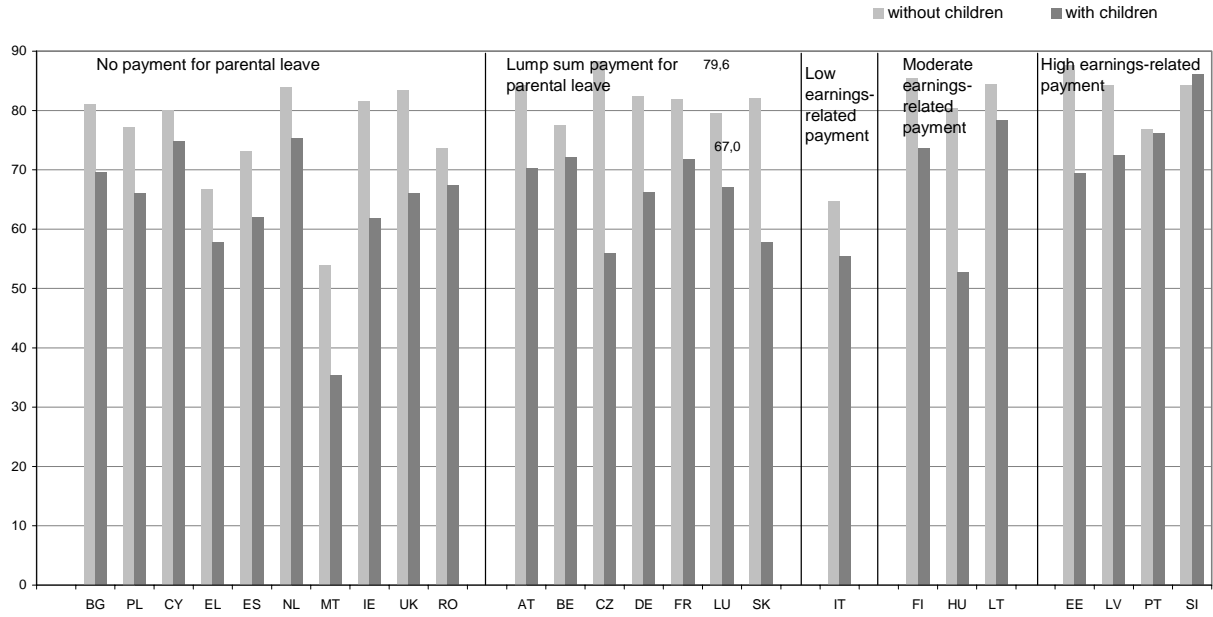
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<sup>100</sup> For Germany the tables do not take account of the recent change towards a high earnings related payment.

type					
Central and Eastern European type	BU, PL	CZ, SK, RO		HU	SI
Conservative-corporatist type	CY, EL, ES, NL, PT, MT	AT, BE, DE, FR, LU	IT		
Liberal type	IE, UK				
Social-democratic type				FI	SE, DK

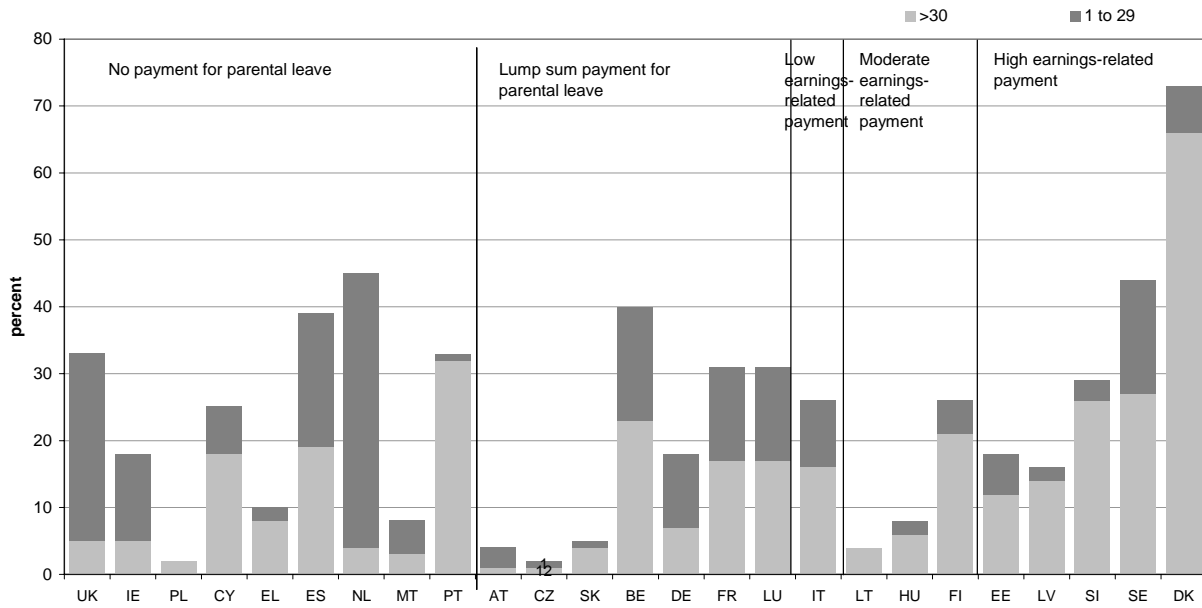
*Source: COWI/ IDEA Consult based on Moss, P. and O'Brien, M. (2006), Anxo, D., Fagan, C., Letablier, M.T., Perraudin, C., and Smith, M. (2007), European commission*

Employment rates of women aged 25-49, depending on whether they have children (under 12) - 2007



Source : Eurostat, European Labour Force Survey, annual averages.  
Notes : No data available for DK and SE.

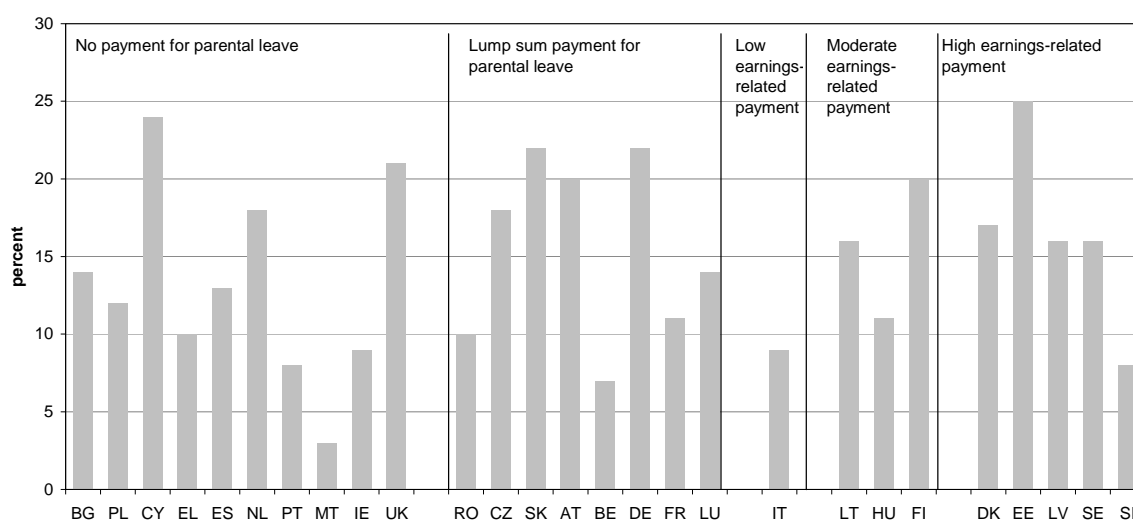
Children 0-2 (=under 3) covered by formal childcare (less and more than 30 hours) - 2006



Source: Eurostat, EU-SILC.

## Pay gap between women and men in unadjusted form in EU Member States - 2006 (1)

Difference between men's and women's average gross hourly earnings as a percentage of men's average gross hourly earnings)



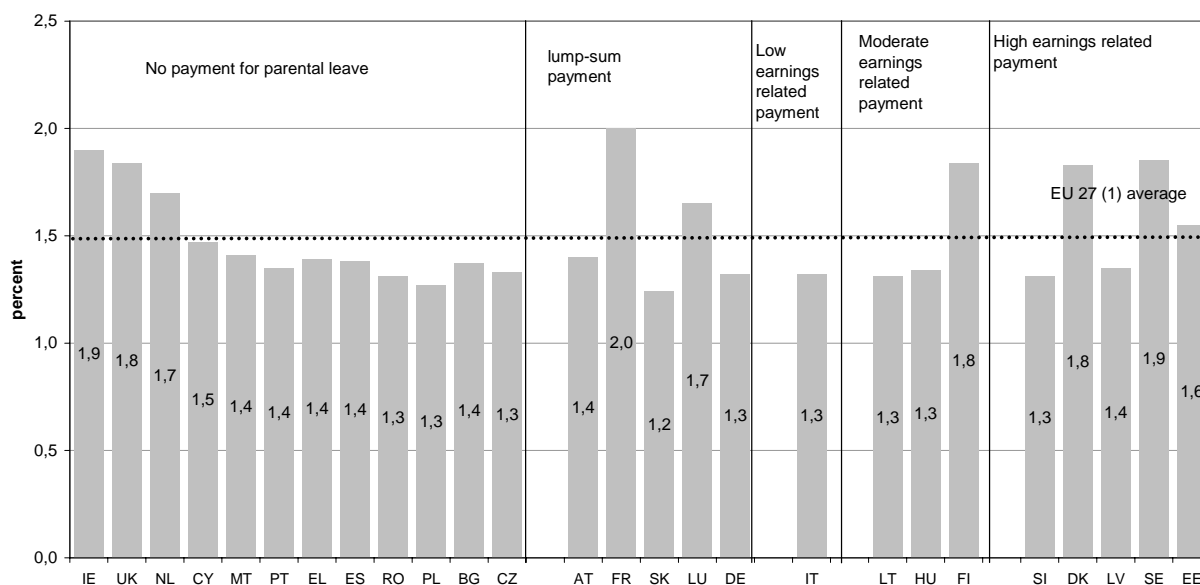
Source: Eurostat. Administrative data are used for LU, Labour Force Survey for FR and MT. Provisional results of EU-SILC (Statistics on income and Living Conditions) are used for BE, IE, EL, ES, IT, AT, PT and UK. All other sources are national surveys.

EU27, BE, FR, CY, PT and SI provisional results.

(1) Exception to the reference year: 2005: EE, IT, NL.

NB: EU27 estimates are population weighted-averages of the latest available values. CZ: calculations based on the median earnings.

## Total fertility rate - 2006 (1)



Source: Eurostat.

(1) EU 27 without BE, BE: not available. For IT: 2005.

## 5.2. Likely developments in the absence of new EU action

If no new EU-wide action is taken, the current programmes, targets and directives will still continue to apply. The Lisbon targets will be evaluated in 2010 and new guidelines and targets will be fixed in the context of the EES. The Roadmap for Equality<sup>101</sup> will come to an

<sup>101</sup> COM(2006) 92 final.



end in 2010 and a new policy framework will be developed in the light of experience. Funding of measures to support gender equality, such as awareness-raising, training and exchange of good practice under the Community Progress programme for 2007-13<sup>102</sup>, will continue. The Progress programme supports the effective implementation of the principle of gender equality and promotes gender mainstreaming in all Community policies. The European Social Fund (ESF) programmes for 2007-13<sup>103</sup> will continue to contribute to the Community's priorities as regards strengthening economic and social cohesion by improving employment and job opportunities and encouraging a high level of employment and more and better jobs.

It can be assumed that the attention of the European social partners to these issues will continue. Work-life balance is a major element of the five-year Framework of Actions on Gender Equality<sup>104</sup> agreed in 2005.

At international level, ILO and OECD activities will continue. The OECD carries out broad research on current reconciliation policies in all OECD countries<sup>105</sup>. The ILO will continue to carry out analysis and research in the area of gender equality. The ILO Convention on maternity protection concluded in 2000 will apply where it has been ratified<sup>106</sup>.

A marked difference in labour market participation will, however, remain. According to Commission projections, the rate of female employment will continue to increase, reaching 65% in 2025<sup>107</sup>. But it will then still be about 6 percentage points below the current employment rate for men. The problem stemming from the unequal share between mothers and fathers of the task of caring for children will persist. In some Member States, men still do not have the option to take paternity leave. It seems unlikely too that there will be much change in the gender pay gap.

Even though the demographic problem of an ageing society and the need to increase labour market participation rates should induce the Member States to take measures to encourage more women to enter the labour market, it could take a long time before the Member States themselves adopt such measures and before they take effect. The Joint Employment Report for 2007/08 points out that *'the responsiveness of European labour markets to the challenges of globalisation and ageing remains insufficient'*<sup>108</sup> and the latest progress report on the Lisbon strategy states that *'Member States should take further steps to promote gender equality*

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<sup>102</sup> Decision No 1672/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity — Progress (OJ L 315, 15.11.2006, p. 1).

<sup>103</sup> Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 (OJ L 210, p. 12). Article 6 provides for the monitoring of gender equality in the context of the ESF.

<sup>104</sup> March 2005 framework programme; see at:

[http://ec.europa.eu/employment\\_social/news/2005/mar/gender\\_equality\\_en.pdf](http://ec.europa.eu/employment_social/news/2005/mar/gender_equality_en.pdf).

<sup>105</sup> Babies and Bosses — Reconciling Work and Family Life: A Synthesis of Findings for OECD Countries; new volumes are published annually; see:

[http://www.oecd.org/document/45/0,3343,de\\_2649\\_201185\\_39651501\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/45/0,3343,de_2649_201185_39651501_1_1_1_1,00.html).

<sup>106</sup> Austria, Bulgaria, Cyprus, Hungary, Italy, Lithuania, Luxembourg, Rumania, Slovakia. Source: ILO 28 July 2008.

<sup>107</sup> see Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on equality between women and men — 2007 (COM(2007) 49 final), p. 5, footnote 17.

<sup>108</sup> Joint Employment Report 2007/8, p. 4.

on the labour market'<sup>109</sup>. It therefore seems that some of the Member States' own efforts currently lack drive.

To continue at the same pace will clearly be insufficient. The Member States will need the participation of more women on the labour market, not only for solving the problems of an ageing society but also for competitiveness at global level. In recent years, most of the jobs created in the EU have been taken by women. But economic growth will decline from around 2.4% today to 1.2% in 2030-50 if more people do not enter the labour market<sup>110</sup>. Greater participation by women is therefore vital. The Member States also need a stable birth-rate if they are to cope with the demographic problem. As noted above in section 4.2.1, Member States with high rates of female employment also have fertility rates significantly above the average<sup>111</sup>. To a large extent they are also the Member States that offer the most effective reconciliation policies.

### *The added value of EU action*

The contribution of the successful reconciliation to key policy objectives is recognised at EU level. However the reconciliation measures introduced by the Member States vary in terms of policy priorities, legal entitlements, and an explicit focus on gender equality. Some encourage the supply of public and private care services, others seek to improve part-time working opportunities. In some countries reconciliation is still regarded as essentially a woman's affair, while others recognise the role of men in care and family responsibilities, notably by encouraging men to take up parental or paternity leave. Some Member States have recently created new rules to encourage women to have children (Estonia for instance, by providing a payment of 100% of average earnings with a high ceiling). Other Member States have focussed on providing a high earnings-related payment during parental leave as well as on involving more fathers in taking family-related leave (Germany recently, for instance; Finland, Denmark and Sweden traditionally, too). Some Member States have recently created paternity leave rights (Slovenia and France, for example).

A Community-wide measure is necessary to ensure a common minimum standard and thus a level playing-field between the Member States. Measures in this area can help Member States which do not have in place specific reconciliation policies to adapt to the new challenges. The EU could create more harmonised rules by adopting specific measures focusing on better reconciliation measures, and the participation rates of women with children, thus offering more choice for fathers to share family responsibilities.

While national traditions and policy choices have to be respected, the EU must take further action in order to promote women's employment and exploit the full potential of women's talents. Since large discrepancies remain between actual and preferred employment patterns, it seems clear that women in general want to work more. There is therefore great potential for increasing female labour-market participation<sup>112</sup>. Some comprehensive studies on European countries show that introducing parental leave legislation has raised female employment rates

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<sup>109</sup> Strategic report on the renewed Lisbon strategy for growth and jobs: Launching the new cycle (2008-2010), COM(2007) 803 of 11 December 2007, p. 6.

<sup>110</sup> See Commission Communication The demographic future of Europe (COM(2006) 571 final), p. 5.

<sup>111</sup> Ibid. p. 18.

<sup>112</sup> Jaumotte, Female labour force participation: past trends and main determinants in OECD countries, OECD Economics Department Working Paper No 376, 2003.

by 3% to 4%, and even more for women of childbearing age<sup>113</sup>. Under the conditions provided in some Member States fathers do not avail themselves of family-related leave.

### ***Does the EU have the right to act?***

The Commission has a right to act according to Article 137(1) and 141 EC Treaty<sup>114</sup>.

## **6. OBJECTIVES**

The **overall objectives** are to contribute to the strategy for more growth and better jobs by achieving more gender equality in labour market participation rates and allowing women and men to achieve a better reconciliation of their professional, private and family lives.

The more **specific objectives** are (in order of importance) to:

- (1) reduce the difference in employment rates of women with and without children;
- (2) widen the scope of family-related leave and the conditions for taking it;
- (3) reduce the gender imbalance in taking the leave<sup>115</sup>;
- (4) give financial support during leave;
- (5) ensure that taking family-related leave does not lead to discrimination or to weakened job security.

## **7. POLICY OPTIONS**

This section will explain the options which are available to achieve the objectives. As regards the legally binding options, significant elements will be dealt with in the social partners' negotiations on parental leave. At the end of the period of the social partners negotiations (maximum nine months), the Commission will then take the necessary action to give legal effect to the new agreement by means of a Directive or, if the negotiations fail, will consider whether to present its own legislative proposal(s).

### **7.1. No action at all, non-binding measures, binding measures**

#### **No new action at EU level**

No action at EU level would mean that the Member States continue to move at their own pace as has been shown under section 5.2.

#### **Non-binding measures**

Recommendation: A recommendation to the Member States could urge them to step up the process of developing better reconciliation measures including the provision of care facilities.

Communication: A communication could address the relationship of reconciliation policies to other key policies and the consequences of not acting.

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<sup>113</sup> The Impact of Family-Friendly Policies in Denmark and Sweden on Mothers' career Interruptions due to Childbirth, Pyllänen/Smith, Institute for the Study of Labour, 2004, IZA DP No 1050, p. 1 with further references.

<sup>114</sup> See details in Annex I.

<sup>115</sup> See also the demands and objectives included in 2007 ILO report 'Equality at work: Tackling the challenge', p. 87.

Report: a report could present the state of play of reconciliation measures in the different Member States.

Open method of coordination (OMC): the effectiveness of this method depends to a large extent on jointly agreed and easily applicable indicators. These could include targets for female employment rates, female poverty rates, childcare rates, and rates to measure the gender balance in the take-up of parental leave. Some of these indicators already form part of the Lisbon strategy. The EES uses an OMC based on five key principles<sup>116</sup>. The OMC uses quantified measurements, targets and benchmarks with a view to proper monitoring and evaluation of progress.

Exchange of information and good practice: various measures could be considered, such as setting up a committee of national senior civil servants or making use of the existing ones.

### **Legally binding measures**

Legally binding measures could be directives or regulations. According to Article 137(2) EC only directives (and not regulations) are allowed in order to improve working conditions. Therefore, the only suitable legally binding measure in the area of reconciliation would be a directive. A directive based on Article 137(2) EC could lay down a minimum framework. However, a directive could not cover care facilities, because this issue is not linked to labour-market opportunities or equal treatment at work.

## **7.2. Preliminary screening of options other than no new EU action**

Preliminary screening of options other than no new EU action has taken account of the principle of subsidiarity (the EU only takes action where it is more effective than action taken at national, regional or local level), proportionality (the extent of the action must be in keeping with the aim pursued), efficiency (an appropriate relationship between ends and means), effectiveness (ability to achieve the desired effect) and consistency (with fundamental principles and other Commission policies).

### *7.2.1. Legally non-binding measures*

As has been demonstrated above in section 5.2, not to act at all at EU level is not a preferable option. A recommendation, a communication or a report could offer guidance to the Member States on ways of introducing new measures in the area of reconciliation. However, the Member States are free to react as they see fit to such recommendations, communications and reports. Even minimal progress is hard to predict and cannot be guaranteed by such measures. Furthermore, elements of these policies form part of the existing OMC (see below). Targets already exist for childcare as agreed in Barcelona and the Commission report in autumn 2008 looks at the Member States' achievements in meeting them<sup>117</sup>. Moreover, the European Pact for Gender Equality agreed by the Member States at the 2006 Spring European Council encouraged them to promote a work-life balance for all by achieving the Barcelona targets in terms of provision of childcare facilities. Lastly the European social partners' Framework of actions on gender equality adopted in 2005 acknowledges the need to increase the availability

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<sup>116</sup> Subsidiarity (balance between action at EU and Member State levels), convergence (concerted action), mutual learning (exchange of good practice), integrated approach (structural reforms extending to social, educational, tax, enterprise and regional policies) and management by objectives.

<sup>117</sup> COM(2008)598

of accessible, affordable childcare facilities of good quality. Further targets in this area do not seem necessary and a general recommendation on better reconciliation policies is likely to have little practical effect. The OMC is already used in connection with the Lisbon targets for employment and the Barcelona targets for childcare. It therefore already covers a major area of reconciliation policies. This measure therefore does not seem to be an effective option.

An exchange of information remains useful and will be instituted as indicated above.

Dissemination of best practice for reconciliation policies could provide a good means of achieving the above objectives. As from 2008 and in collaboration with the High-Level Group on Gender Mainstreaming, the Commission will organise the exchange and dissemination of good practice *inter alia* on reconciliation. The Advisory Committee on Equal Opportunities could exchange information with the Commission on national reconciliation policies and provide their opinion on developments.

In **conclusion**, legally non-binding measures on their own cannot ensure that sufficient progress is made towards reaching the objectives set out above. Moreover, certain targets in the area of reconciliation are already covered by the existing OMC. However, dissemination of best practices could make an important contribution to improving reconciliation policies.

### 7.2.2. *Legally binding measures*

A legally binding instrument creates a clear framework of minimum rights and obligations. In 1992 and 1996 respectively, maternity and parental leave were introduced by legally binding instruments at European level. Many societal and other developments have taken place since then as highlighted by the Commission in ‘The Renewed Social Agenda: Opportunities, access and solidarity in 21st century Europe’.<sup>118</sup>

As the problem analysis demonstrated, there is potential (and a need) for a higher female participation rate on the employment market. The Lisbon strategy has been instrumental in inducing the Member States to help bring this about. However, maternal participation rates still remain relatively low. Setting new minimum standards by legislation could trigger change. New legislation could also provide more scope for fathers to participate in family-related leave. The option of legally binding measures will therefore be assessed in further detail. The following sub-options were identified in the second-stage consultation paper sent to the European social partners<sup>119</sup>: amending the existing Directive 92/85/EEC; amending the existing Directive 96/34/EC; introducing provisions on other forms of leave namely adoption leave, paternity leave and ‘filial’ leave to care for elderly or dependent family members<sup>120</sup>.

**Conclusion:** a legally binding measure could ensure that common minimum standards apply in all Member States. A legislative instrument has potential in terms of achieving the objective of providing a more equal sharing of family responsibilities and higher labour-market participation of women with children. However, any such instruments could be combined with non-binding measures, such as dissemination of good practice. On childcare, a binding measure is not possible, as the Commission has no competence.

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<sup>118</sup> COM(2008)412

<sup>119</sup> See at [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/reconciliation2\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/reconciliation2_en.pdf), p. 9.

<sup>120</sup> See at [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/reconciliation2\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/reconciliation2_en.pdf), p. 8.

## 8. IMPACT ANALYSIS

Following the preliminary screening, the following options have been identified:

- No new action at EU level (**Option 1**)
- Dissemination of best practice (**Option 2**)
- One or more directives to improve leave arrangements (**Option 3**). The following options will be assessed: **Option 3a** — amending Directive 92/85/EEC; **Option 3b** — amending Directive 96/43/EC; **Option 3c** — introducing adoption leave; **Option 3d** — introducing paternity leave; and **Option 3e** — introducing filial leave.

Each option will be assessed as to economic and social impact (environmental impact appears to be negligible and will therefore not be assessed).

### 8.1. Impact of no new action at EU level (Option 1)

If no action is taken at EU level, the pace of creating better reconciliation measures in some Member States will remain slow and so will the increase in labour-market participation by women with children. Furthermore, women will continue to be the main carers in these countries (see also section 5.2).

#### Economic and social impact

As mentioned above, according to Commission projections in 2007<sup>121</sup>, even in 2025 women will not have achieved equality in terms of participation in employment. A large number of women with children will continue to participate insufficiently or not take part at all in the labour market. This generates economic costs: a significant percentage of women are not paying social security contributions and are not accumulating pension rights, and society is not taking advantage of their education and training<sup>122</sup>. As the gap between the employment rate of women with children and those without children has not changed very much at EU level in recent years, it seems that some Member States' own efforts lack drive at present. Children have a huge impact on the mother's employment for instance in the Czech Republic, Hungary, Malta and Slovakia. With the exception of Malta the situation in 2007 has even worsened slightly compared to 2000<sup>123</sup>.

If no action is taken, the present situation will prevail in several Member States, shaping caring and family work in a way which does not reflect the needs or potential of women. It will perpetuate the limited ability of women with children to participate in the labour market and to have careers on a par with their training and capacities. It will mean that the gender pay gap decreases only slowly. The pay gap has developed, at EU-27 level, from 17 % to 16 percentage points in 1999 to 15 % in 2003 thereafter remaining stable until 2006<sup>124</sup>. However, as regards more flexibility in working hours linked to reconciliation, the political agreement reached by the Council in June 2008 regarding amendment of the Working Time Directive<sup>125</sup> provides inter alia that Member States should encourage employers to examine requests for changes to such working hours and patterns, subject to business needs and to the need for

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<sup>121</sup> Report from the Commission on equality between women and men – 2007. COM(2007) 49 final, p. 7.

<sup>122</sup> In recent research for the UK, the under-utilisation of women's skills has been calculated to cost around £11bn a year: see TUC, Closing the gender Pay Gap, 2008, p. 5.

<sup>123</sup> See table 10 in Annex 4.

<sup>124</sup> See COM(2007)424, Tackling the Pay gap between women and men, page 18.

<sup>125</sup> Of the European parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time, OJ 2003 L 299/9; see the exact wording of the proposal in Annex I.

flexibility on the part of both employers and workers. It cannot be taken for granted that the proposed changes will enter into force. Measures to improve flexibility will therefore be dealt with in the context of amending maternity leave taking into account the existing proposal.

**Conclusion: Overview table — Option 1: no new action at EU level**

Objective to be achieved/problem addressed	Rating of impact against baseline scenario	Comments
Reduce differences in employment rate of women with and without children	0	Existing framework continues; Member States will try to achieve Lisbon employment targets
Widen the scope of family-related leave and the conditions for taking it	0	Existing measures continue but progress cannot be taken for granted. However the option to ask for flexible working could be introduced (cf therevised proposal to amend the Working Time Directive)
Reduce the gender imbalance in taking leave	0	Men's share of family responsibilities will not increase substantially
Give financial support during leave	0	Increases in payments possible, albeit unpredictable
Enhance job security and fight discrimination	0	No progress

**8.2. Impact of dissemination of best practices (Option 2)**

Encouraging the dissemination of best practices may be a good way to address reconciliation issues in both the private and public sector. It may be used in order to target specific problems where the general nature of legislation is not always suitable. The dissemination of best practices could support the work of European social partners in the field. Its effectiveness would depend on the degree of application of these practices in the respective Member States.

**Economic and social impact**

It is difficult to assess the impact of the dissemination of best practices, because it will depend largely on the content and coverage. However, according to the cost/benefit calculation<sup>126</sup> in the work-life-balance project carried out in Germany, in 2020 Germany's GDP would be 1.3% higher, the country would have produced 221 000 new jobs and it would have a higher birth-rate and lower social-security contributions if effective reconciliation measures were offered for 30% of employed persons. Like the economic impact, the social impact is expected to be positive.

**Conclusions:** the dissemination of best practices could help to achieve a better work-life balance. From the viewpoint of subsidiarity, this option provides for decision-making at the level concerned. From the proportionality viewpoint, the dissemination of best practices goes no further than necessary. However, there is no assurance that Member States will introduce these best practices.

**Overview table — Option 2: Dissemination of best practices**

Objective to be achieved/problem addressed	Rating of impact against baseline scenario	Comments
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<sup>126</sup> 'Work-Life-Balance als Motor für wirtschaftliches Wachstum und gesellschaftliche Stabilität'; report with the same name was published in 2005 by the 'Bundesministerium für Familie, Senioren, Frauen und Jugend' see p. 8.

Reduce differences in employment rate of women with and without children	0/+	By offering better reconciliation policies, women's employment rates could increase
Widen the scope of family-related leave and the conditions for taking it	0/+	Could generate positive results
Reduce the gender imbalance in taking leave	0/+	Could have an influence on men's decision to become involved more in family responsibilities
Give financial support during leave	0/+	Could have an influence on payment during family-related leave
Enhance job security and fight discrimination	0/+	Progress not predictable

### 8.3. Impact of legislative measures (Option 3)

Legislative measures are based on Article 137 EC Treaty and for some of the options possibly on Article 141 EC Treaty. The different options will first be presented separately and then together as a 'package', taking the non-legislative measures into account too.

#### 8.3.1. Amending maternity leave provisions (Option 3a)

Longer maternity leave and offering better compensation were considered in the second-stage consultation of the social partners<sup>127</sup>. The European social partners have informed the Commission in July 2008 that they will engage in formal negotiations on parental leave but not on maternity leave.

This assessment focuses on the following option for amending Directive 92/85/EEC (Maternity Leave Directive):

- extending maternity leave from 14 to 18 weeks with payment increased from sickness pay to 100% of former salary (with ceiling not lower than sickness pay);
- flexibility measures such as a right to ask for flexible work patterns after the end of maternity leave (part-time for instance);
- protection of women returning to their work from maternity leave is ensured in the existing directives<sup>128</sup> but, for reasons of clarity, this provision should be included in Directive 92/85/EEC too<sup>129</sup>.

Choice of option/exclusion of other options: an option which is too far removed from the current situation in Member States could not be considered as a 'minimum standard' and would therefore not be compatible with the legislative instrument of a directive. Four more weeks of maternity leave takes into account the current provisions in place in a considerable number of Member States. A maternity leave of 18 weeks with full pay is in line with the recommendations issued by the ILO<sup>130</sup>. The extension could help women to stay in employment while having children, particularly if combined with other measures. Also, a

<sup>127</sup> See [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/reconciliation2\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/reconciliation2_en.pdf), p. 9.

<sup>128</sup> See Annex I.

<sup>129</sup> As to the correct application of the current legal provisions, the Commission is commissioning a study on penalties which will be completed in 2009 in order to find out whether penalties applicable in the Member States in cases of discrimination, among others, on grounds of gender are dissuasive and applied in a way consistent with other comparable cases.

<sup>130</sup> ILO Maternity Protection Recommendation R 191, 2000, Article 1.



payment of between 80% and 100% is already available in the majority of Member States and thus can be considered as the 'minimum standard'.

## Economic impact

### • Economic impact of longer and better paid maternity leave

There are two main types of cost related to maternity leave: the allowance paid to the woman and the cost of replacing her.

As Annex III shows, many Member States already provide for payment of between 80% and 100% of average earnings<sup>131</sup> during maternity leave and several Member States provide for maternity leave of 18 weeks or longer. As the ECORYS study shows, the actual economic costs vary from Member State to Member State and will depend on how close the existing provisions in the relevant Member State are to the options under consideration. The table in Annex V gives a detailed list of generalised factors to be considered in order to calculate costs and benefits of extended leave schemes.

However, in general, the socio-economic costs of this option are estimated to be low. They comprise some production losses due to a slight increase in the number of persons making use of the leave scheme and some tax distortion costs<sup>132</sup> needed to finance the higher rates of payment. These additional costs range from 0.006% of GDP in Hungary to 0.05% in Belgium<sup>133</sup>, and in absolute terms, from €196 million in France to €101 million in Hungary<sup>134</sup>. To get some idea of public expenditure and shares of GDP, it is important to know that in the OECD countries for example, on average 0,7% of GDP is spent on childcare and early education services<sup>135</sup>.

The ECORYS study calculated that in the eight Member States chosen an average increase of about 0.1 percentage points in female labour-market participation would be needed to offset the additional cost incurred. The study is inconclusive as to whether this increase in female labour-market participation can be achieved or not. In any event, some comprehensive studies on European countries conclude that legislation on family-related leave has raised female employment rates by 3% to 4%, and even more for women of childbearing age<sup>136</sup>. The ECORYS study furthermore states that it is very difficult to assess the benefits of the options in a quantitative way. Of course, the costs calculated by the ECORYS study can be reduced if Member States introduce a ceiling to the payment granted during maternity leave. However, the option provides that the ceiling cannot be less than sickness pay.

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<sup>131</sup> See comparative tables on social protection (MISSOC) at: [http://ec.europa.eu/employment\\_social/spsi/missoc\\_tables\\_fr.htm#table2007](http://ec.europa.eu/employment_social/spsi/missoc_tables_fr.htm#table2007); it is not always clear whether this is the case because sickness pay equals a 100% payment of former salary or whether Member States granting 100% payment have gone beyond sickness pay.

<sup>132</sup> Tax distortion costs arise as a result of an increase in the income from other taxes needed to finance the higher payment for leave.

<sup>133</sup> 0.01% in Denmark, 0.01% in Spain, 0.03% in France, and 0.02% in the UK.

<sup>134</sup> €2287 million in Belgium, €290 million in Denmark, €1493 million in Spain, €962 million in the UK; Poland and Estonia have already put this option into operation; the total costs are calculated on a 20-year basis measured as Net Present Values (NPV).

<sup>135</sup> See OECD under [http://www.oecd.org/document/9/0,3343,en\\_2649\\_34637\\_38141385\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/9/0,3343,en_2649_34637_38141385_1_1_1_1,00.html).

<sup>136</sup> The Impact of Family-Friendly Policies in Denmark and Sweden on Mothers' career Interruptions due to Childbirth, Pyllänen/Smith, Institute for the Study of Labour, 2004, IZA DP No 1050, p. 1 with further references.

The extent to which the cost of the maternity allowance falls on businesses depends on the extent to which the payment is financed by the employer or the state. Other costs for the employer arising from maternity leave can be hiring a temporary replacement for the absent worker and a temporary reduction in productivity<sup>137</sup>.

However, a positive effect of longer maternity leave could be that female workers in some cases do not need to take parental leave after maternity leave, thus making it easier for her employer to calculate the length of her absence.

- **Economic impact of flexibility measures**

The right to ask for flexible working time is included in Article 2b of the proposal to amend Directive 2003/88/EC on the organisation of working time (see exact wording in Annex I). Should this article be retained in the final text, its application to women returning from maternity leave could ease their re-entry into employment and possibly reduce the need to take additional parental leave after their maternity leave.

As such a right implies no obligation on the employer, there are no calculable costs. A common type of flexibility is the possibility to work part-time but other possibilities could be full-time working but with a different distribution of hours. As discussed above, part-time working has a negative effect on salary, promotion and career prospects<sup>138</sup>, but the type of flexibility here would enable the mother to return, in time, to full time working rather than having to find part-time employment. In the UK, where the right to request flexible working patterns was enacted in 2003<sup>139</sup>, it has had a major influence on women staying with their original employer<sup>140</sup>.

In general, flexible working patterns are advantageous to companies. For example, stress for employees could be reduced; less absenteeism could reduce costs for employers. Estimates suggest that stress-related absenteeism generates major costs for companies.

By introducing family-friendly policies, HSBC bank trebled the number of women returning to work after maternity leave, saving the bank millions of pounds in recruitment costs<sup>141</sup>. According to the work-life-balance project carried out in Germany, Germany's GDP in 2020 would be 1.3% higher, the country would have produced 221 000 new jobs and would have a higher birth-rate and lower social-security contributions if reconciliation facilities were available for 30% of employed persons. The benefits for employers therefore could be: savings from reduced recruitment; lower absentee<sup>142</sup> and sickness rate; savings from a higher retention rate, better morale and productivity; increased returns on investments in training; and enhanced corporate image. Enterprises offering flexible working patterns are also able to

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<sup>137</sup> *Reconciliation of work and private life, A comparative review of thirty European countries*, EU Expert Group, European Commission, 2005, p. 74; Rump/Eilers, *Beschäftigungswirkungen der Vereinbarkeit von Beruf und Familie*, 2006, p. 54.

<sup>138</sup> See above under 4.4.1.

<sup>139</sup> See evaluation in BERR, May 2008, Right to request flexible working.

<sup>140</sup> *Maternity and Paternity, Rights and Benefits, Survey of Parents 2005*, Smeaton/Marsh, p. 57; in the UK, 87% of workers agree that employers should make a special effort to accommodate the particular difficulties parents of young and disabled children face and 92% feel that they can work best when they can balance their work and the other aspects of their life, see *Employment relations research series no. 86*, Department for Business, November 2007, p. 8.

<sup>141</sup> See *Reconciliation of work and private life, A comparative review of thirty European countries*, EU Expert Group, European Commission, 2005, p. 75.

<sup>142</sup> Family-friendly measures reduced absenteeism by 34%; see Schaffnit-Chatterjee, *Frauen auf Expedition – in das Jahr 2020*, Deutsche Bank Research, Mai 2008, p. 16.

attract more women<sup>143</sup>. Canadian estimates of the direct and indirect costs of workers lacking reconciliation facilities are between C\$3.9 billion and C\$8.7 billion per year<sup>144</sup>. A model analysis for a fictional medium-sized company in Germany came to the conclusion that savings due to the introduction of family-friendly policies would be around 25%<sup>145</sup>. Some of these benefits could also occur if following maternity leave a woman is entitled to ask for flexible working hours. Moreover, measures to facilitate reconciliation are the most effective in attracting more women and thus helping enterprises to perform better<sup>146</sup>.

### **Social and health impact**

A longer period of being at home and of breastfeeding helps the mother to avoid certain illnesses, as was stressed in the contribution of the 'Ordre des sages-femmes' (see Annex II) referring to recent studies. It would allow mothers to build up a stable relationship with their child and recover completely from giving birth. It also allows more time for breastfeeding. Payment which reflects previous earnings would mean that women do not lose out financially during maternity leave. Also, it might become easier to return to the labour market after a longer period of maternity leave<sup>147</sup>, when the child has become a little bit older, thus making it easier to find appropriate care facilities.

While there is some evidence that entitlement to a lengthy leave period which can only be taken by the mother can have a negative impact on women's employability<sup>148</sup>, this research concerned very long maternity leave periods (in some of the OECD countries covered in the research, maternity leave lasts for more than a year) so the risk does not seem relevant to an option which only extends maternity leave by four additional weeks in ten Member States.

### **The view of the Advisory Committee and Member States**

The Advisory Committee, in its opinion of 3 July 2008, recommends extending maternity leave to 24 weeks and guaranteeing an income equivalent to full salary.

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<sup>143</sup> According to recent research, enterprises with women on the board also show better performance: Desvaux e.a., McKinsey Report, Women matter, 2007, pp. 12 and 13; other US research ('Catalyst', The Bottom Line) came to the same conclusion in 2007; see: <http://www.catalyst.org/knowledge/bottomline2.shtml>; also see the same result for Finland: Kotiranta e.a., Female leadership and Firm Profitability, EVA Analysis No 3, 2007, p. 3.

<sup>144</sup> Quoted in: Babies and Bosses, reconciling work and Family life, OECD 2007, p. 184.

<sup>145</sup> Erziehung, Haushalt und Beruf: Anforderungen und Unterstützung für Familien, Monitor Familienforschung, Bundesministerium für Familie, Senioren, Frauen und Jugend, Ausgabe 4-8, 2006, p. 36; see also: Work Life balance, Management Practices and Productivity, Bloom/Kretschmer/Van Reenen, Centre for Economic performance, 2006, p. 26. The latter finds that there is neither a positive nor a negative influence on productivity.

<sup>146</sup> Desvaux e.a., McKinsey Report, Women matter, 2007, p. 20; see also Global Economics Paper No 154, Goldman Sachs 2007, p. 16 on the 'Woman 30' index.

<sup>147</sup> See Ruling/Kassner, Familienpolitik aus der Gleichstellungsperspektive, Ein europäischer Vergleich, 2007, p.91; Schönberg/Ludsteck, Maternity leave legislation, Female Labor Supply and the Family Wage Gap, IZA DP No 2699, p.33.

<sup>148</sup> See above under the heading 'Labour market discrimination against women (or parents) with small children'; D'Addio/D'Ercole, Trends and Determinants of Fertility Rates in OECD Countries: the role of policies, OECD Social, Employment and Migration working paper 27, 2007, p.56; as this research points out, negative effects can be counterbalanced by incentives for employers to favour the return of mothers into work.

In their replies to the questionnaire, some Member States stressed that this option should not lead to additional burden for employers<sup>149</sup>. Otherwise, employers would try to avoid employing women. Some Member States are in favour of increasing the duration of maternity leave (AT, BU, EE, EL, FI, HU, IT, PT, SK, SL); some Member States are in favour of increasing the payment (BU, FR, IT, SL, ES). Some Member States point out that pregnancy cannot be seen as an illness; therefore the idea of sickness is misleading.

The Austrian and Bulgarian contribution stressed that any amendments should not have negative effects on women's employability. Sweden, referring to both maternity and parental leave, stressed that increasing the payment and extending the duration would in the short term imply an overall reduction in job offers for women but that, on the other hand, high levels of payment and long leave periods improve the circumstances for parents to have the number of children they wish and to give parents better opportunities to combine their careers and private life. The French and the Italian contribution both made the point that a high payment has a positive impact on demography. The Lithuanian contribution emphasised that a more flexible framework for maternity leave would be helpful. The Belgian government stressed that a longer duration should only be considered if women's health is the goal; otherwise other forms of leave like parental leave should be improved. Spain stressed that the amendments should not lead to an additional burden on employers. The German contribution presented the view that there is no new medical research leading to the conclusion that maternity leave should be longer.

**Conclusion:** Although a high level of payment seems already to be ensured in many Member States, the guarantee of full payment during maternity leave improves the conditions of this form of leave in some Member States (see next paragraph). Some Member States will have to make adjustments to the current level of payment during maternity leave (i.a. BU, CZ, HU, IE, IT, RO, SE, SK, UK<sup>150</sup>). Furthermore, with respect to the length, even if in many Member States 18 weeks maternity leave is already in place, some Member States will have to adapt their legislation (AT, BE, DE, ES, FR, LV, MT, NL, PT, SI).

Providing better payment and a longer duration for maternity leave therefore is a meaningful and valuable means of support in terms of better reconciliation measures. The objectives will be met with the exception of reducing the gender gap in taking family-related leave. As some Member States have stressed, better maternity leave provisions could also have a positive impact on birth rates.

In terms of impact on female employment rates, longer maternity leave can have a positive effect. It might be easier for women to stay in the workplace<sup>151</sup>. A longer maternity leave period could be a helpful way to bridge the time before childcare is available. This is especially relevant for the 14% of households with dependent children which are managed by a single parent, mainly the mother.

**Subsidiarity and proportionality:** A directive would respect the principle of subsidiarity, since it is necessary to adapt already existing common minimum standards to the new

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<sup>149</sup> Annex II: Bulgaria, Italy, Sweden; Spain stress that there should be no additional burden for employers.  
<sup>150</sup> Here and in the following assessments for the other options only the information is used which Member State have transmitted as a reply to the questionnaire, see Annex II and III.

<sup>151</sup> Ruling/Kassner, Familienpolitik aus der Gleichstellungsperspektive, Ein europäischer Vergleich, 2007, p. 91; Schönberg/Ludsteck, Maternity Leave Legislation, Female Labor Supply and the Family Wage Gap, IZA DP No 2699, 2007, p.33.

challenges of increasing the employment rate of women with children and offering better reconciliation opportunities in general. It will thus continue to provide for a level playing field between the Member States for the protection of pregnant workers. It would also respect the principle of proportionality (a directive amending Directive 92/85/EC in the way discussed here introducing improved standards would be a proportionate action to achieve the aim of better reconciliation and could help to increase the employment rates of women with children. The proposed levels do not go beyond international agreed standards (ILO recommendation). This could help to increase employment rates of women with children). A directive would be efficient since it would leave the widest latitude to the Member States to implement the measure in the context of their national social model (many Member States have already introduced a longer duration of leave and a higher payment and would not need to make major changes to their legislation). A directive would be effective because it would create the desired effects and would be in line with fundamental principles and other Commission policies, namely the principle of gender equality and the Lisbon strategy.

**Overview table — Option 3a: amending Directive 92/85/EEC on maternity leave**

Objective to be achieved/problem addressed	Rating of impact against baseline scenario	Comments
Reduce differences in employment rate of women with and without children	0/+	By offering longer leave, female employment rates could increase but this cannot be predicted with certainty
Widen the scope of family-related leave and the conditions for taking it	0/++	4 extra weeks will help mothers to recover more fully and build a stable relationship with the child. Some Member States will have to increase the duration; more flexibility in working time when returning to work could help mothers to reconcile their responsibilities
Reduce the gender imbalance in taking leave	-	Such leave is available only to women
Give financial support during leave	0/+	Depending on the Member State, better payment will be provided
Enhance job security and fight discrimination	+	In terms of maternity leave, a high standard of protection has already been achieved (right to return to the same or equivalent post, no dismissal, employment rights ensured); a clause banning discrimination included in Directive 2002/73/EC for reasons of clarity should be included in the Maternity Leave Directive

### 8.3.2. Amending parental leave provisions (Option 3b)

A preliminary remark: as the European social partners have decided to negotiate on the issue, the Commission will have to refrain from coming up with proposals on parental leave for nine months, according to Article 138(4), second sentence, EC Treaty.

As mooted in the second-stage consultation of the social partners<sup>152</sup>, several changes could be made to Directive 96/34/EC (Parental Leave Directive). This assessment focuses on the following:

- one additional month of parental leave, granted only if both partners have taken at least one month of parental leave beforehand, the whole period of parental leave being remunerated at a rate of 66% of the last salary;

<sup>152</sup> See at [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/reconciliation2\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/reconciliation2_en.pdf), pp. 10-13.

- a clause prohibiting discrimination of workers taking parental leave<sup>153</sup>.

Explanation of the option: this option would mean that families would receive one more month of parental leave, which could be taken by either parent. But this additional month will only be granted if both parents have already taken some parental leave. The partner who was less involved must take at least one month of parental leave, before the family can benefit from the additional month. Under this option, Member States remain free to adapt the conditions to the special needs of single-parent families including widows/widowers or same-sex couples. Whereas for same-sex couples the above option might be applicable as well, in single-parent families the condition that the second partner must also be involved in taking the leave is inapplicable. In order to help these families, the additional month could be granted without this condition. Introducing a right to more flexible working arrangements was discussed under the amendments to maternity leave. It should also be introduced with regard to parental leave.

Choice of options/exclusion of other options: The 'no payment for parental leave' option is not discussed here for a number of reasons. First, children are costly in general<sup>154</sup>. Secondly, the 'no payment' option is clearly no incentive for fathers to take parental leave. According to a study carried out in the UK, fathers do not take parental leave when it is unpaid<sup>155</sup>. This also applies to the 1995 Swedish reform introducing the paid 'daddy' month, which increased the percentage of fathers taking parental leave from 9% to 47%<sup>156</sup>. The experience in Iceland is similar, with roughly 90% of fathers using their right to parental leave, which is non-transferable and paid at a rate of 80% subject to no ceiling<sup>157</sup>. Setting the payment at 100% or at the equivalent of sick pay is not a realistic option given the high costs, although Member States and employers remain free to go beyond the minimum level fixed in a Directive. Setting the payment to a lower level than around 66% would not offer fathers a real incentive to avail themselves of parental leave as can be seen from the experience in Iceland referred to above<sup>158</sup>. Therefore, this option focuses on a payment of 66% of former salary.

The option of introducing two or three more months of parental leave has been excluded too. As can be seen in Annex III, many Member States which go beyond the present minimum level of six months' parental leave do not provide for a payment or only offer payment at a lower rate. Therefore, a moderate increase in duration could figure as a new 'minimum' standard.

### **Economic impact**

- **Economic impact of one additional month of parental leave, granted only where both partners have taken at least one month of parental leave beforehand, remunerated at a rate of 66% of the last salary (subject or not to a ceiling).**

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<sup>153</sup> To the effect that workers who have exercised, are exercising or are entitled to exercise the right to parental leave are not treated less favourably in terms of their working conditions.

<sup>154</sup> In France, on average, couples spend 10% to 20% of their income on a child, see: Majnoni d'Intignano, *Egalité entre femmes et hommes*, Paris 1999, p. 25.

<sup>155</sup> *Employment relations, Research series No 50, Maternity Rights and benefits: Survey of Parents 2005*, pp. 80-82.

<sup>156</sup> *Parental Leave – A Policy Evaluation of the Swedish 'Daddy-Month' Reform*, Friebel, 2005, Institute for the Study of Labour, IZA DP No. 1617, p. 22.

<sup>157</sup> Gislason, *Parental Leave in Iceland - Bringing the Fathers in*, 2007, p. 22.

<sup>158</sup> The same argument applies to an option where the payment is related to an average worker's salary, as the average is normally too low to attract enough fathers.

At present, a right to at least seven months of parental leave exists in a majority of Member States. Member States which go beyond the existing minimum standard of six months' parental leave (three months to fathers, three months to mothers) often provide for a low payment or no payment at all. Parental leave is paid in a majority of Member States, but the rate varies considerably (ranging from tax relief to a 100% payment)<sup>159</sup>. Granting a benefit equal to 66% of the last salary will therefore have an impact on costs in two thirds of the Member States. As less than one third of the Member States have currently made parental leave non-transferable, introducing a strict non-transferability clause for one month under this option (meaning that at least one month must be taken by the partner who has previously been less involved) would cause a major change for two thirds of the Member States<sup>160</sup>. It could bring additional salary replacement costs because a certain period of leave must be taken by the other, previously less involved, partner; this will very often be the father, who generally has a higher salary than the mother.

The ECORYS study emphasises that the biggest economic impact will arise from a higher rate of payment during parental leave<sup>161</sup>. They have calculated the cost of an extra month of parental leave at a 66% payment rate without ceiling<sup>162</sup>. Of course, a ceiling could bring down the costs considerably and the Member States would be free to introduce one. In the ECORYS study the economic impact was calculated on the basis that the extra month would be taken by women. Since women on average earn 15% less an hour than men across the EU (gender pay gap), a non-transferability clause would increase the costs at EU level, if the additional month's leave were to be taken by the father. The ECORYS study concluded that over a period of 20 years the total costs<sup>163</sup> in the eight Member States selected would range from €20 million in Hungary to €131 million in Spain. These costs would amount to a percentage of GDP<sup>164</sup> ranging from 0.0006% in the UK to 0.006% in Spain and Poland<sup>165</sup>. A higher female participation rate ranging from 0.01 percentage points in Belgium, France and Hungary to 0.05 percentage points in Poland would be needed to offset the cost of this option<sup>166</sup>. The required increase in female labour market participation rates will most probably result from this measure, according to the ECORYS study.

Some comprehensive studies on European countries conclude that legislation on family-related leave raises female employment rates by 3% to 4%, and even more for women of

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<sup>159</sup> Six Member States already offer a benefit equal to or higher than 66% of income. Some Member States are in favour of a payment during parental leave; the UK is strictly against any payment, see Annex II and III.

<sup>160</sup> In their contributions many Member States stress the importance of increasing the participation of fathers (Austria, Bulgaria, Finland, France, Italy, Romania and Spain). Some Member States are explicitly in favour of making parental leave non-transferable (Austria, Bulgaria, Italy, Romania and Spain).

<sup>161</sup> A high payment is granted in some Member States already but only for a shorter period; in others there are long periods but the payment is low.

<sup>162</sup> It was not possible to factor a ceiling because ceilings would vary too much in Member States.

<sup>163</sup> €130 million in Belgium; no extra cost in Denmark and Estonia; €174 million in France; €370 million in Poland; €182 million in the UK.

<sup>164</sup> In order to give an idea about public expenditure and shares of GDP, it is important to know that for example in the OECD countries 0,7% of GDP was spent on average on childcare and early education services, see [http://www.oecd.org/document/9/0,3343,en\\_2649\\_34637\\_38141385\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/9/0,3343,en_2649_34637_38141385_1_1_1_1,00.html).

<sup>165</sup> Belgium: 0.03%; France 0.001%; Hungary: 0.001%;.

<sup>166</sup> 0.04 percentage points in Spain, no indication for the UK.



childbearing age<sup>167</sup>. In particular, paid parental leave helps to raise female employment rates. There is evidence that countries granting paid parental leave (and childcare subsidies) in general have higher female labour-market participation rates and that such policies stimulate full-time participation<sup>168</sup>. However, research also shows that schemes to increase leave have only brought greater equality between men and women on the labour market where the extra leave was deliberately earmarked for fathers<sup>169</sup>.

There is evidence that the increase in the labour-market participation rate of mothers (and the relatively stable fertility rate) in Sweden was achieved in particular by introducing very flexible parental leave schemes encouraging fathers' involvement (and State childcare provision)<sup>170</sup>. Incentives for fathers could contribute to closing the gender employment gap, because the Member States with a gender employment gap of less than 10% (Finland, Sweden, Lithuania, Bulgaria, Estonia and Slovenia) generally offer strong incentives for fathers to take parental leave.

- **Economic impact of a clause banning discrimination**

No increase in the number of claims or any other potential costs is anticipated as a result of a clause banning discrimination on grounds of taking parental leave<sup>171</sup>. A clause banning discrimination on grounds of taking maternity leave is already in place and has so far not led to a noticeable increase in claims.

### **Social impact**

A portion of parental leave earmarked for the less involved partner (mostly fathers) and payment of leave will make it attractive to fathers too. This option could therefore help to broaden the choices of fathers. It would support the idea of active fatherhood and would thus ensure that the proposed additional one month of parental leave is not taken by mothers<sup>172</sup>.

Some Member States have in place a system allocating a certain amount of parental leave to fathers. This is the case in Germany, for example<sup>173</sup>. It therefore shows that also in Member

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<sup>167</sup> The Impact of Family-Friendly Policies in Denmark and Sweden on Mothers' career Interruptions due to Childbirth, Pyllänen/Smith, Institute for the Study of Labour, 2004, IZA DP No 1050, p. 1 with further references.

<sup>168</sup> C. Ruhm, The Economic consequences of Parental leave Mandates: lessons from Europe, (1998) Quarterly Journal of Economics, 131, pp. 285-317 (287). For instance, entitlement to 40 weeks' parental leave is predicted to increase the employment-to-population ratio of 25-34 year old women by 7% to 9%; Reconciliation of work and private life, A comparative review of thirty European countries, EU expert group, European Commission, 2005, p. 8.

<sup>169</sup> The Impact of Family-Friendly Policies in Denmark and Sweden on Mothers' career Interruptions due to Childbirth, Pyllänen/Smith, Institute for the Study of Labour, 2004, IZA DP No 1050, p. 20; In that case, the leave taken by mothers decreased, *ibid* p. 23.

<sup>170</sup> *Ibid.*, p. 22.

<sup>171</sup> This would cover situations involving indirect discrimination where a particular practice, such as allocating unsuitable work to a parent returning from parental leave, would put the latter at a disadvantage.

<sup>172</sup> see: The Impact of Family-Friendly Policies in Denmark and Sweden on Mothers' career Interruptions due to Childbirth, Pyllänen/Smith, Institute for the Study of Labour, 2004, IZA DP No 1050, p. 1 with further references; as to the negative influence on wages: see C. Ruhm, The Economic consequences of Parental leave Mandates: lessons from Europe, (1998) Quarterly Journal of Economics, 131, pp. 285-317 (311); with leaves longer than 3 months wages decrease by 3-5% of hourly earnings.

<sup>173</sup> Germany in 2007 introduced an entitlement to 14 months' paid parental leave benefits. If the other partner does not take at least two months, those months are lost. In response, more than twice as many fathers took parental leave as in the previous year see: Bankenverband, Interesse (Informationen, Daten,



States with more traditional gender roles this option would increase the fathers' share in taking parental leave. In Denmark, Iceland and Sweden, when a given share of paid leave was earmarked for fathers, most of them made use of it (about 90% in Iceland<sup>174</sup>, 70% in Sweden and almost 50% in Denmark in the 1990s)<sup>175</sup>. Overall experience in the Nordic countries shows that fathers' parental-leave take-up rates rose sharply when a fixed share of leave was set aside for them (fathers' quota or 'daddy months'). Men will take parental leave to a greater degree only if a reasonable payment is guaranteed. This has been seen in the UK and Germany<sup>176</sup>.

### **The view of the Advisory Committee and Member States**

The Advisory Committee in its opinion of 3 July 2008, takes the view that parental leave should be extended to 24 weeks and a payment of at least an average industrial wage should be provided. Also, measures should be taken to ensure that the leave is taken equally between the partners. Some Member States in their contribution support the idea that parental leave should not be transferable to only one partner and that measures should be taken to encourage more fathers to take this leave (AT, EL, ES, FI, FR, HU, IT, LT, RO). Some Member States are in favour of, or at least are not against increasing the duration of parental leave (EE, EL, HU, IT, LT); some are in favour of a better payment (IT, LT, SL).

**Conclusion:** According to the ECORYS study, it can realistically be supposed that earmarking one month's parental leave for fathers will produce the slight increase in female labour-market participation rates necessary to outbalance the costs. Women could return to work earlier or have better options to stay in employment if the fathers also take parental leave. However, the actual outcome is difficult to predict because findings on the impact of introducing such a quota for fathers are few and far between. However, as the month's leave is lost if the father does not take it, fathers may be encouraged to do so, and all the more so if it is combined with a high payment. A compensation rate of 66% seems sufficient to entice fathers to take the leave. As the following table shows, the objectives will nearly all be met. This option is thus a step towards more gender equality. A longer period of leave can also help to bridge the time before childcare is available. Some Member States will have to adapt the duration of leave (BE, MT, NL, PT, RO), and some will have to provide for a better payment (i.a. AT, BE, BU, ES, IE, MT, NL, PT, RO, SK, UK).

**Subsidiarity and proportionality:** A directive would respect the principle of subsidiarity (the situation shows that there is a need for action at EU level to adapt the existing provisions to the new challenges of increasing the employment rate of women with children and fathers' share of family responsibilities). It would also respect the principle of proportionality (a directive amending Directive 96/34/EC in the way discussed here introducing new minimum standards would be a proportionate action to achieve the aim of increasing the employment rate of women with children and to have more fathers taking parental leave). A directive would be efficient (in order to achieve the aim it would leave the widest latitude to the Member States, many of which have already introduced a longer duration of leave and a higher payment and would not need to make major changes to their legislation; they would

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Hintergründe)12/2007, p. 7; Finland, Iceland, Norway and Sweden also have leave earmarked for fathers which is otherwise lost.

<sup>174</sup> Gislason, Parental Leave in Iceland - Bringing the Fathers in, 2007, p. 22.

<sup>175</sup> Parental Leave Policies and Parents' Employment and Leave-taking, Han/Ruhm/Waldfogel, 2007, Institute for the Study of Labour, IZA DP No 3244, pp. 2 and 23.

<sup>176</sup> See examples from the UK and Germany in section 7.3.2 above.

only need to specify that one month of parental leave would be lost if both partners have not taken at least one month beforehand). A directive would be effective because it would create the desired effects and would be in line with fundamental principles and other Commission policies, namely the principle of gender equality and the Lisbon strategy.

**Overview table — Option 3b: amending Directive 96/34/EC on parental leave**

Objective to be achieved/problem addressed	Rating of impact against baseline scenario	Comments
Reduce differences in employment rate of women with and without children	0/+	By offering payment, fathers would take up parental leave; female employment rates could increase slightly
Widen the scope of family-related leave and the conditions for taking it	0/+	Flexible working patterns for some of the parental leave would support women's needs, but would not be compulsory in a directive. Effects cannot therefore be predicted.
Reduce the gender imbalance in taking leave	++	Men's options to engage in caring responsibilities will increase if some of the parental leave is earmarked for them (made non-transferable) and if parental leave is paid at a good level
Give financial support during leave	0/+	A higher payment will be granted in some Member States where the leave is not paid or paid at a low rate
Enhance job security and fight discrimination	+	Clauses on prohibiting discrimination for taking such leave would increase job security and take-up rate

### 8.3.3. *Introducing other forms of leave: adoption leave (Option 3c)*

A preliminary remark: as adoption leave is mentioned as an entitlement in Directive 96/34/EC on parental leave and as the European social partners have decided to negotiate on parental leave, the Commission should refrain from coming up with proposals on adoption leave during the social partners' negotiations.

This assessment focuses on the option of granting adoption leave on the same conditions as parental leave (six months plus one additional month on condition that both partners have taken at least one month's parental leave beforehand, payment of 66% of last salary), meaning that the entitlement to adoption leave would be the same as for parental leave. Explanation of the choice and exclusion of other options: the same reasoning as for parental leave applies.

### **Economic and social impact**

Nearly all the Member States have introduced a right to adoption leave ranging from four weeks to two years and linked in many cases to the duration of maternity or parental leave. The majority of the Member States have linked it to a payment at the same rate as for maternity leave or parental leave respectively. A duration of seven months or more is already the rule in many Member States. However, the payment ranges from zero to 100% of previous average earnings. The ECORYS study points out that there are no comparable figures on the number of adoptions in the eight Member States selected, so no precise calculation is possible. However, for a large part of the economic impact, the same considerations as for parental leave apply<sup>177</sup>, but it must be borne in mind that adoptions, and the associated taking of parental leave, are much less frequent than births of children in 'natural' families. As the situation resembles that of parental leave, a payment should be provided for reasons equating to those which have been discussed for parental leave.

<sup>177</sup> See Section 7.3.2.

## The view of the Advisory Committee and Member States

The Advisory Committee, in its opinion of 3 July 2008 takes the view that adoption leave should give access to the different forms of family-related leaves. Some Member States' contributions show that they are in favour of adoption leave (FR, IT, LT, PT, SK). As contemplated in the second-stage consultation of the social partners<sup>178</sup>, a clear right to adoption leave could be introduced. In principle, Directive 96/34/EC introduces a right to adoption leave but leaves it to Member States to lay down the concrete rules<sup>179</sup>.

**Conclusion:** In all other respects, the same reasoning as for parental leave applies. As can be seen below, the objectives will partly be met. A directive would respect the principles of subsidiarity, proportionality, efficiency and effectiveness (same arguments as for parental leave apply).

### Overview table Option 3c: shaping adoption leave in the same way as parental leave

Objective to be achieved/problem addressed	Rating of impact assessed against the baseline scenario	Comments
Reduce differences in employment rate of women with and without children	0/+	By offering payment, fathers would take up adoption leave; paid leave will have a positive impact on female employment rates because women could return to the labour market while their partners take parental leave
Widen the scope of family-related leave and the conditions for taking it	0/+	Flexible working patterns for some of the adoption leave would support women's needs, but would not be compulsory in a directive; effects therefore not predictable
Reduce the gender imbalance in taking leave	++	Men's options to engage in caring responsibilities will increase if some of the adoption leave is earmarked for them (made non-transferable) and if adoption leave is paid at a good level
Give financial support during leave	0/+	A higher payment will be granted in some Member States where the leave is not paid or paid at a low rate
Enhance job security and fight discrimination	+	Clauses on prohibiting discrimination for taking this kind of leave would increase job security and take-up level

#### 8.3.4. Introducing new forms of leave: paternity leave (Option 3d)

A preliminary remark: at present, the Commission should await the outcome of the social partners' negotiations because there is a close link between paternity and parental leave.

The introduction of new forms of leave, namely a right to paternity leave, was considered in the second-stage consultation of the social partners<sup>180</sup>. This assessment focuses on the following option:

- 10 days' leave with a payment of 66% of the last salary<sup>181</sup>.

Choice of this option/exclusion of other options: 10 days' paternity leave already exists in a number of Member States. This duration of paternity leave therefore seems to represent a minimum standard. As to the level of payment in this option, the same arguments as for parental leave apply. From the point of view of setting an incentive for fathers to avail

<sup>178</sup> See at [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/reconciliation2\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/reconciliation2_en.pdf), pp. 10-13.

<sup>179</sup> See clause 2(3)c of the framework agreement in Directive 96/34/EC, Annex I.

<sup>180</sup> See [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/reconciliation2\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/reconciliation2_en.pdf), pp. 10-13.

<sup>181</sup> The no-pay-scenario is not discussed further here, because it provides no incentive for fathers to take leave: see arguments in section 7.3.2 on parental leave above.

themselves of parental leave, the experience in Member States shows that this leave is not attractive to fathers. Therefore, the payment should be set sufficiently high.

### **Economic and social impact**

A right to paternity leave exists in the majority of the Member States, while over a third have introduced a right to 10 days' leave or more around the child's birth<sup>182</sup>. A right to a minimum of 10 days' paternity leave will therefore have no impact on most Member States. Nearly half of the Member States have introduced a payment for fathers on paternity leave. The ECORYS study calculated the costs for a two-week period of paternity leave on the basis of a 100% payment. According to the ECORYS study, only two of the eight Member States selected<sup>183</sup> would have to change their legislation. In Hungary, introducing a second week and pay for both weeks at a level of 100% of the last salary would imply extra costs equal to 0.014% of GDP. Offsetting those costs would call for an increase in female labour-market participation of 0.08 percentage points. In the UK, where two weeks are paid by a lump sum, a rise in the rate of payment to 100% of the last salary would amount to 0.002% of GDP (€0,7 billion), which would require an increase in female labour-market participation of 0.01 percentage points. The assessment for parental leave shows that fathers will only take paternity leave if it is paid<sup>184</sup>.

As mentioned in the opinion of the Advisory Committee of 3 July 2008, in Slovenia a research project has shown that, in general, fathers support the idea of a more active role for men in the family and that introducing paternity leave is seen as a good way of promoting active fatherhood. Fathers availed themselves to 74% of the paid part of paternity leave in 2006 (15 days). It seems reasonable to set the minimum no lower than 66% of the last salary. Therefore, the costs will be considerably lower than calculated by the ECORYS study. The introduction of paternity leave across the EU could have a significant impact on the choices of fathers. It could become normal and common for fathers to care for their children and take leave for that purpose. It might also change employers' attitude to women.

### **The view of the Advisory Committee and Member States**

The Advisory Committee, in its opinion of 3 July 2008, takes the view that one month's paid paternity leave should be introduced.

Some Member States, in their contributions, have expressed support for introducing this form of leave (FI, FR, IT, LT, PT, SK).

**Conclusion:** As the following table shows, the objectives will be met in part. As the leave is very short, the effect on women's employment rates will not be measurable. Some Member States would have to introduce or extend paternity leave (AT, BU, CZ, DE, HU, IE, IT, MT, NL, PL, PT, RO, SK), while some would have to introduce or increase the payment<sup>185</sup>. A directive would respect the principle of subsidiarity (the situation at present shows that there is a need for action at EU level in order to encourage fathers to take family-related leave). It would also respect the principle of proportionality (a directive on paternity leave in the way

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<sup>182</sup> Some Member States are explicitly in favour of introducing a right to paternity leave at EU level.

<sup>183</sup> Hungary, where there is provision for one week's leave only, and the UK, where there is provision for a lump sum amounting to less than 66% of the last salary.

<sup>184</sup> See under 7.3.2.

<sup>185</sup> The indications obtained from Member States are not sufficient to give further information.

discussed here would be a proportionate action to achieve the aim of having more fathers taking parental leave). A directive would be efficient (in order to achieve the aim it would leave the widest latitude to the Member States, many of which have already introduced paid paternity leave). A directive would be effective because it would create the desired effects and would be in line with fundamental principles and other Commission policies, namely the principle of gender equality.

### Overview table - Option 3d: 10 days' paternity leave, 66% payment

Objective to be achieved/problem addressed	Rating of impact against baseline scenario	Comments
Reduce differences in employment rate of women with and without children	0	No effect on women's employment
Widen the scope of family-related leave and the conditions for taking it	+	This increases the available scope of leave
Reduce the gender imbalance in taking leave	++	Men's options to take family related leave will increase
Give financial support during leave	+	A valuable support will be given not to women but to the family as a whole
Enhance job security and fight discrimination	0/+	Clauses on prohibiting discrimination for taking this kind of leave would increase job security and take-up rate

#### 8.3.5. Introducing new forms of leave: 'filial leave' (option 3e)

A preliminary remark: at present, the Commission should await the outcome of the social partners' negotiations because this issue could also be raised in their discussions on parental leave.

As contemplated in the second-stage consultation of the social partners<sup>186</sup>, a right to filial leave could be introduced. This could enable workers to care for a dependent relative with a disability, illness or impairment. This assessment will focus on the following option:

- Introducing a filial leave of one month to care for a dependent family member (including children above 8 years of age).

Explanation of the option: Member States will have to decide who is a 'dependent family member'.

Choice of option/exclusion of other options: nearly all Member States have introduced an entitlement to leave to care for dependent family members, arranging in length from 2 days to 120 days linked to 'cases of emergencies' at home, in most cases related to a sick child<sup>187</sup>. One month could form a minimum standard considering the existing entitlements in the Member States. One month seems to be a good basis for providing care for a certain time and/or making further arrangements for the care of the family member concerned. Member States are free to grant a payment<sup>188</sup>. If the definition of 'dependent family members' is wide-ranging,

<sup>186</sup> See under [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/reconciliation2\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/reconciliation2_en.pdf), pp. 10-13.

<sup>187</sup> In March 2008, Germany introduced a law reforming care services ('Pflegezeitgesetz'), providing for 6 months' unpaid filial leave covering children, grandchildren, and grandparents. The employee keeps social security coverage and is guaranteed the right to return to the workplace. Dismissal is prohibited.

<sup>188</sup> With the option of a payment of 66%, the ECORYS study provided a rough estimate of the cost of such leave, based on the assumption that every worker would take one additional month of filial leave once

the granting of a payment will be very costly and difficult to monitor. The majority of Member States have allocated a payment to this kind of leave, but then only for a few days. In their contributions, some Member States explicitly state the need to introduce filial leave<sup>189</sup>. As for parental leave, a right to ask for flexibility as regards working patterns should be introduced.

### Economic and social impact

The ECORYS study emphasises that according to their findings from the eight Member States filial leave arrangements differ greatly between the Member States. Furthermore, they are mostly not provided as a single, specific arrangement but are integrated into existing labour market leave schemes or social security schemes in different ways. Hence it is difficult to find a basis with which to compare the new provisions. According to the ECORYS study the costs are not calculable because the take-up rates cannot be determined. However, in the calculation for parental leave the ECORYS study found that the cost of four additional weeks' of paid leave in the eight Member States ranged from €20 million in Hungary to €131 million in Spain<sup>190</sup>. However, the take-up rate for filial leave could be higher than for parental leave. But as no payment is proposed so far, four weeks of filial leave are much less expensive than parental leave. Introducing filial leave will improve the situation of people caring for a dependent family member. Four weeks could provide the time needed to make arrangements for formal care or to spend some time with a terminally ill relative. If there is a need for this type of leave, even if occurring more than once in a lifetime, women (and men) do not have to drop work but can find other solutions which allow them to stay in employment.

### The view of the Advisory Committee and Member States

The Advisory Committee in its opinion of 3 July 2008 takes the view that a form of paid carer's leave should be introduced. There are some Member States which, in their contributions, indicate that they are in favour of introducing this new type of leave (GR, IT, LT, PT, SK).

**Conclusion:** As can be seen below, the objectives will partly be met. Most Member States will have to introduce or extend this form of leave. A directive would respect the principle of subsidiarity (the situation at present shows that there is a need for action at EU level in order to help carers reconcile professional and private life). It would also respect the principle of proportionality (a directive on filial leave in the way discussed here would be a proportionate action to achieve the aim of giving a minimum support to carers). A directive would be efficient (in order to achieve the aim it would leave the widest latitude to the Member States). A directive would be effective because it would create the desired effects of helping carers.

#### Overview table option 3e: introducing one month of filial leave

Objective to be achieved/problem addressed	Rating of impact against baseline	Comments
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in her/his life-time. The calculation for parental leave by the ECORYS study found that the cost of four additional weeks' leave in the eight Member States selected as a model would be roughly the same as for parental leave. The cost of filial leave could be higher if the take-up rate for such leave is higher than for parental leave.

<sup>189</sup> France, Italy, Lithuania, Slovakia and Spain.

<sup>190</sup> €130 million in Belgium; no further costs in Denmark, the UK and Estonia; €174 million in France; €140 million in Poland.

	scenario	
Reduce differences in employment rate of women with and without children	0/+	This leave could have a positive impact on female employment rates, but might have a negative impact on wages and employability of women if only taken by women
Widen the scope of family-related leave and the conditions for taking it	++	Helps to offer better reconciliation and broaden the available options
Reduce the gender imbalance in taking leave	0	Men's take-up might remain low; no special incentive for men is set
Give a financial support during leave	0/-	As no payment is proposed, no additional support is given.
Enhance job security and fight discrimination	0/+	Clauses on prohibiting discrimination for taking this kind of leave would increase job security and take-up level

#### 8.4. Comparison of options and conclusions

If no action is taken, the reconciliation measures throughout the EU are unlikely to improve. Given the Commission's commitments, the calls from the Council and from Parliament and the stakeholders' expectations, this option would also be difficult to defend politically.

Amending Directive 92/85/EEC would bring benefits to women workers. The ECORYS study has identified the option of amending this Directive in the proposed way as the most promising one for harmonisation measures, because the provisions do not differ very much throughout the Member States. The amendments to maternity leave examined in this report are in line with international recommendations as well as with the practice in many Member States.

In order to mitigate the costs, the Commission's proposal would allow Member States to cap the level of maternity pay provided that it is not below the level provided in the current Directive. The financing of the maternity pay, and notably the share to be borne by the employer, is also left to the Member States.

Furthermore, the above assessment shows that amending Directive 96/34/EC as proposed would have the desired impact on the two main objectives, namely slightly increasing the employment rate of women with children (ECORYS study) and achieving a better gender balance in taking family-related leave. The best option would be an extension of one month, subject to the condition that both partners have taken at least one month's parental leave, with a payment of 66% of the last salary for the whole parental leave period.

New types of leave should be introduced. Paternity leave in particular will ensure a better gender balance in taking family-related leave and will also help women to recover after giving birth, because the fathers can stay at home. Filial leave and adoption leave will provide meaningful support in certain family situations and can help to increase maternal employment rates.

Furthermore, the dissemination of best practices should be increased and encouragement should be given to improving the availability and quality of childcare services

**Conclusion:** The most promising option would be to combine all measures in a package of proposals as they are complementary. But as the social partners have just started to negotiate on parental leave and that they could include the new forms of leave in their negotiations, the Commission will not make a proposal in this area for the time being.

Under these circumstances, and given that the duration and conditions of maternity leave provide the starting point for the design of an family-related leave system, a proposal for amending maternity leave remains a very useful measure in order to improve reconciliation

and can be taken into account by the social partners in their negotiations on other forms of family-related leave. Of course, improved maternity leave will not, of itself, improve reconciliation or gender equality on the labour market but, in relation with other measures such as better childcare provision, it will increase the possibilities for women with children to become or remain economically active.

### Comparison of options: overview table

	No new action	Dissemination of best practices	Amending maternity leave	Amending parental leave	Introducing adoption leave	Introducing paternity leave	Introducing filial leave
Reduce differences in employment rate of women with and without children	0	0/+	0/+	0/+	0/+	0	0/+
Widen the scope of family-related leave and the conditions for taking it	0	0/+	0/++	0/+	0/+	+	++
Reduce the gender imbalance in taking leave	0	0/+	-	++	++	++	0
Give financial support during leave	0	0/+	0/+	0/+	0/+	+	0/-
Enhance job security and fight discrimination	0	0/+	+	+	+	0/+	0/+

## 9. MONITORING AND EVALUATION ARRANGEMENTS

### 9.1. Possible indicators and monitoring

The employment rate of women with children is an indicator of the success of reconciliation arrangements. This objective can be monitored via the Labour Force Survey, which gives tables on employment rates of women with children. The figures are included in the Commission's annual report on equality between women and men, which will go on monitoring and analysing them. The second objective, namely to improve the gender balance in the parental-leave take-up rate, has not been monitored systematically by Eurostat to date. However, data on fathers' share of parental leave exist in some Member States. The Commission could endeavour to improve the availability of statistics on this point. Data would be published regularly. If figures on fathers' take-up rate could be determined, they could also be published regularly in the Commission's annual report on equality between women and men.

In the future, preferably four years after transposition, thought will be given to assessing the impact of the directive/s on women's participation in the labour market and the increase in fathers taking parental and paternity leave. The effectiveness of the proposed non-



discrimination clause could be monitored by a report of the Legal Network and/or an opinion of the Advisory Committee as well as via the Equality Bodies.

## **9.2. Transposition**

The time limit for transposing the directive/s would be two or three years<sup>191</sup>. It is suggested that six years after adoption, the governments of the Member States and the national equality bodies should send the Commission information for a report to Parliament and the Council on the application of the directive/s. The report could put forward proposals for any revision or updating of the directive/s.

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<sup>191</sup> For the existing Parental Leave Directive three years were given, for the existing Maternity Leave Directive two years have been given.

### 9.3. ANNEX I: Legal framework

The **Maternity Leave Directive** 92/85/EEC<sup>192</sup> is a directive in the area of health and safety at work. It is the tenth individual Directive within the meaning of Article 16(1) of the 'mother'-Directive 89/391/EEC<sup>193</sup> based on Article ex-118a EC Treaty. It provides for a minimum level of 14 weeks of leave with a payment which should be at least equivalent to sick leave. Two weeks must be allocated before and/or after confinement. According to Article 2 (7) of Directive 76/207/EEC as amended by Directive 2002/73/EC, the woman has the right, after maternity leave, to return to the same or an equivalent post. According to the same provision, less favourable treatment of a woman related to pregnancy or maternity leave shall constitute discrimination. A woman cannot be dismissed during maternity leave. The rights linked to the employment contract are ensured.

The Commission reported on the implementation of the Directive in 1999<sup>194</sup>.

The **Parental Leave Directive** 96/34/EC<sup>195</sup> including the Framework Agreement on parental leave provides for an entitlement of both parents to a minimum of three months in the case of the birth or adoption of a child. The entitlement to leave '*should in principle be granted on a non-transferable basis*' meaning that one partner cannot shift his or her entitlement to the other partner. There are no rules on payment during parental leave. It is therefore up to the Member States to decide upon this. The leave can be taken until the child is 8 years old.

As regards flexibility in taking parental leave it is for Member States to decide whether parental leave is granted on a full-time or part-time basis, in a piecemeal way or in the form of a time-credit system. Also, as regards the requirement to fulfil a length-of-service criterion or to establish a notice period, this is left to Member States.

Member States are requested to take the necessary measures to protect workers against dismissal on the grounds of an application for, or the taking of, parental leave. Rights acquired by the worker on the date on which parental leave starts shall be maintained. All matters relating to social security are to be decided by the Member States.

The Commission reported on the implementation of this directive in 2003<sup>196</sup>.

As regards more specifically adoption leave, the Parental Leave Directives requests the Member States to '*adjust conditions of access and detailed rules for applying parental leave to the special circumstances of adoption*'<sup>197</sup> However, in general, the agreement in clause 2(1) grants an individual right of three months' leave to each parent on the grounds of adoption.

As to flexibility measures, according to the political agreement of the Council in June 2008 on an amended proposal for a Directive of the European Parliament and of the Council amending

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<sup>192</sup> 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 (OJ L 348, 28.11.1992, p. 1).

<sup>193</sup> on the introduction of measures to encourage improvements in the safety and health of workers at work OJ L 183 du 29/06/1989 p. 1 – 8.

<sup>194</sup> COM(1999)100 final.

<sup>195</sup> Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC (OJ L 145, 19.6.1996, p. 4).

<sup>196</sup> COM(2003)358 final.

<sup>197</sup> See Clause 2(3)(c) of the Framework Agreement.

Directive 2003/88/EC concerning certain aspects of the organisation of working time<sup>198</sup>, the following article could be introduced into Directive 2003/88/EC<sup>199</sup>:

*'Article 2b*

*Reconciliation of work and family life*

*The Member States shall encourage the social partners at the appropriate level, without prejudice to their autonomy, to conclude agreements aimed at improving reconciliation of work and family life.*

*The Member States shall ensure, without prejudice to Directive 2002/14/EC and in consultation with the social partners, that employers inform workers in due time of any substantial changes in the pattern or organisation of their working time.*

*Taking into account workers' needs for flexibility in their working hours and patterns, the Member States shall, in accordance with national practices, also encourage employers to examine requests for changes to such working hours and patterns, subject to business needs, and to both employers' and workers' needs for flexibility."*

In some other directives, the new forms of leave are mentioned. These provisions do not exclude EU legislation on this issue, because they only refer to the present situation where these rights do not exist at EU level.

Recital 27 of Directive 2006/54/EC<sup>200</sup> mentions adoption leave as follows:

*'Similar considerations apply to the granting by Member States to men and women of an individual and non-transferable right to leave subsequent to the adoption of a child. It is for the Member States to determine whether or not to grant such a right to paternity and/or adoption leave and also to determine any conditions, other than dismissal and return to work, which are outside the scope of this Directive.'*

Adoption leave and paternity leave are mentioned in Article 16 of Directive 2006/54/EC as follows:

*'Article 16*

*Paternity and adoption leave*

*This Directive is without prejudice to the right of Member States to recognise distinct rights to paternity and/or adoption leave. Those Member States which recognise such rights shall take the necessary measures to protect working men and women against dismissal due to exercising those rights and ensure that, at the end of such leave, they are entitled to return to their jobs or to equivalent posts on terms and conditions which are no less favourable to*

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<sup>198</sup> See COM(2005)246 final; see also Council of the European Union, Interinstitutional File, 11 June 2008, (2004)0209 COD.

<sup>199</sup> Of the European parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time, OJ 2003 L 299/9.

<sup>200</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), OJ L 204, p. 23.

*them, and to benefit from any improvement in working conditions to which they would have been entitled during their absence.'*

The same wording is included in Article 2(7) of Directive 2002/73/EC. As regards paternity leave, the Parental Leave Directive does not provide for special entitlements. In the part on 'general considerations' of the Framework agreement it is, however, mentioned that '*men should be encouraged to assume an equal share of family responsibility,*'<sup>201</sup>.

Furthermore, in recital 13 of Directive 2002/73/EC paternity leave is mentioned as follows:

*'In the 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, Member States were encouraged to consider examining the scope for their respective legal systems to grant working men an individual and untransferable right to paternity leave, while maintaining their rights relating to employment. In this context, it is important to stress that it is for the Member States to determine whether or not to grant such a right and also to determine any conditions, other than dismissal and return to work, which are outside the scope of this Directive.'*

Also, Article 16 of Directive 2006/54/EC cited above mentions the right to paternity leave.

As regards filial leave, the Parental Leave Directive requests '*Member States and/or management and labour to take the necessary measures to entitle workers to time off from work on grounds of force majeure for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable.*'<sup>202</sup>

Furthermore, the EU Charter of Fundamental Rights<sup>203</sup> also provides protection for pregnancy/maternity, parental and paternity leave. Article II-93(2), as incorporated in the Constitutional Treaty, states that '*to reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity, and the right to paid maternity leave and to parental leave following the birth or adoption of a child.*'

### **Commission's right to amend legal Framework**

Legally binding measures in the area of reconciliation are to be based on Article 137 EC providing that, '*with a view to achieving the objectives of Article 136, the Community shall support and complement the activities of the Member States in*' certain fields. The fields concerned, according to Article 136 EC, are '*promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.*'

The amendment of existing directives on maternity and parental leave as well as the creation of new forms of leave concerning adoption, filial and paternity leave could be seen as measures to improve living and working conditions.

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<sup>201</sup> General considerations 8.

<sup>202</sup> Clause 3(1) of the Framework Agreement.

<sup>203</sup> OJ [2000] C 364/1.

Article 137 (1) EC provides that *'The Community shall support and complement the activities of the Member States'* in fields which include *'improvement in particular of the working environment to protect workers' **health and safety**'* (first indent) and *'of **equality between men and women** with regard to labour market opportunities and treatment at work'* (fourth indent). To this end the Council may adopt, by means of directives, *'minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.'*<sup>204</sup>

The amendment of Directive 96/34/EEC on parental leave as well as the creation of new forms of leave concerning adoption, filial and paternity leave could be seen as measures in the field of gender equality. The amendment concerning Directive 92/85/EEC on maternity leave has to be seen as a measure in the area of health and safety.

Article 137(2) EC only allows for a directive, not a regulation. Furthermore, a directive could set out only a minimum framework for gradual implementation. The Member States are flexible in adapting the principles established to their domestic legal order. As far as amendments to existing provisions, which came into force pursuant to Article 139 and following an agreement of the social partners, are concerned, the Commission may propose amendments, if the social partners do not negotiate or propose an agreement.<sup>205</sup>

As far as legislative measures are concerned which deal with provisions more related to gender equality than to health and safety and working conditions, the legal basis of article 141 EC could contribute as a double legal basis.

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<sup>204</sup> Article 137(2)(b) EC.

<sup>205</sup> Callies/Ruffert, EUV, EGV, Kommentar, 3. Auflage, 2007, Art 138 EGV, no. 34, page 1605; J. Schwarze (Hrsg), EU-Kommentar, 2000, Article 137, no. 27, p. 1479.

## **ANNEX II: Consultation of European Social Partners, Member States and NGOs**

**General remark:** It was decided not to open up a public consultation via the internet because the issue seems quite specific and not suited to public consultation.

### **1. Consultation of the European Social Partners**

#### **First-Stage Consultation of the European Social Partners**

The first-stage consultation of the social partners was launched on 20 October 2006.<sup>206</sup> Thirteen European social partners responded to the consultation document. In general, all of them acknowledged the importance of reconciliation and the majority recognised that more needs to be done in this area. However, employers' organisations take the view that existing Community legislation is adequate, whereas trade unions consider that the legislation should be improved.

#### **Second-Stage consultation**

The document makes the following suggestions in relation to legislation:

##### Parental leave

(i) the introduction of incentives for fathers to take parental leave e.g. such leave could be made strictly non-transferable between the parents; a general clause requiring Member States to adopt provisions which encourage fathers to avail themselves of their entitlement to parental leave could be adopted; a minimum period of parental leave could be reserved for the father in situations where the entitlement to leave is a family one; or fathers could be encouraged to avail themselves of their entitlement to parental leave by providing that the parents/each parent will get an additional period of parental leave if the father takes a specified minimum period of leave.

(ii) improvement of the provisions in relation to employment rights and a prohibition of discrimination on grounds of parenthood.

(iii) introduction of a right to a payment during parental leave;

(iv) increase in the duration of parental leave;

(v) introduction of a right to flexibility in relation to the taking of leave;

(vi) increase in the age of the child in respect of which parental leave can be taken.

##### Maternity Protection

(i) increase in the duration of leave

(ii) increase in the level of payment during maternity leave;

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<sup>206</sup> See under: [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/carcinogens\\_I\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/carcinogens_I_en.pdf).

(iii) to integrate Article 2(7) of Directive 2002/73/EC (right to return to the same job following maternity leave and to benefit from any improvements in working conditions).

### Other types of leave

Introduction of provisions in relation to new forms of leave as follows:

- (i) Leave to care for dependent family members ('filial' leave);
- (ii) Adoption leave;
- (iii) Paternity leave.

The document also asks for the social partners' views in relation to the following:

- (i) how to increase the availability, accessibility and quality of childcare;
- (ii) how best to facilitate the exchange of good practices.

After having analysed the responses of the social partners, the Commission launched the second-stage consultation on reconciliation of professional, private and family life on 30 May 2007<sup>207</sup>. In the second-stage consultation document, the Commission invited the views of the social partners on a range of legislative and non-legislative measures and it indicated that depending on the outcome of the second-stage consultation, of negotiations between the social partners, and of a detailed impact assessment, the Commission would consider bringing forwards proposals to complement the existing legislation in the area of reconciliation.

The social partners had six weeks to respond to the consultation document. **BUSINESSEUROPE**<sup>208</sup> sought an extension of the deadline for providing their response to 13 July and Eurochambers<sup>209</sup> requested an extension to the end of July.

On 25 July, a joint letter was received from ETUC<sup>210</sup>, **BUSINESSEUROPE**, CEEP<sup>211</sup> and UEAPME<sup>212</sup>. In addition, individual responses have been received from the following social partners: **BUSINESSEUROPE**, ETUC, UEAPME, CEEP, CEC<sup>213</sup>, EuroCommerce<sup>214</sup>, Eurociett<sup>215</sup>, Eurochambers and HOTREC<sup>216</sup>.

### **Joint letter from ETUC, BUSINESSEUROPE, CEEP and UEAPME**

In their joint letter, **ETUC, BUSINESSEUROPE, CEEP and UEAPME**, acknowledge that more than 10 years after the adoption of the Parental Leave Directive, there may be a need to assess the progress made with its implementation. They therefore announced to set up a joint working group to carry out an evaluation of the framework agreement, in cooperation with

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<sup>207</sup> See under: [http://ec.europa.eu/employment\\_social/social\\_dialogue/docs/reconciliation2\\_en.pdf](http://ec.europa.eu/employment_social/social_dialogue/docs/reconciliation2_en.pdf).

<sup>208</sup> 'Confédération des entreprises européennes'.

<sup>209</sup> Association of more than 1200 European Chambers of Commerce and Industry.

<sup>210</sup> European Trade Union Confederation.

<sup>211</sup> Centre Européen des Entreprises à Participation publique.

<sup>212</sup> European Association of Crafts Small and Medium-sized Enterprises.

<sup>213</sup> European Confederation of Executives and Managerial Staff.

<sup>214</sup> An association for retail, wholesale and international trade interests.

<sup>215</sup> European Confederation of Private Employment Agencies.

<sup>216</sup> The trade association of hotels, restaurants and cafes in the European Union.

their national member organisations. They announced their intention to evaluate parental leave arrangements in connection with other arrangements supporting parents and work-life balance, such as flexible work arrangements and childcare as well as other forms of leave, to assess if the need for any joint action.

### **Individual responses of social partners on legislation**

**BUSINESSEUROPE, UEAPME** and **CEEP** welcome the statements that any new reconciliation policies should be in line with the growth and jobs strategy and should be conducive to employment and that any more generous leave policies should not result in a disproportionate increase in the costs of hiring workers, as SMEs in particular would be affected by such higher costs.

**BUSINESSEUROPE, UEAPME** and **EuroCommerce** are against further regulation at European level.

**ETUC** stressed that the necessary update of the regulatory framework should not be limited itself to leave facilities, but should also address the regulation of working time and of part-time work, for the sake of policy coherence. **ETUC** supports the introduction of new types of leave but argues that they should include educational leave. With regard to maternity protection, **ETUC** shares the Commission's opinion that the current legal framework (Directive 92/85/EEC) should be improved.

**ETUC** is ready to start discussions and negotiations with employers' organisations at EU level about the options for the possible legislative changes outlined above in the framework of the evaluation of Directive 96/34/EC. It urges the Commission to come up with legislative proposals should these discussions and negotiations not lead to any concrete proposals.

**CEC** considers that the existing Community legislation needs updating and supports the introduction of paternity leave, adoption leave and leave to care for dependants. **CEC** is in favour of initiating the negotiation process under Article 138(4). It is also in favour of a review of the framework agreement on parental leave.

**UEAPME** expresses disappointment about the Commission's call on the social partners to become more involved in ways and means of reconciling work, private and family life as it feels that this means that the Commission is ignoring the work being carried out by the social partners in this area.

**ETUC** regrets that the important issue of essential household and domestic services in terms both of its organisation and the employment and working conditions of those providing the services, raised by **ETUC** in the first stage of the consultation, has not been taken up by the Commission in the second-stage document.

They provided a progress report to the Commission and the Tripartite Social Summit of March 2008, declaring that 'joint actions' need to be taken. They decided definitely in July 2008 that they will enter into the negotiation procedure according to Article 138 and 139 EC. In that case, the Commission has to refrain from taking action in this area for at least nine months (Article 138(4) EC).

## **2. Consultation of Member States**



By means of a questionnaire requesting details of legislation in force in the respective Member State and seeking their opinion on possible amendments, the Commission consulted the Member States in December 2007. Two Member States have not replied to the questionnaire (Cyprus and Luxembourg).

The Austrian reply stresses the necessity of reconciliation measures, also with regard to demographic change. Therefore, a longer duration of maternity leave as well as parental leave could be important. Any amendments should be in conformity with Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community and Regulation (EC) NO 883/2004 on the coordination of social security systems in order for the parents to qualify as migrant worker. The government supports the idea that parental leave should not be transferable, but then childcare should be enhanced in the Member States to compensate for a shorter parental leave period for mothers. In any event, greater involvement of fathers in caring could have a positive impact on women's employment participation. Part-time work should be made available for parents with the Member States deciding on the details. A higher age of the child does not seem necessary in their view. Moreover, the Austrian government is in favour of leave to care for dependent family members.

According to the Belgian reply it seems useful to increase the obligatory part of maternity leave in order to improve women's health. However, every further increase in duration should be targeted at improving women's health. If women's health is not the goal then other forms of leave like parental leave should be improved. Payment for parental leave should be left to Member States. However, Belgium makes the point that too long a period of parental leave and total suspension of work is not always helpful for women's careers. Therefore, all forms of part-time work should be made possible for a parent on parental leave. The child's age restricting parents' choice to take parental leave should be increased.

According to the Bulgarian reply, maternity leave and payment could be extended, although it should be borne in mind that this may have a negative effect in terms of women's qualifications and employability. As regards parental leave, improvements should be discussed with trade unions. Parental leave should be made strictly non-transferable, thus encouraging fathers to avail themselves of this form of leave. Lengthy parental leave had been introduced in Bulgaria in order to boost fertility rates. New forms of leave should be evaluated on the basis of concrete proposals.

The Czech reply is not in favour of any modifications at EU level. In their view there should not be a focus on women's reintegration into the labour market but on parent's possibilities to reconcile work and family life. Caring for children should be viewed as an alternative to occupational activity.

According to the Danish contribution, no amendments at EU level are necessary.

The Estonian reply stresses that, in general, no changes are necessary at EU level. However, they could support a modest extension of maternity leave and they would agree on a maximum of four months of parental leave for every partner, although they would prefer to see no change in the duration of parental leave at EU level. Specifically, they are not in favour of a compulsory payment during parental leave and they are against making it non-transferable between the partners.

In its reply, Finland states that, in principle, the provisions for maternity leave should not be changed at EU level. However, Finland thinks that it may be reasonable to evaluate the total length of maternity leave. In any event, the links between maternity and parental leave in the Member States should be taken into account. Another factor to be considered is that a long period of maternity leave might weaken women's labour market position. Therefore, it seems more justifiable to provide a parental leave that may be taken by both parents. Also, as regards parental leave, a stronger participation of fathers in the taking of family leave would promote equality between women and men. However, Finland considers that national legislation should still be the starting point. As regards the new forms of leave, Finland takes a positive view on legislation related to paternity leave at EU level.

The French reply is in favour of increasing the payment during maternity leave, because from France's own experience this has a positive impact on demography. Amendments should be made in order to prevent the total of 'family' leave from having a negative impact on women's careers. As regards parental leave, there is the possibility of introducing a payment for such leave. Also, the possibility to work part-time has a very positive effect. It does not seem necessary to increase the age of the child in connection with taking parental leave. However, it seems very important to increase the rate of fathers taking parental leave in order to better integrate women into the labour market and to help close the pay gap, which is partly due to the time spent by women on 'family' leave. As regards adoption leave, this is essential to allow for the new children to be integrated into the family. Paternity leave is a very important instrument for creating a bond between father and child. It seems very important to provide for these new forms of leave in order to tackle both gender equality and demographic problems.

The German contribution acknowledges that more efforts are necessary in order to achieve better reconciliation measures. However, Germany thinks that amendments may not be necessary at European level.

The Greek contribution stresses that the payment for maternity leave should not be sickness pay because being pregnant cannot be considered as being ill. Greece is in favour of increasing the duration of maternity and parental leave. As to an increase in the payment for maternity leave and the introduction of a payment for parental leave, this should be decided at Member States' level. Greece is also in favour of introducing filial leave at European level.

The Hungarian contribution stresses that the payment for maternity leave should remain at its present level. The 14-week leave period is considered to be too short. The payment for parental leave should remain within Member States' competence. In order to encourage fathers to avail themselves of parental leave, it would be useful to have a minimum part of the leave which is reserved exclusively for them. Parental leave could be extended beyond its present duration at EU level. concerted effort is considered necessary to find effective ways to combat gender stereotypes by promoting family-friendly workplaces and encouraging men to take the available leave related to parenthood.

The Irish contribution stresses that any improvements to the existing provisions should be made at national level.

Italy points out that it is a good idea to increase the level of allowance for maternity leave in order to ensure that the level of income available to mothers remains unchanged. This could in their view also boost birth rates and influence the sustainability of pension schemes. A further view expressed is that increasing the duration of maternity leave would represent a

step towards better maternity protection and would support the development of the child. Furthermore, it will increase female employment if special tax arrangements are made for social contributions. Accordingly, efforts should be made to ensure that this kind of approach becomes an integral part of business thinking and is viewed as a win-win situation. Therefore it would be useful to make the system as standard as possible throughout the EU in order to avoid 'social dumping' in the EU.

As regards parental leave, the Italian contribution points out that it would be a good idea to increase the duration of leave and provide for an allowance of at least 30% of salary. The right should be made non-transferable as a way to encourage fathers to take parental leave. However, as fathers very often constitute the main source of income, the idea of non-transferability does not seem suitable as long as there is no adequate level of remuneration in place. Also, an indication as to flexibility would be useful, but here Member States should be free to adapt to their own needs. It would also be useful to be able to take parental leave until the child reaches a higher age. By spreading the leave over a longer period instead of being forced to take it in the first years, mothers' availability for the labour market would be enhanced and leave could be more fairly distributed between the parents.

Italy also supports the idea of introducing new forms of leave and thus providing uniform protection at EU level. Introducing adoption leave is seen as a particularly useful move. Paternity leave is deemed to be another important measure in order to stress that childbirth does not only concern the mother. The measure could thus support a new model of active fatherhood which is a prerequisite for reconciliation policies and non-discrimination against women in the labour market.

According to the reply from Latvia no amendments at EU level are necessary.

The Lithuanian contribution stresses that the payment entitlement provided for in the Directive should remain at its present level though Lithuania has more generous provisions at national level. They consider that a more flexible framework for maternity/paternity leave will have a positive impact on women's capacity to return to the labour market. They support the idea of providing a payment for parental leave which should not be lower than sickness pay. The right should be made strictly non-transferable. The duration of parental leave could be increased and Lithuania is in favour of providing more flexibility. Leave facilities should be offered until the child reaches the age of 3. The three new types of leave should be introduced at EU level.

According to the Netherlands, no amendments at EU level are necessary. Amendments if necessary should be made at national level.

The Maltese view is that no amendments at EU level are necessary.

The Polish contribution is not in favour of changes as regards maternity or parental leave. In their view, also, the new forms of leave do not have to be legislated at EU level.

Romania in principle thinks that there is no need to amend legislation at EU-level. However, it is felt that parental leave should be granted on a non-transferable basis and employment contract rights as well as social security rights should be more protected at EU-level. The impact of modifications to the present scheme of parental leave should be subject to a study and analysis at EU-level.

The Portuguese contribution suggests that the payment for maternity leave should remain at its present level. However, the duration of maternity leave could be increased to 15 or 16 weeks. It should be examined if a payment during a minimum period of parental leave could be introduced. The three new types of leave should be introduced given the low birth rates in the Member States.

The Slovakian contribution suggests that the payment for maternity leave should remain at its present level. However, the duration of maternity leave should be extended. Parents' ability to take parental leave in a flexible manner is also considered to be particularly necessary. However, it is not considered necessary to extend parental leave beyond the child's 8<sup>th</sup> birthday. As regards the three new types of leave, the feeling is that all of them should be provided at EU level.

According to the reply from Slovenia, maternity leave at EU level is too short and should be extended to at least 105 days. As regards the allowance they take the view that payment during maternity leave can not be equated to sickness pay, because pregnancy can not be equated to sickness. Therefore, payment should be higher than sickness pay. Slovenia is also in favour of introducing an allowance for parental leave and of ensuring the highest possible protection of workers with family obligations.

The Spanish contribution stresses that full payment should be granted during maternity leave. As regards duration, Spain stresses that there should be no additional burden put on employers. It therefore provides for an exemption of employers' contribution to Social Security for temporary replacement staff. Parental/paternity leave should be made non-transferable. Paternity leave should be introduced in order to encourage fathers to take over more responsibility. It should last four weeks. Amendments to parental leave will have a positive impact on women's employment. Elderly care is also a big problem, necessitating special leave and flexible working hours.

The Swedish contribution stresses that though there should be effective leave arrangements and accessible child care available in the Member States, it is up to the Member States to regulate matters in this area at a national level. Extending leave rights would in the short run imply an overall reduction of job opportunities for women but would in the long term improve circumstances for parents to have more children.

According to the United Kingdom, no amendments to maternity leave and parental leave provisions are necessary. Particularly, as regards a payment for parental leave, the feeling is that this would put an additional burden on employers. It should be left to Member States to adapt these forms of leave to their own needs.

### **3. Consultation of NGOs**

By a questionnaire seeking their views on amendments to the legislation in force at European level, the Commission, in December 2007, consulted NGOs active in the field.

The organisation AGE (The European Older People's Platform) welcomes the Commission's willingness to consider a period of three to six months' leave to care for dependent family members. They advocate measures like work-time adjustment, flexible working hours, leave for family reasons, telework, job-sharing and part-time work. They stress that for employees it seems easier to ask for time off in order to care for a sick child than for an older relative. They do not want to be seen in a bad light by their employer. Emphasis should be placed on

changing the gender division of unpaid work to a more equal sharing of caring tasks between women and men. In families where women have the less secure work the burden of caring for elderly persons usually falls on them. Therefore, the EU should promote the role of men. AGA provides an in-depth analysis of the current situation and, among other things, recommends special measures on elder care and the use of structural funds to finance care services.

The 'Centre d'action laïque' (member of COFACE) believes that the payment for maternity leave should be fixed according to the actual salary without there being a ceiling. The payment should not be less than 85% of the former salary. Furthermore, they take the view that the duration of maternity leave could be extended without necessarily impacting negatively on women's career. In any event, a group of expert should give its view on how long mothers need to recover from giving birth and how long is necessary to ensure the child's health. This period should then be fixed at EU level. However, the organisation thinks that there could be a relation between an increase in premature births and the fact that women are allowed in some Member States to defer maternity leave to the time after having given birth. Therefore, they propose to give women the possibility to work reduced hours before giving birth. Also, coming back to work women should have the possibility to work part-time. If a child is hospitalised, women should have the right to interrupt their maternity leave. Women should be entitled to transfer any untaken part of maternity leave to the fathers. Member States should be encouraged to fulfil their obligations as regards affordable and sufficient childcare.

As regards parental leave, a payment should be provided in order to make parental leave accessible and attractive for everybody and particularly for male workers. Research shows that fathers will only avail themselves of parental leave if the total salary is maintained and their career will not suffer. In any event, the payment should not be lower than an invalidity allowance or unemployment benefits. Parental leave should be made non-transferable. According to research, parental leave should not exceed one year in order to exclude negative effects on parents. Therefore, each parent should have 6 months of parental leave. There should be special arrangements for single parents and for parents with handicapped children. An added possibility is special arrangements for parents as regards working hours. In any event, parental leave should be granted with an optimum of flexibility as regards working time arrangements. The 8 years age limit should be repealed because parental leave can be necessary also during adolescence.

Paternity leave provisions (around ten days) should be introduced and a payment equal to maternity leave should be provided. Furthermore, adoption leave similar to maternity and paternity leave provisions should be made available at EU level. Moreover, a form of leave (three to six months) to care for dependent family members should be introduced at EU level. However, Member States should be invited to put in place sufficient care facilities.

The Club of large Families in the Slovak Republic which was contacted by COFACE, replied that further efforts are required to address demographic change, raise the level of labour market participation of women and encourage also men to take an equal share of caring responsibilities. In their view, caring for children should be included in the GDP, because parents work for the future of their country.

COFACE (Confederation of family organisations in the European Union) welcomes the Commission's willingness to improve and strengthen leave rules. Furthermore, Member States should be encouraged to put into place quality, accessible and affordable care facilities for

children and dependent persons. A more flexible approach to working time seems desirable. Daytime schedules should be rethought (work, school, transport, opening hours of care facilities, shops etc.) and synchronised with private life. The organisation is in favour of a higher level of payment for maternity leave (at about 85 % of the gross wage). Maternity leave should be increased to 18 weeks. Three weeks should be taken up before birth. As regards parental leave, a payment in the form of a proportion of gross wage should be provided. The right should be made strictly non-transferable. Employments rights should be more protected. The length should be increased to six months per parent. It should be possible to take it on a part-time or piecemeal basis. It should be provided for every child up to 18 years old. There should be no requirement of seniority for taking parental leave. Paternity leave of 10 days' duration should be introduced at EU level. It should be provided on the same conditions as maternity leave. Also, adoption leave paid at the same level as maternity leave and a six months' filial leave arrangement paid at the same level as parental leave should be provided at EU level. Both rights should be made strictly non-transferable.

The Equality and Human Rights Commission (EHRC), a UK statutory equality and human rights body, reports changing family patterns as today's parents wish to contribute to family income while bringing up children. The focus on maternity provisions fails to pay due attention to fathers' involvement. At present, women have their children later, which might be a free choice but also reflects a genuine concern that motherhood impedes career. According to research, 8 out of 10 fathers revealed that they would be happy to stay at home and look after the baby. The average amount of leave taken by fathers was slightly more than the statutory paternity leave entitlement of two weeks. Both mothers and fathers want change, namely women want more leave for men (71%), men want to be more involved (70%) and the male breadwinner model is rejected (60%). The EHRC recommends greater financial support in relation to maternity leave. Paternity leave at EU level should reflect the desire of working parents to share family commitments. Caring responsibilities in general can fall to any family member.

Eurocarers (European organisation working for carers) welcomes the move to consider new forms of leave at EU level and focuses specifically on a leave to care for dependent family members. They think there is a growing need for more reconciliation measures. They refer to research carried out in UK showing that one out of five carers must give up work in order for him/her to take over care responsibilities. In the organisation's view, carers are often forced to take up part-time work and are left with insufficient pension and social security rights. They can face discrimination as can be seen in the ECJ-Coleman case (C/303/06) where a woman was dismissed because of absences due to caring for her disabled son.

They think that a leave period of three to six months would be useful to care for dependent family members. Nevertheless, they add that a majority of carers provide care for a period of several years. For them, more strategies seem necessary in this respect. Accordingly, practical options could include more flexible hours, part-time work, ad-hoc day-care facilities, telework and telecare.

Eurochild, an active network of organisations and individuals working in and across Europe to improve the quality of life of children and young people, which was contacted through the Social Platform, replied that maternity and parental leave times should be interrelated. Fathers should be encouraged to take parental leave. Therefore, it should be made non-transferable. As studies reveal that financial reasons and fear of damaging their career are the main reasons why fathers do not take parental leave, a payment should be provided. The maximum age of children should be increased to 18 years. The organisation also recommends the introduction

of paternity and adoption leave at EU level. In their view it is very important also to boost childcare facilities. The Barcelona targets for childcare set six years ago are met by only a few Member States.

The European Anti Poverty Network (EAPN) informed via the Social Platform, wants adequate income provisions along with security provisions and flexibility to form part of legislative reforms.

The European Women's Lobby (EWL) supports the improvement of the existing European legislation and the introduction of new tools. They think that maternity leave should be increased from 14 to 24 weeks on the basis of a full salary. Parental leave should be increased and it should be made non-transferable. The specific needs of parents undergoing artificial insemination should be incorporated in the parental leave directive. The leave should be paid for 24 weeks. Fully paid paternity leave of at least 18 days should be introduced. Adoption leave and leave to care for an elderly parent and/or other dependants should be recognised and introduced.

The European Youth Forum (a platform of 95 national youth organisations in Europe, promoting the interests of young people) believes that it is of utmost importance to create a 'caring society' by developing a culture of reconciliation. The organisation calls on the Commission to develop strategies to agree on a common standard for Member States to organise reconciliation services and mechanisms. There should be an exchange of good practices in the Member States. In their view youth autonomy is a precondition for reconciliation policies. Therefore, decent employment should be increased for young people.

The organisation 'Gezinsbond' (a Flemish association in support of families) is in favour of increasing the payment for maternity leave to 80% of the former salary. Maternity leave should last at least six months. The organisation is in favour of an additional period of three weeks' maternity leave before the expected date of birth. Research has confirmed that if there is a sufficient level of payment birth rates will increase. As regards parental leave, at least a minimum wage should be paid in order to make this form of leave accessible to all workers. This is the only way, furthermore, to also bring fathers into parental leave. It is important in their view to include more fathers in order to engender a attitudinal shift in society. At present, employers still hesitate to employ women because they expect them to become pregnant and take up parental leave. If fathers were to take this leave more often, this argument would lose ground. It would also decrease the gender pay gap. They are also in favour of increasing parental leave to at least six months per parent and providing it until a child is up to 18 years old. A wide range of flexibility in the conditions for taking up leave should be available. Furthermore, 10 days of paternity leave and 22 weeks of paid adoption leave should be introduced. On the basis of a minimum wage, a six months' leave period to care for dependent family members should be introduced, too.

The organisation 'European Fatherhood' (a European organisation supporting active fatherhood) replied that in their view maternity leave payment should be raised to full pay in order to provide a safe financial background for young families. The duration should be raised to 26 weeks in order to consolidate breast-feeding and ensure the health of the child. The organisation feels that it is necessary that parents receive payment during parental leave. The duration should be increased to one year and made available on a flexible basis. Fathers should be more active and involved.

According to the 'Institut pour l'égalité des femmes et des hommes' in Belgium, instead of increasing the duration of maternity leave one should in general improve remunerated leave facilities for mother and father. As regards the age up until which parents should be able to take parental leave, the government is in favour of fixing the age at 10. Paternity leave should also be available for partners of the same sex. The negotiation of new framework agreements on all the different forms of leave should be prioritised and should have binding force. Also, childcare and care facilities for handicapped and elderly persons should be increased.

The 'Ordre des sages-femmes' (the mid-wives organisation) in France, an organisation requiring obligatory membership for all midwives who work in France, takes the view that maternity leave should not be paid according to sick leave but should be remunerated on a 100% basis. Maternity cannot be compared to sickness. As regards duration of maternity leave, the organisation takes the view that with regard to breastfeeding the period should be six months ideally. Referring to research work carried out in this domain<sup>217</sup>, a three months' period of breastfeeding helps to diminish certain illnesses, like allergies and others, and is in general important for the child's progress. For the society, this helps to reduce costs in health insurance. Also, with regard to the mother's capacity to rejoin work, the duration should be increased. According to a study carried out in France<sup>218</sup>, more than 80% of women think that 16 weeks' maternity leave is too short. The organisation, being in favour of including fathers in care work, supports the idea of a 10 days' paternity leave.

The Social Platform, a platform of European Social NGOs believes that EU legislation is the best means guaranteeing an adequate level of protection throughout Europe. The organisation encourages the Commission to develop an action plan outlining how policies can contribute to increased investment in care services and stimulate the creation of quality jobs. The organisation also stresses that care leave could be needed by a single parent, in a blended family where not the natural or legal parent but a new partner would need leave or in a same-sex partnership. Rights should apply also to self-employed people, to unemployed people or people looking for a job. Care leave should be paid in the organisation's view. The employment position should be preserved. New forms of leave such as paternity leave, adoption leave and filial leave should be added.

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<sup>217</sup> J. Van Odijk and others, Breastfeeding and allergic diseases: a multidisciplinary review of the literature (1966-2001), *Allergy* 58:833-843; W.H. Oddy and others, Breastfeeding and respiratory morbidity in infancy, *Archives of Disease in childhood*, 88/224-228

<sup>218</sup> Enquête de la DRESS, N° 531, octobre 2006, page 7



**ANNEX III: Table on legal provisions in Member States**

**I. Table maternity leave (according to informations given by the Member States in their contribution to the questionnaire)**

<b>Member State</b>	<b>Duration</b>	<b>Obligatory period</b>	<b>payment</b>	<b>Piecemeal way</b>
<b>AT</b>	16 weeks	8 weeks before and 8 weeks after	100% of average earnings	No info
<b>BE</b>	15 weeks	1 week before birth, 9 after birth	Dependent on SPF ('Sécurité sociale')	No info
<b>BU</b>	315 days	45 days before and 95 after birth	135 days are paid at 90% of average income, the rest at social security benefit	No info
<b>CY</b>	No info received	No info received	No info received	No info received
<b>CZ</b>	28 weeks	no	69% of average income of 12 months with ceiling	No info
<b>DE</b>	14 weeks	6 weeks before, 8 weeks after birth	100% of last earnings	No info
<b>DK</b>	18 weeks	no	According to most collective agreements: 100% of salary	No info
<b>EE</b>	140 calendar days	No, but maternity benefit decreases if maternity leave starts less than 30 days before expected date of birth	100% of average earnings of preceding calendar year	No info
<b>EL</b>	17 weeks	7 before, 9 after birth	100%	No info
<b>ES</b>	16 weeks, transferable to partner	6 weeks after birth for mother	100% of calculation basis	yes
<b>FI</b>	105 working days	2 weeks before estimated birth	Payment is dependent on previous earnings (decreasing after the first 56 working days after birth) minimum amount is 15.20 EUR per day, otherwise dependent on collective agreements	yes
<b>FR</b>	16 weeks	2 weeks before and 6	100% of earnings in last 3	

		weeks after	months with ceiling	
<b>HU</b>	24 weeks	As a recommendation 4 weeks before birth	70% of the former salary (sickness pay)	No info received
<b>IE</b>	42 weeks	2 weeks before birth, 4 weeks after birth	26 weeks are paid at a level of 80% of earnings with ceiling	No info
<b>IT</b>	5 months	2 months before, 3 months after birth	80% of average daily remuneration paid in the month preceding leave	No info
<b>LT</b>	126 calendar days	yes	100% of average earnings	No info
<b>LU</b>	No info received	No info received	No info received	No info received
<b>LV</b>	112 days	2 weeks before and 2 weeks after confinement	100 % of average earnings	
<b>MT</b>	14 weeks	4 weeks before, 6 weeks after birth	Full pay	No info
<b>NL</b>	16 weeks	4 weeks before and 6 weeks after birth	Full pay	No info
<b>PL</b>	18 weeks (parts of which can be taken by father)	8 weeks after birth	100% of average earnings	No info
<b>PT</b>	120 days	6 weeks after birth	100% of the base salary	No info received
<b>RO</b>	126 days	42 days after delivery	Maternity allowance on the basis of 85 % average income	No info
<b>SE</b>	Seven weeks before and seven weeks after confinement, then until child is 18 months old	2 weeks before or after confinement	390 days are paid at 80% of earnings, 90 days are paid at a minimum allowance	yes
<b>SI</b>	105 days	28 days before due birth date	100% of average earnings	no

<b>SK</b>	28 weeks	14 weeks	55% of daily assessment basis, upper limit 15 000 SKK (about 500 EUR)	
<b>UK</b>	52 weeks	2 weeks after birth	Employer pays 90% of former income for first 6 weeks, then lump sum (about 151 EUR)	no

**II. Table parental leave (according to informations given by the Member States in their contribution to the questionnaire)**

<b>Member State</b>	<b>Age of child</b>	<b>Duration</b>	<b>Transferable to partner or not</b>	<b>Payment</b>	<b>Piecemeal way</b>
<b>AT</b>	2 years (7 years if suspended)	In general, until the child is 2 years old	yes	Lump sum	yes
<b>BE</b>	6 years	3 months	no	Benefit	yes
<b>BU</b>	8 years	6 months for each parent	no	No	no
<b>CY</b>	No info received	No info received	No info received	No info received	No info received
<b>CZ</b>	3 years	Up to three years for both parents	No need, because they can take it at the same time	Allowance from social security, three different amounts depending on age of child	No info
<b>DE</b>	3 years (if employers agrees 12 years)	3 years	yes	67% of net income with ceiling for 12 months or 14 months if partner takes 2 months parental leave	yes
<b>DK</b>	9 years	32 – 40 weeks for both parents	no	Maternity benefit during 32 weeks	In 2 blocks
<b>EE</b>	3 years	18 months (can be extended until child reaches 3, but will be paid only by lump sum)	yes	100% of average earnings (ceiling: three times national average earnings);  After expiration of 18 months only	No info

				lump sum	
<b>EL</b>	3 1/2 years	7 months	no	No	No info
<b>ES</b>	8 years	time-off for 3 years; 1 hour off per week or part-time	no	No	yes
<b>FI</b>	To be taken, in principle, directly after maternity leave	158 days in total, starting after maternity leave	yes	Yes, but decreasing: around 75% of annual earnings (with ceiling) for the first 30 working days, then 70% with ceiling	yes
<b>FR</b>	3 years	3 years	no	Differentiated system of lump sums	Part-time
<b>HU</b>	2 years (10 years)	2 years (10 years)	yes	70% of former income with ceiling for 2 years (lump sum up to ten years)	yes
<b>IE</b>	8 years	14 weeks per parent	Yes, if both parents work for the same employer who must agree	No	yes
<b>IT</b>	8 years	10 months	yes	30% of salary before child's 3 <sup>rd</sup> birthday	yes
<b>LT</b>	3 years	3 years	yes	First year at 100%, second year at 85%	yes
<b>LU</b>	No info received	No info received	No info received	No info received	No info received
<b>LV</b>	8 years	8 months	No information	70% of average earnings	yes
<b>MT</b>	8 years	3 months for both parents	No clear answer	No payment	Yes, blocks of 1 month

<b>NL</b>	8 years	13 weeks (26 weeks from 2009)	no	Tax relief of 50% of statutory minimum wage	Yes, depending on decision of employers
<b>PL</b>	4 years	3 years	yes	Yes, a lump sum for 24 months if the income does not exceed a certain level	yes
<b>PT</b>	6 years	3 months or part-time for 12 months	No	payment for 15 days equal to 100% of the base salary, if the father takes parental leave	yes
<b>RO</b>	2 years	3 months for each parent	yes	Lump sum	No info
<b>SE</b>	8 years	18 months Seven weeks before confinement and seven weeks after (480 days)	Yes, but 60 days out of the total share of 480 days must be taken by each parent	80% of income (with ceiling)	yes
<b>SI</b>	8 years	260 days	yes	100% of income	Full-time, part-time and piecemeal
<b>SK</b>	3 years (6 years if poor health)	Up to three years	yes	Lump sum	yes
<b>UK</b>	5 years	13 weeks for each parent	No, but partner can take 26 weeks maternity leave, if mother returns to work	No	yes

**III. Table paternity leave (according to informations given by the Member States in their contribution to the questionnaire)**

<b>Member State</b>	<b>Duration</b>	<b>Payment</b>
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<b>AT</b>	2-3 days (collective agreement)	No info
<b>BE</b>	10 days for 'congés de circonstances'	Yes
<b>BU</b>	No	No
<b>CY</b>	No info received	No info received
<b>CZ</b>	No	No
<b>DE</b>	No	No
<b>DK</b>	10 days	100% of salary with upper limit
<b>EE</b>	10 working days	100% of salary
<b>EL</b>	2 days	100 %
<b>ES</b>	13 days (4 weeks in 2013)	Yes
<b>FI</b>	18 working days (in 2010, will be extended by 2 weeks)	Yes
<b>FR</b>	11 days	Like maternity benefit
<b>HU</b>	5 days	Lump sum
<b>IE</b>	No	No
<b>IT</b>	No	No
<b>LT</b>	1 month	100% of reimbursable remuneration subject to seven months' prior coverage in social insurance scheme
<b>LU</b>	No info received	No info received
<b>LV</b>	10 days	No info
<b>MT</b>	1-3 days	Yes
<b>NL</b>	2 days	No info
<b>PL</b>	2 days	Yes
<b>PT</b>	5 days (proposed revision recommends 10 days)	100% of base salary
<b>RO</b>	5 days	Yes
<b>SE</b>	70 days	Yes (80% of income with ceiling)

<b>SI</b>	90 days	15 days 100%, for the rest social security contributions
<b>SK</b>	No (only parental leave)	No
<b>UK</b>	2 weeks	Flat rate 151 EUR/week

**IV. Table on adoption leave (according to informations given by the Member States in their contribution to the questionnaire)**

<b>Member State</b>	<b>Duration</b>	<b>Payment</b>
<b>AT</b>	Until child is 2 years old	As parental leave
<b>BE</b>	4 -6 weeks and parental leave	No info
<b>BU</b>	6 months for each parent	No
<b>CY</b>	No info received	No info received
<b>CZ</b>	Like maternity and parental leave	Like maternity and parental leave
<b>DE</b>	3 years	67% with ceiling
<b>DK</b>	32 - 40 weeks	Like parental leave
<b>EE</b>	70 calendar days	100% of average earnings
<b>EL</b>	Like maternity and parental leave	Like maternity and parental leave
<b>ES</b>	Like maternity and paternity leave rights	Like maternity and paternity rights
<b>FI</b>	234 working days	Like parental leave, but allowance is only paid until 234 working days after birth of child
<b>FR</b>	10 weeks	Like maternity leave
<b>HU</b>	Like maternity and parental leave	Like for maternity and parental leave
<b>IE</b>	40 weeks	24 weeks paid, 16 weeks unpaid
<b>IT</b>	As natural parents	Like maternity and parental leave
<b>LT</b>	As parental leave	As parental leave
<b>LU</b>	No info received	No info received
<b>LV</b>	10 days	No info

<b>MT</b>	3 months for both parents	No payment
<b>NL</b>	4 weeks	Maternity allowance
<b>PL</b>	Like maternity leave	100% of salary
<b>PT</b>	100 days for both adoptive parents together	special allowance
<b>RO</b>	Like parental leave	Like parental leave
<b>SE</b>	Like parental leave	Like parental leave
<b>SI</b>	120-150 days depending on age of the child	Yes
<b>SK</b>	Maternity leave and parental leave	As for maternity leave and parental leave
<b>UK</b>	Similar to maternity leave	Similar to maternity leave

**V. Table on filial leave (according to informations given by the Member States in their contribution to the questionnaire)**

<b>Member State</b>	<b>Duration</b>	<b>Payment</b>
<b>AT</b>	1-2 weeks	Yes
<b>BE</b>	10 days (or more unpaid)	Yes
<b>BU</b>	No	No
<b>CY</b>	No info received	No info received
<b>CZ</b>	No info	No info
<b>DE</b>	5 days for children (plans to enhance leave provisions <sup>219</sup> )	Yes
<b>DK</b>	No info	No info
<b>EE</b>	On presentation of care certificate up to 14 calendar days, otherwise unpaid leave by agreement with employer	between 80-100%, otherwise unpaid
<b>EL</b>	4-12 days for children depending on number of children and motives	yes
<b>ES</b>	2 days	Yes

<sup>219</sup> After the questionnaire had been replied Germany introduced a law reforming care services. This law (Pflegezeitgesetz) will come into force on 1 July 2008 providing for 6 months' unpaid leave.

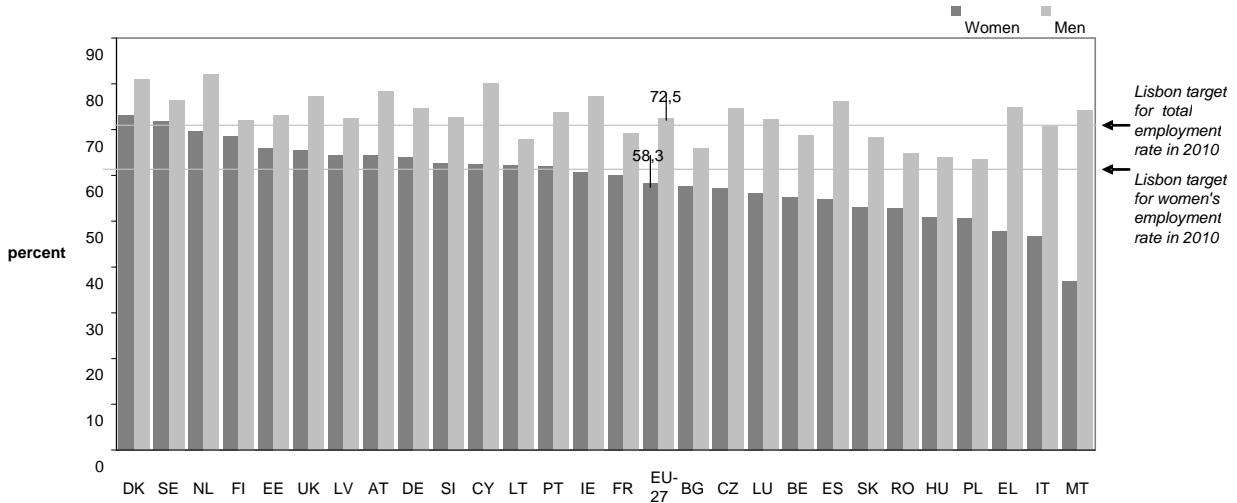


<b>FI</b>	Different rights for dependent children but not for elderly	No info
<b>FR</b>	Depending on the type of leave	Lump sum or unpaid
<b>HU</b>	For close relatives up to 2 years	No
<b>IE</b>	3 days per year	Yes
<b>IT</b>	3 days (or unpaid leave for serious reasons)	Yes
<b>LT</b>	14 -30 calendar days for disabled/ill child or the employee herself/ himself	Sickness pay for 7 days
<b>LU</b>	No info received	no info received
<b>LV</b>	3 days but only for disabled child	yes
<b>MT</b>	Only according to collective agreements	Unpaid
<b>NL</b>	Short or long term	For short-term leave
<b>PL</b>	60 days for sick child, 14 days for other dependent family members	80% of the sickness benefit
<b>PT</b>	special leave for sick or chronically ill child	65% of base salary
<b>RO</b>	No	No
<b>SE</b>	120 days for a sick child (indefinite leave for child with serious illness)	Paid (80% of income with ceiling)
<b>SI</b>	7 – 15 working days	Yes
<b>SK</b>	No info received	No info received
<b>UK</b>	'Reasonable time off'	No info

## ANNEX IV: Statistical data

**Table 1:**

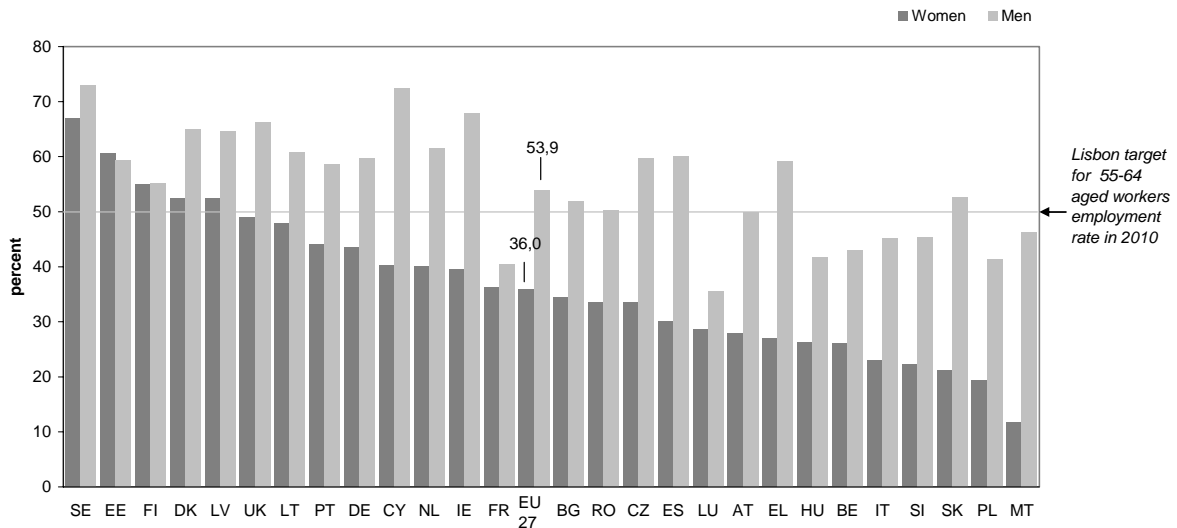
**Employment rates (women and men aged 15 - 64) in EU Member States- 2007**



Source: Eurostat Labour Force Survey (LFS), annual averages..

**Table 2:**

**Employment rates of older workers (women and men aged 55 - 64) in EU Member States- 2007**

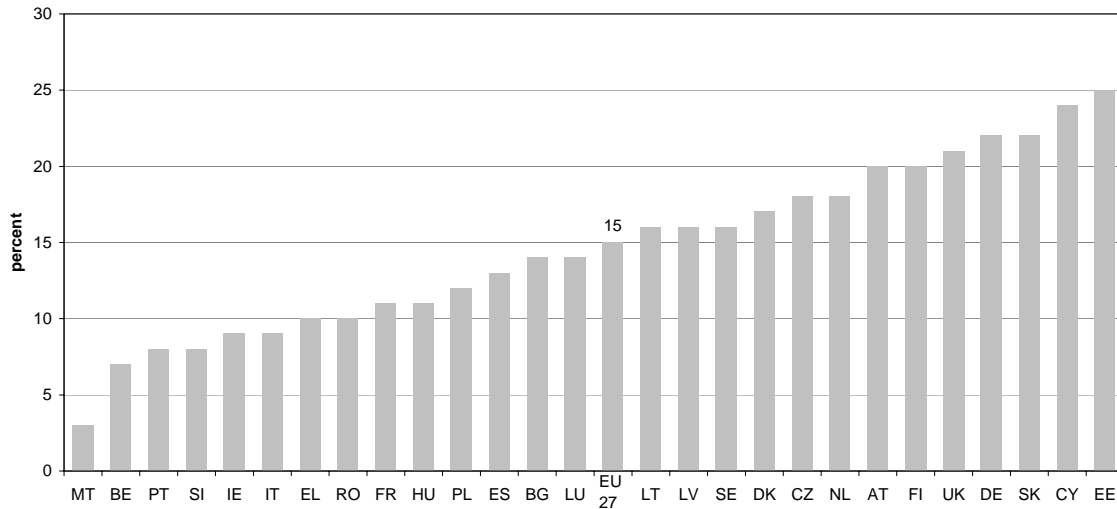


Source: Eurostat, Labour Force Survey (LFS), annual averages. MT: for women unreliable or uncertain data.

**Table 3:**

**Pay gap between women and men in unadjusted form in EU Member States - 2006 (1)**

Difference between men's and women's average gross hourly earnings as a percentage of men's average gross hourly earnings)



Source: Eurostat. Administrative data are used for LU, Labour Force Survey for FR and MT. Provisional results of EU-SILC (Statistics on income and Living Conditions) are used for BE, IE, EL, ES, IT, AT, PT and UK. All other sources are national surveys.

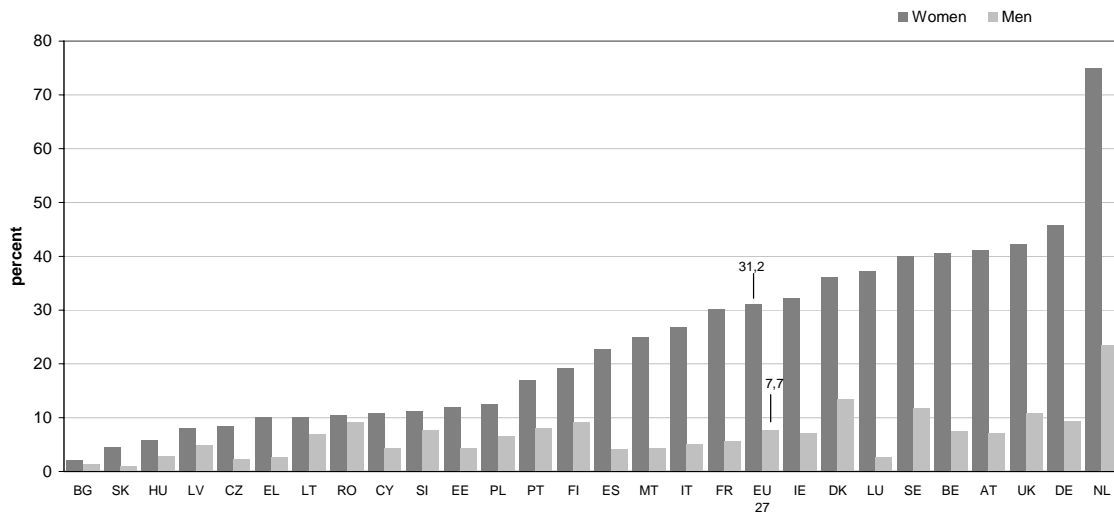
EU27, BE, FR, CY, PT and SI provisional results.

(1) Exception to the reference year: 2005: EE, IT, NL.

NB: EU27 estimates are population weighted-averages of the latest available values. CZ: calculations based on the median earnings.

**Table 4**

**Share of part-time workers in total employment, in EU Member States - 2007**

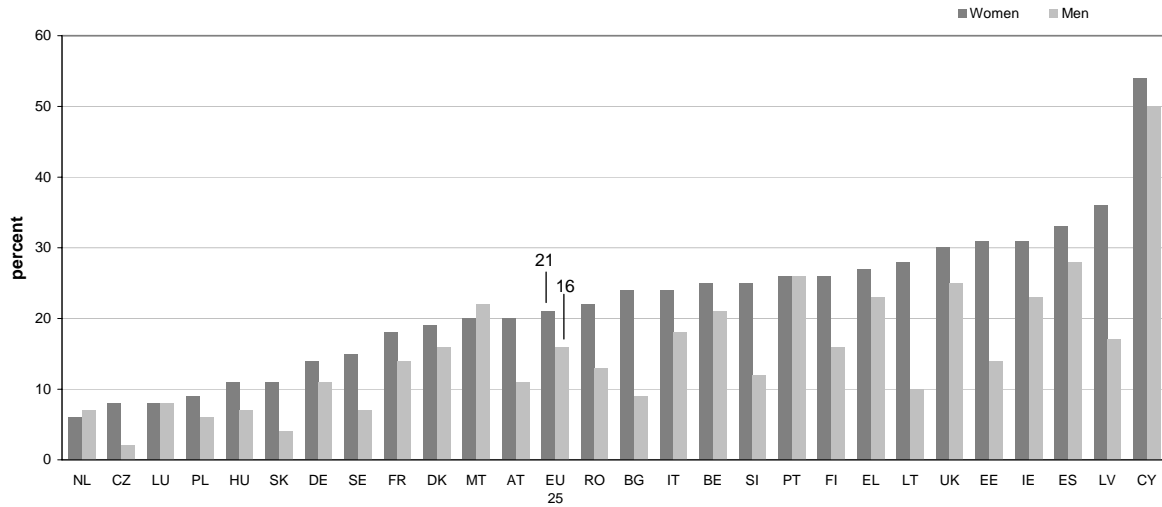


Source : Eurostat, Labour Force Survey (LFS).

IE: for women, unreliable or uncertain data. EE, IE, LU: for men, unreliable or uncertain data.

**Table 5:**

**At-risk-of-poverty rate after social transfers<sup>1</sup> for older people (women and men aged 65 years and over), in EU Member states, 2006**

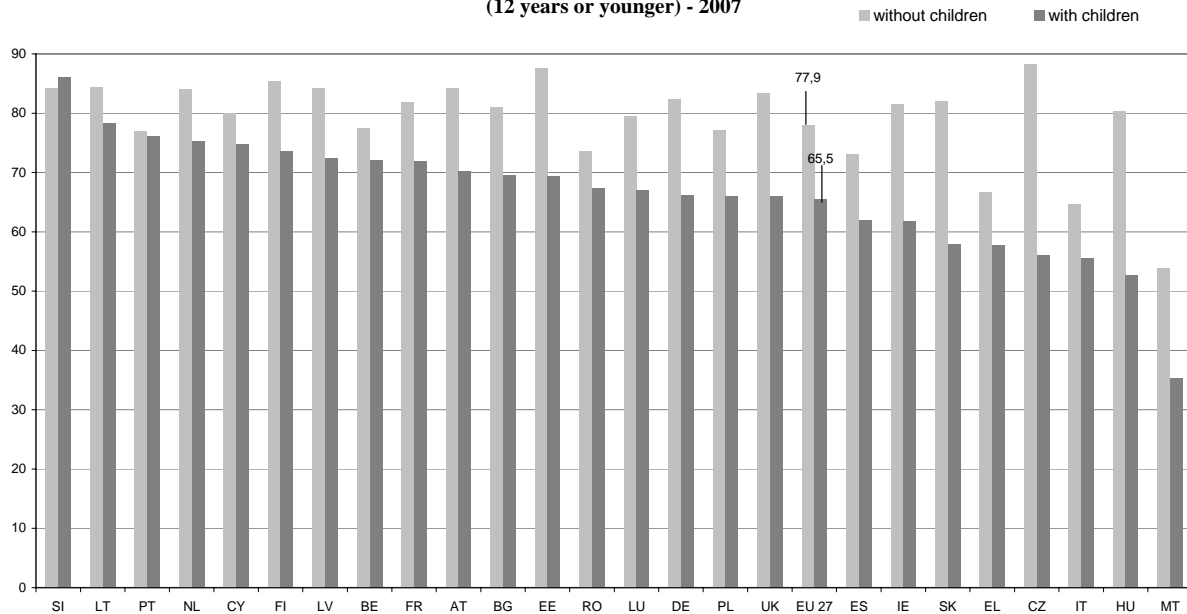


Source: Eurostat, SILC and national sources.

NB: 1) At risk of poverty rate for elderly persons: The share of persons aged 65+ with an income below the risk-of-poverty threshold, which is set at 60% of the national median income. Income must be understood as equivalised disposable income (sum from all sources, adjusted for household size and composition). It should be noted that the risk-of-poverty indicator is computed using an income definition which does not yet include imputed rent of owner-occupiers. Comparisons between genders are based on the assumption of equal sharing of resources within households.  
EU25: Eurostat estimation. MT, PT: provisional value.

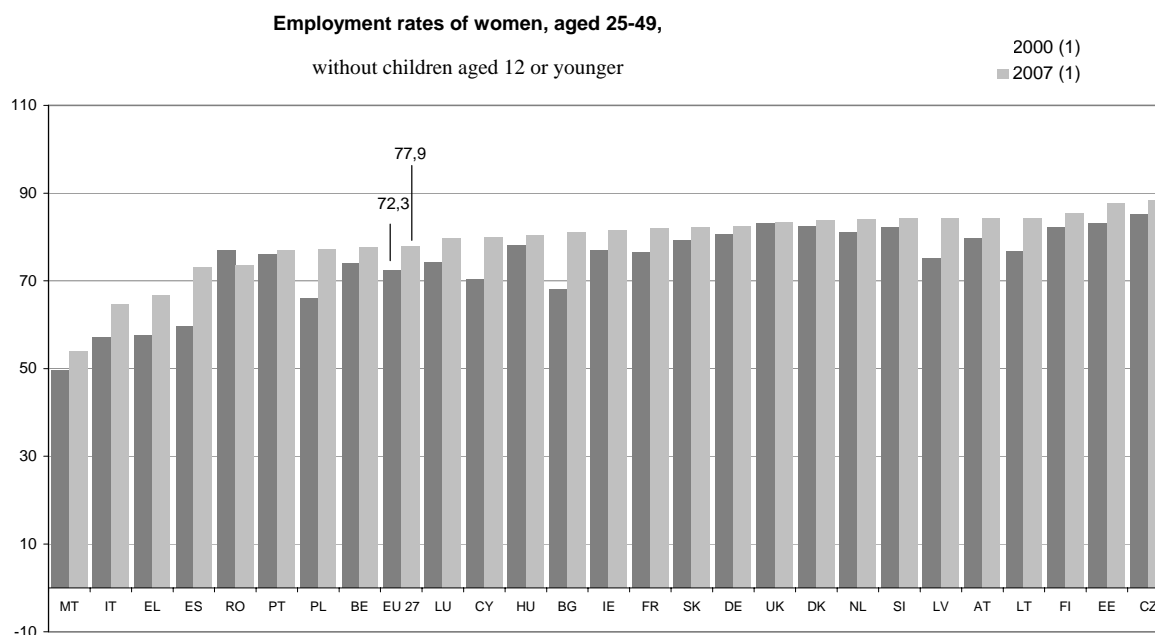
**Table 6a:**

**Employment rates of women aged 25-49, depending on whether they have children (12 years or younger) - 2007**



Source : Eurostat, European Labour Force Survey, annual averages.  
Notes : No data available for DK and SE.

**Table 6 b:** Time series of employment of women without and with children 2000 and 2007:



Source: Eurostat, Labour Force Survey.

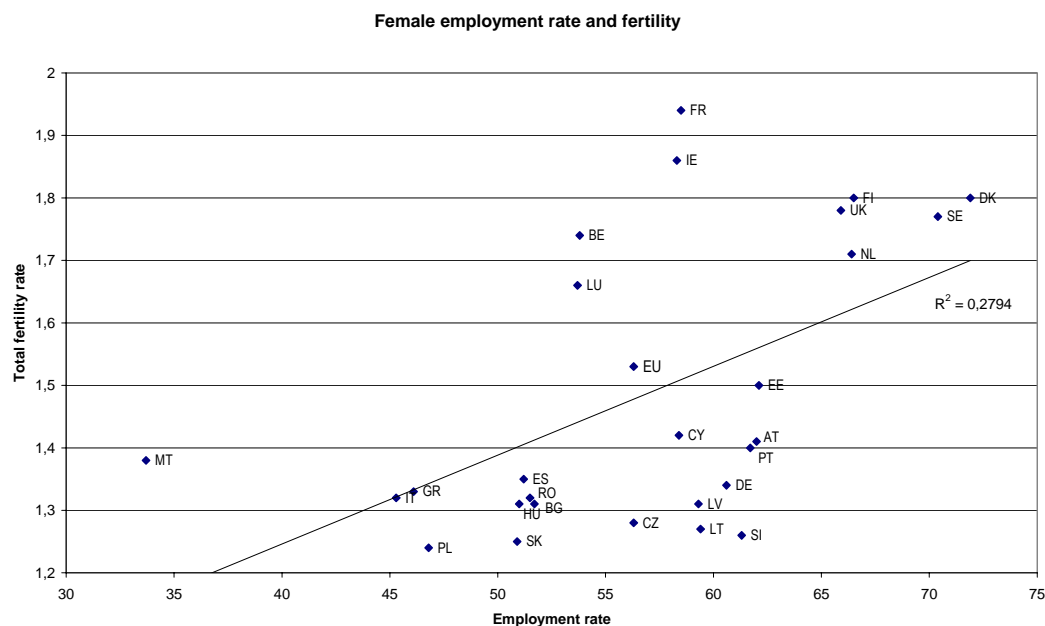
(1) Exceptions for reference year 2000: DK: 2002. For FI: 2003. For reference year 2007: DK: 2006.

For 2000: Unreliable or uncertain data for EE, FR, SI.

SE: data not available.

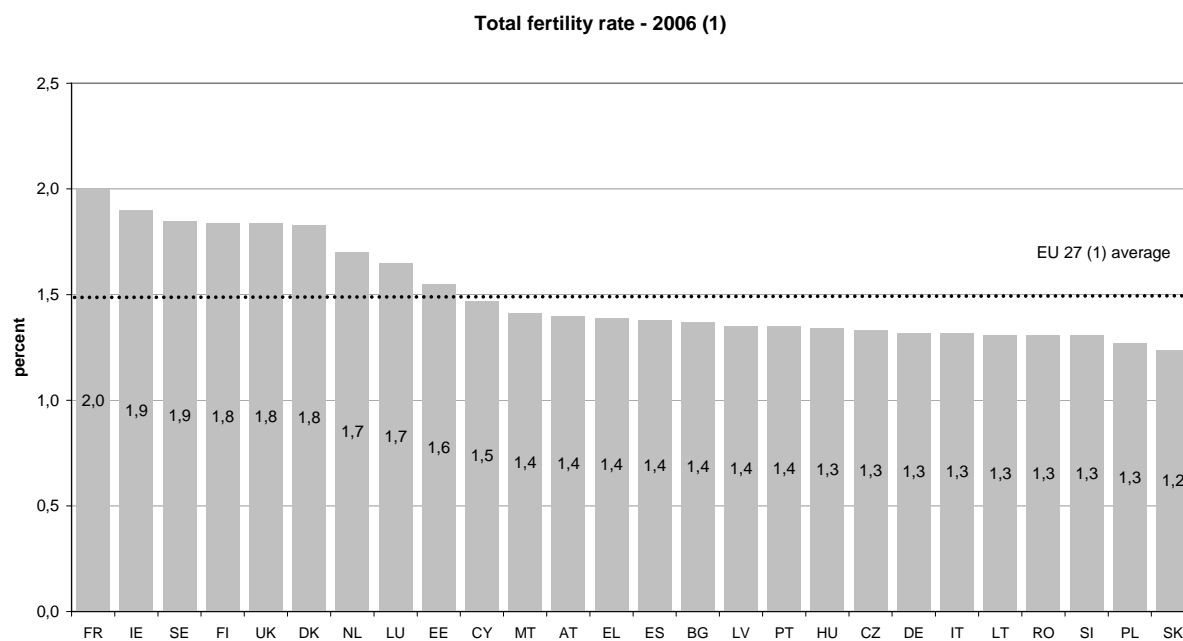
**Table 6c:**

**Cross-country correlation between female employment rates and fertility rates**



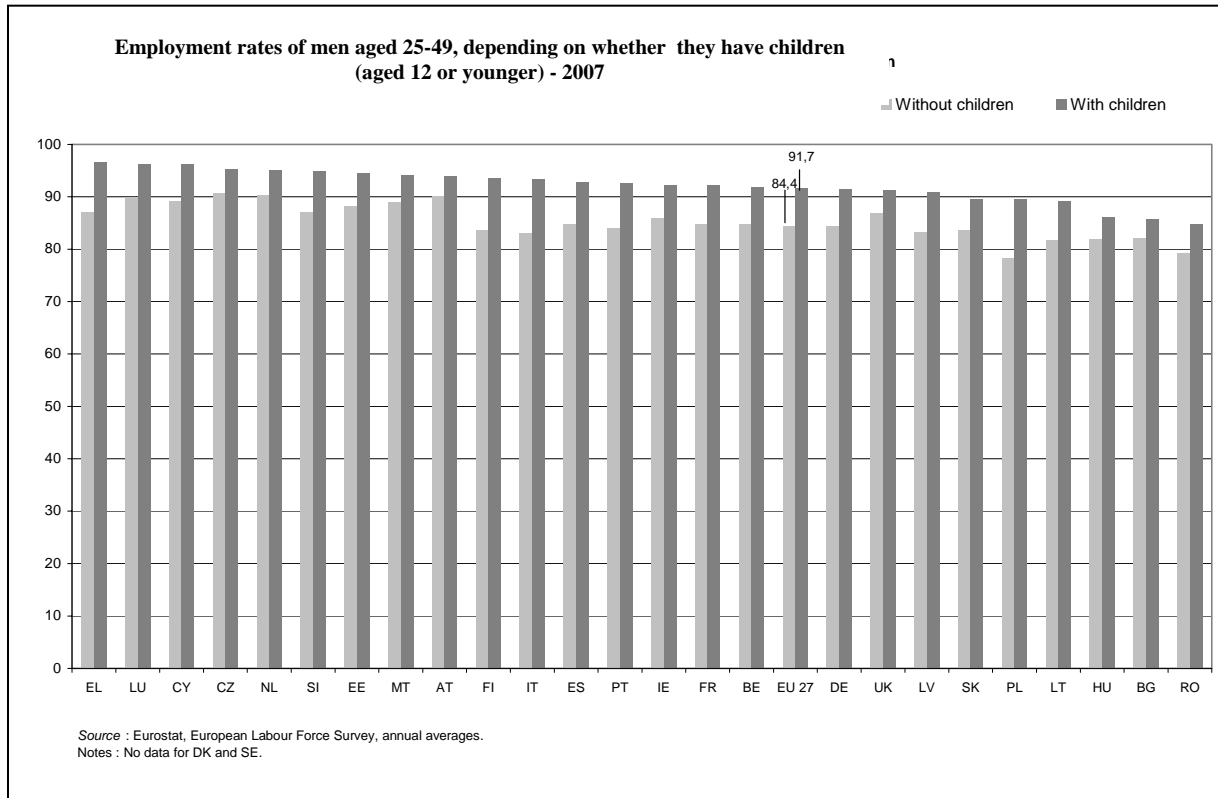
Source: Commission's own calculation, Eurostat data

**Table 6d**



Source: Eurostat.  
 (1) EU 27 without BE, BE: not available. For IT: 2005.

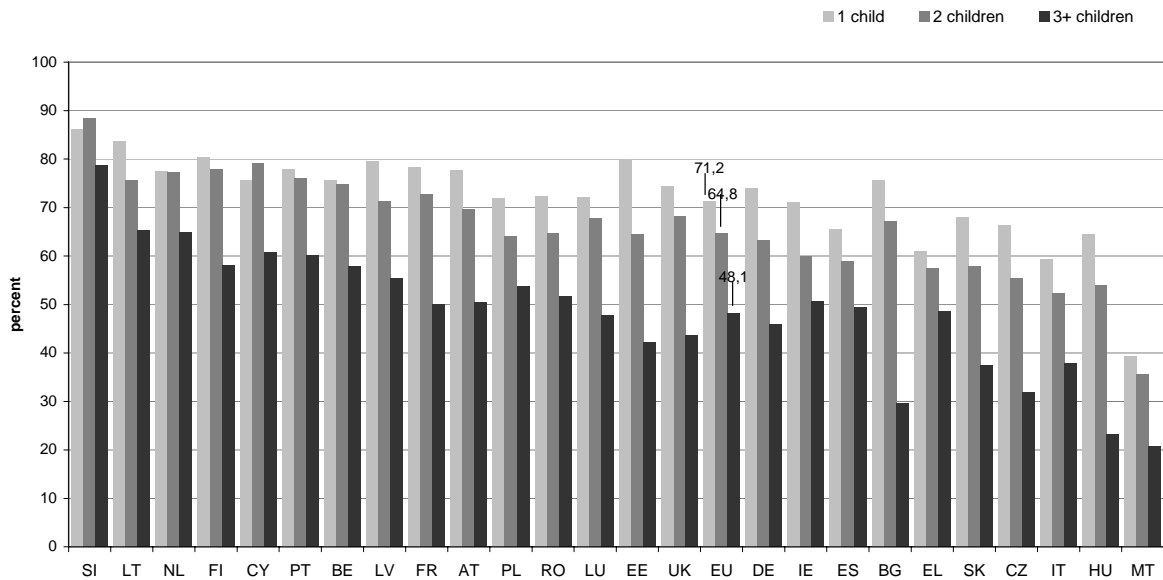
**Table 7a**



**Table 7b:**

**Maternal employment rates by number of children aged 14 or younger, 2007**

**Maternal employment rates, aged 25-49, by number of children aged 14 or younger**



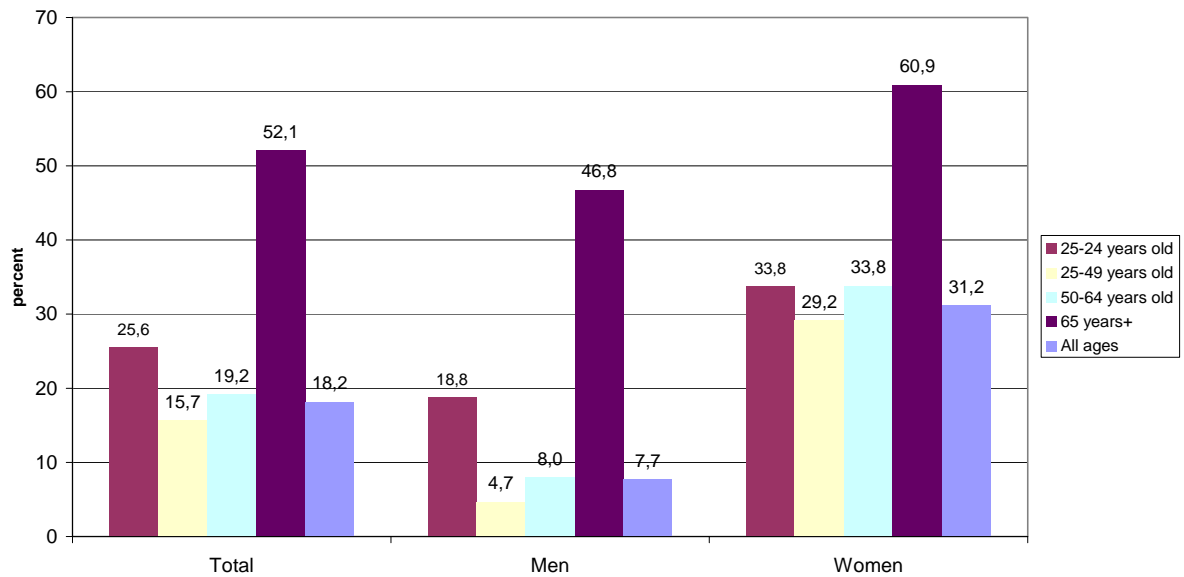
Source : Eurostat, Labour Force Survey (LFS)

BG, EE, MT, SI for 3+ children: unreliable or uncertain data due to low sample size. DK, SE: Data not available

Source: Eurostat

**Table 8**

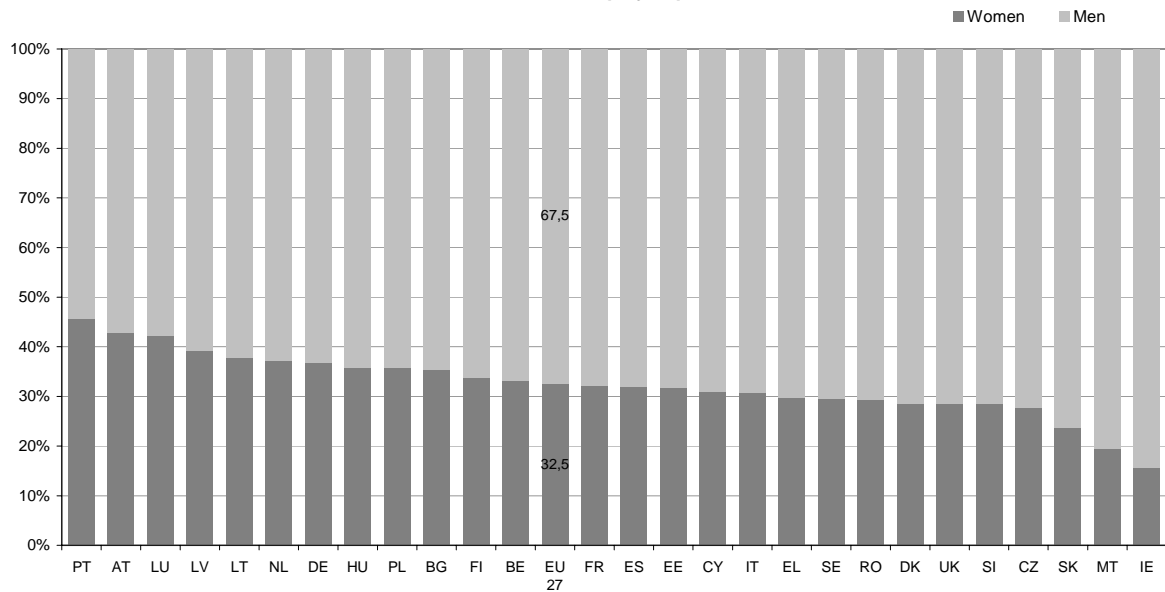
**Part-time employment in the EU, by gender and age (% of total employment), 2007**



Source: Eurostat, Labour Force Survey (LFS).

**Table 9**

**Sex distribution of self-employed persons - 2007**



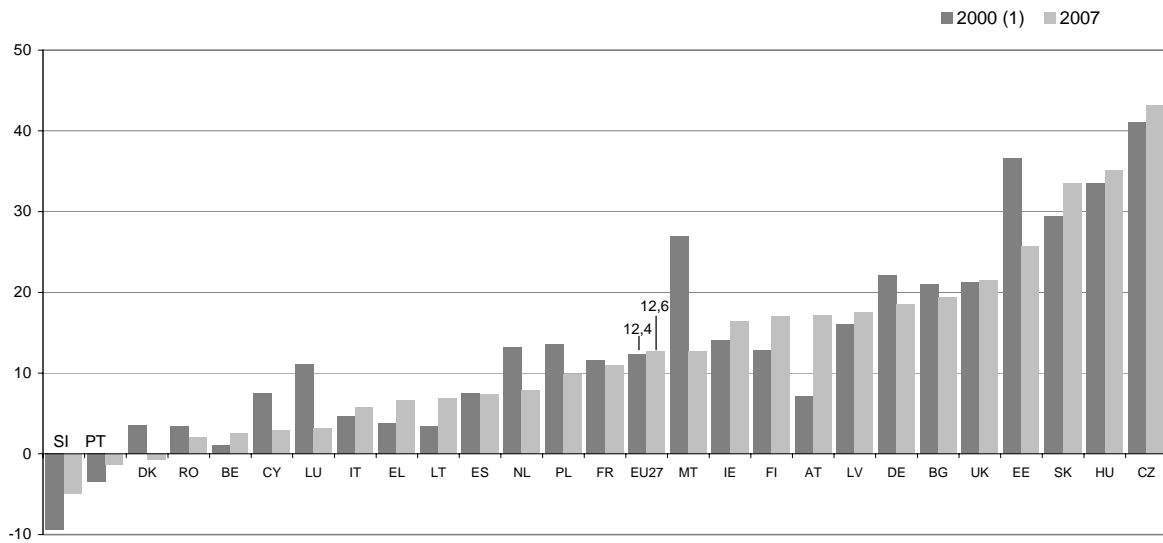
Source: Eurostat, Labour Force Survey (LFS).  
EE, MT: unreliable or uncertain value.



**Table 10**

**Employment impact of parenthood for women (aged 20-49)**

difference in percentage points in employment rates without the presence of any children and with presence of a child aged 0-6

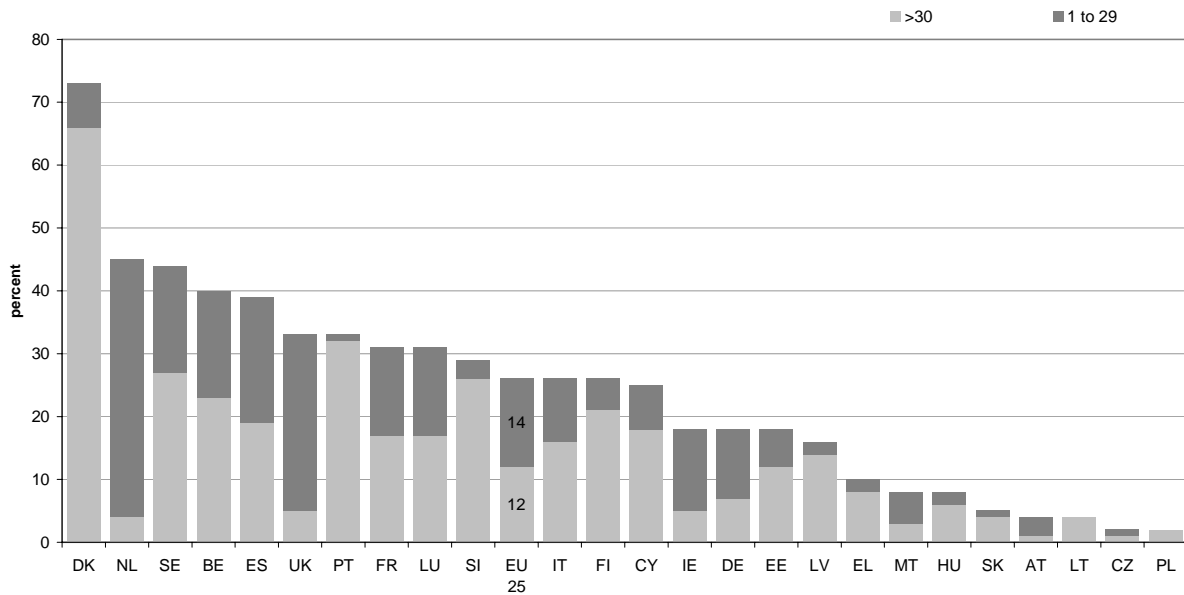


Source: Eurostat, Labour Force Survey.

(1) Exceptions for reference year 2000: For BG, PL: 2001. For DK, LT: 2002. For FI: 2003. SE: Data not available.

**Table 11: Children 0-2 (= under 3) covered by formal childcare (less and more than 30 hours) – 2006.**

**Children 0-2 (=under 3) covered by formal childcare (less and more than 30 hours) - 2006**

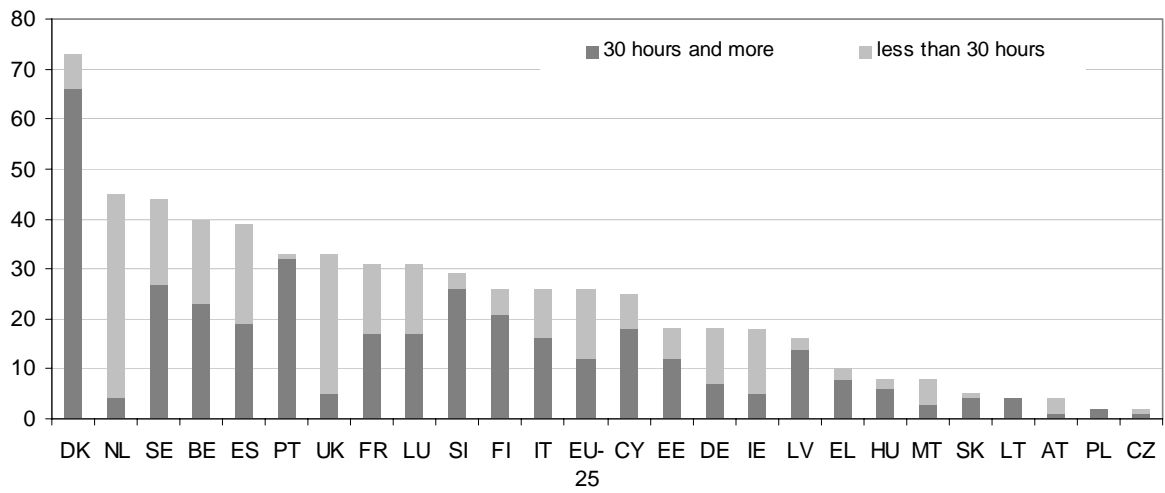


Source: Eurostat, EU-SILC.

Table

12:

Proportion of children up to 3 years cared for by formal arrangements, up to 30 hours / 30 hours or more per usual week



Source: Eurostat, EU-SILC 2006, Provisional data

**Table 13: Actual versus preferred model of labour participation, in %**

	Man full-time/ woman full time	Man full-time/ woman part-time	Man full-time/ woman not employed	Other
<b>BE</b>				
Actual	46	19	27	7
Preferred	55	29	13	3
<i>Actual-preferred</i>	-9	-9	14	4
<b>DE</b>				
Actual	16	23	52	9
Preferred	32	43	6	19
<i>Actual-preferred</i>	-16	-20	47	-11
<b>IE</b>				
Actual	31	19	37	14
Preferred	31	42	8	19
<i>Actual-preferred</i>	0	-24	29	-5
<b>GR</b>				
Actual	42	8	36	14
Preferred	66	11	9	14
<i>Actual-preferred</i>	-23	-3	27	-1
<b>ES</b>				
Actual	26	6	57	11
Preferred	60	12	20	9
<i>Actual-preferred</i>	-34	-5	37	2
<b>FR</b>				
Actual	39	14	38	8
Preferred	52	22	14	12
<i>Actual-preferred</i>	-14	-8	24	-3
<b>IT</b>				
Actual	35	12	43	10
Preferred	50	28	11	11
<i>Actual-preferred</i>	-16	-16	33	-1
<b>LU</b>				
Actual	25	27	49	0
Preferred	28	30	12	30
<i>Actual-preferred</i>	-2	-3	37	-30
<b>NL</b>				
Actual	5	55	34	7
Preferred	6	70	11	14
<i>Actual-preferred</i>	-1	-15	23	-7
<b>AT</b>				
Actual	19	28	48	5
Preferred	36	40	4	21
<i>Actual-preferred</i>	-17	-12	44	-16
<b>PT</b>				
Actual	75	5	19	2
Preferred	84	8	4	4
<i>Actual-preferred</i>	-10	-3	15	-1
<b>FI</b>				
Actual	49	6	33	12
Preferred	80	9	10	1
<i>Actual-preferred</i>	-31	-2	23	11
<b>SE</b>				
Actual	51	13	25	11
Preferred	67	22	7	4
<i>Actual-preferred</i>	-16	-9	18	6
<b>UK</b>				
Actual	25	32	33	10
Preferred	21	42	13	24
<i>Actual-preferred</i>	4	-10	20	-13

*Note:* A negative difference between actual and preferred participation indicates that the actual participation is below what the couple would prefer while a positive difference indicates that the actual participation is higher than what the couple would prefer.

Source:

Jaumotte

(2003)

**ANNEX V: Table on gross costs and benefits from improved leave schemes**

<b>Level</b>	<b>Costs</b>	<b>Benefits</b>
<b>Society (socioeco-nomic level)</b>	<ul style="list-style-type: none"> <li>• production loss at aggregate level (short-term effect on labour supply - although some substitution of leavers)</li> <li>• inflexibility of schemes - i.e. adjustment costs</li> <li>• increased gender inequality if mainly women take up new leave provisions</li> <li>• tax distortion</li> </ul>	<ul style="list-style-type: none"> <li>• increased female labour market participation and utilisation of human capital over the life course</li> <li>• enhanced gender equality in family patterns</li> <li>• higher fertility rate</li> <li>• improved child health</li> <li>• improved female economic independence</li> <li>• more flexible female participation - i.e. allowing for easier transitions into and out of employment</li> </ul>
<b>Government budget</b>	<ul style="list-style-type: none"> <li>• short-term lower tax income due to production loss</li> <li>• increased compensation payments from leave schemes</li> <li>• increased administrative costs</li> </ul>	<ul style="list-style-type: none"> <li>• long term higher tax income due to increased female labour market participation</li> <li>• savings on unemployment or social security benefits from substitution of leavers</li> <li>• saved expenses for child care</li> <li>• lower costs for special needs education, and child life improved</li> </ul>
<b>Employer</b>	<ul style="list-style-type: none"> <li>• production loss at aggregate level (short-term effect on labour supply - although some substitution of leavers)</li> <li>• increased administrative costs</li> <li>• training costs: substitution staff and returning leavers</li> <li>• increased employer compensation payments to leave schemes</li> </ul>	<ul style="list-style-type: none"> <li>• productivity increases due to improvements in health, morale, and loyalty of employees</li> <li>• increased female labour market participation and thus increased labour supply</li> <li>• lower recruitment costs - as a result of increased attraction of work place and the chance to test substitution staff</li> </ul>
<b>Employee</b>	<ul style="list-style-type: none"> <li>• loss of income during leave</li> <li>• loss of income after returning to work due to loss of human capital</li> <li>• loss of pension rights</li> <li>• loss of career options</li> </ul>	<ul style="list-style-type: none"> <li>• improved parent health (lower stress levels)</li> <li>• more family quality time</li> <li>• increased financial independence of women</li> <li>• enhanced participation of fathers in care responsibilities</li> <li>• longer periods of breast-feeding</li> <li>• lower child-care costs</li> <li>• increased income from increasing and maintaining women's option to be on the labour market</li> </ul>

Source:

ECORYS

study

## **ANNEX VI: Study on the costs and benefits of options to improve provisions for the reconciliation of work, private and family life**

### **Executive Summary**

#### **Cost Benefit Analysis that contributes to DG EMPL's Extended Impacts Assessment**

Reconciliation of work, private and family life is identified as one of the six priority areas for action in the European Commission's roadmap for equality between women and men 2006-2010 (COM(2006) 92 final). A need for a better work-life balance is stressed in order to encourage gender equality, economic growth, prosperity and competitiveness - hereunder via improving female labour market participation and via adjusting to changing family forms and the demographic pressure from an aging population. DG EMPL in the European Commission is in this context carrying out an Extended Impact Assessment of a proposal for two Directives of the European Parliament and of the Council amending two Council Directives in order to promote better reconciliation of private, family and working life.

This study contributes to this Extended Impact Assessment with the application of a widely accepted Cost Benefit Analysis (CBA) approach to analysing the impacts of a number of scenarios where new leave scheme provisions are introduced to conform with different standards set at EU level. This study focuses on the following five types of leave schemes: (1) maternity leave (maternity protection); (2) paternity leave; (3) parental leave; (4) adoption leave; and (5) filial leave.

#### **Analysis and conclusion that build upon case studies for selected EU Member States**

The costs and benefits of improved leave schemes for the employees, the employers, the government budgets, and the society as a whole will differ between EU Member States. The impacts will depend on several factors such as the actual changes to the provisions of leave schemes needed to reach minimum EU standards, the take-up rates of the improved leave schemes that again will depend on drivers and barriers within the EU Member States encouraging or discouraging entitled employees to make use of the improved options, and employers' or others' attitudes to letting them do so. Within the scope of this study, eight EU Member States have been selected for case studies: Belgium, Denmark, Estonia, Spain, France, Hungary, Poland, and the UK.

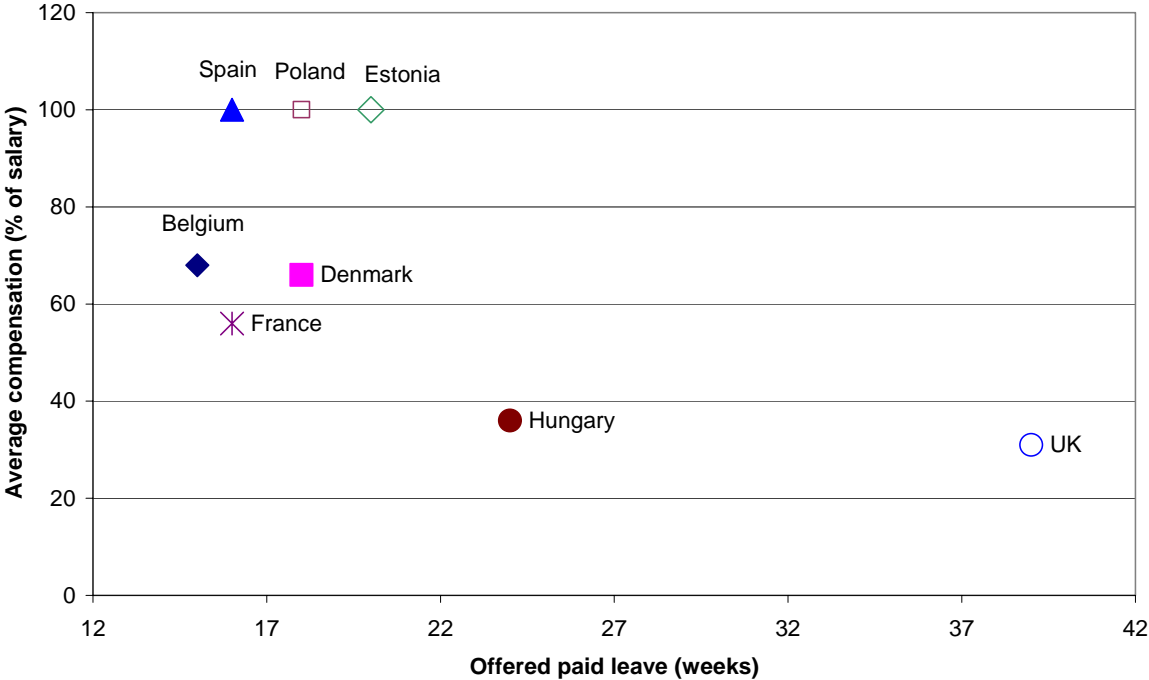
The study emphasises that costs in a welfare-political CBA are often better known than the benefits, such as increased production arising because of increased female labour market participation and thus employment, production and income. Hence, there can be a tendency that more costs are quantified than benefits - and so there could be a bias towards a negative result. The study introduces a simple scoring system where it is assessed when improvements to the different leave schemes give rise to high, medium or low impacts on benefits such as gender equality (at work and at home), child development, health and fertility.

#### **Impact of minimum EU provisions for maternity leave**

The present study concludes that all EU Member States provide for maternity leave, and that these provisions do not differ much. Hence, maternity leave provisions are from the outset possibly the best candidate for a concerted EU action - in the sense that the requirements to changes will not be that uneven.

Figure 1 shows that quite a number of countries have maternity leave provisions that are at or above the 18 weeks primarily considered by the European Commission. Only Spain, Belgium and France will need to extend the period. Furthermore, compensation levels are in general already fairly high; but Hungary and the UK - the latter being an outlier - will have to raise compensation levels.

**Figure 1 Maternity leave - existing situation**



Hence no changes are needed in Poland and Estonia, and so no impacts are re-ported in Table 1. The table shows that the EU option in general is not very costly. The socioeconomic costs range from 0.006% of GDP in Hungary to 0.05% in Belgium. The relatively low salaries in Hungary imply that the required rise in the compensation level is not overwhelming, while Belgium both needs to improve the period and the pay level. To cover these costs via increased production by more women participating on the labour market, there is a need for an increase in their participation rate of between 0.03 percentages points (pp) and 0.20 pp.

*Table 0.1 Impacts of improved maternity leave provisions to 18 weeks with 100% compensation*

	Belgium	Denmark	Spain	France	Hungary	UK
Impact						

Costs <sup>(1)</sup> in Euro/actual user						
- women	2,565	514	833	1,448	134	967
- men	0	0	43	0	0	0
Total costs in mill Euro	2,287	290	1,493	9,196	101	5,962
Share of costs in GDP	0.05%	0.01%	0.01%	0.03%	0.006%	0.02%
Break-even increase in female labour market participation	0.20 pp	0.04 pp	0.05 pp	0.21 pp	0.03 pp	0.08 pp
Total extra costs in mill Euro						
+ 1 week of leave	650	460	747	3,243	5	457
- 1 week of leave	-651		-746	-3,243	-5	-457

Source: COWI/Idea calculations.  
 Note: <sup>(1)</sup> Costs are calculated as net present values.

### Impact of minimum EU provisions for paternity leave

Figure 2 Paternity leave - existing situation

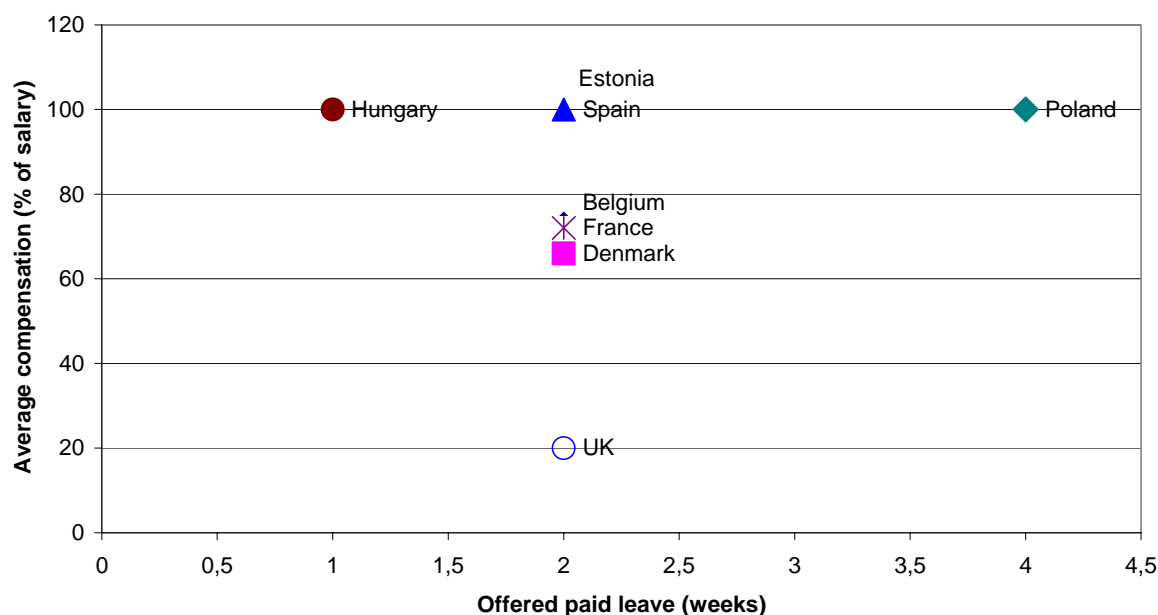


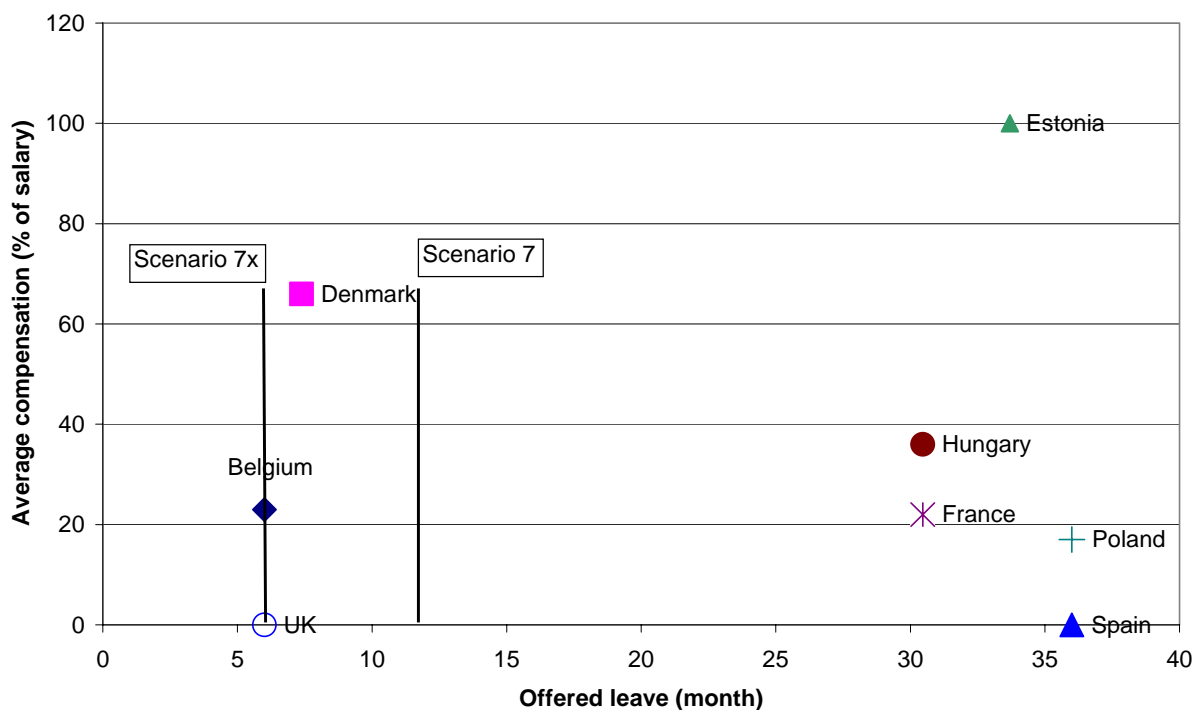
Figure 2 shows that the lengths of the paternity leaves in almost all countries amount to two weeks, but the levels of compensation differ much. Most countries provide 10 days - as suggested by the EU option - or more of paternity leave. However, Hungary only provides 1

week for fathers. Poland is a special case with provision for 4 weeks, but with a take-up rate of null.

### Impact of minimum EU provisions for parental leave

Figure 3 shows the existing parental leave scheme provisions in all eight countries. The countries can be divided into two groups with respect to the length of the leave period. The duration of parental leave is quite dispersed, ranging from 2.5 to 3 years (30-36 months) in five countries to 6 months in Belgium and UK. This reflects partly the breadwinner model of these two countries but also other factors. In Denmark there is a dual-earner model and therefore there is a need to compensate mothers and fathers with a higher average compensation rate than in the other countries. The former East European countries have now gone through an economic transition and are moving into a social transition. These countries, e.g. Hungary and Poland, are characterised by a model focusing on job-security as opposed to the flexicurity model of the Scandinavian countries. Thus, in Poland and Hungary the parental leave is of a very long duration but with a relatively low compensation level (less than 40% of average salary compensation).

Figure 3 Parental leave - existing situation



The above figure shows that minimum provisions of 12 months with 66.6% compensation (Scenario 7) will have more widely implications than minimum provisions of 6 months (Scenario 7x). However, at present the European Commission seems to pursue the latter option - which will not required any changes in Denmark and Estonia, and so Table 4 focuses on doing so. It that the EU option in general is not very costly. The socioeconomic costs range from 0% of GDP in the UK to 0.07% in France. To cover these costs via increased production by more women participating on the labour market, there is a need for an increase in their participation rate of between 0 pp and 0.39 pp.



Furthermore, the table shows that introducing one month more parental leave compared with 6 months - i.e. an increase from 6 to 7 months with 66.6% compensation of previous pay - will lead to relatively minor increases in socioeconomic costs, that is for the Member States that do not already fulfil such leave scheme provisions. In fact there is only a need for an increase in the female labour market participation rate of between 0.01 and 0.05 percentage points in order to increase production so that it outbalances these costs. Taking into account that parental leave is a central reconciliation factor as it facilitates gender equality - both at work and at home - and increased parental health, the required increase in female labour market participation rates seems realistic to achieve.

*Table 4 Impacts of improved parental leave provisions  
- to 6 months with 66.6% compensation (Scenario 7x)*

Impact	Belgium	Spain	France	Hungary	Poland	UK
Costs <sup>(1)</sup> in Euro/user						
- women	172	5,343	5,482	193	748	155
- men	180	0	0	0	2,967	78
Total costs in mill Euro	40	7,353	17,579	129	2,408	151
Share of costs in GDP	0.001%	0.04%	0.07%	0.007%	0.04%	0.000%
Break-even increase in female labour market participation	0.00 pp	0.24 pp	0.39 pp	0.04 pp	0.14 pp	0.00 pp
Total extra costs in mill Euro						
+ 4 weeks of leave	130	1,131	174	20	370	182
- 4 weeks of leave	-118	-1,131	-556	-20	-371	-182
Additional share of costs in GDP from + 4 weeks of leave	0.003%	0.006%	0.001%	0.001%	0.006%	0.0006%
Additional Increase in female labour market participation rate from + 4 weeks of leave	0.01 pp	0.04 pp	0.01 pp	0.01 pp	0.05 pp	

- Source: COWI/Idea calculations.
- Note: <sup>(1)</sup> Costs are calculated as net present values.

#### Impact of minimum EU provisions for adoption leave

In most of the countries covered by the study, the provisions for adoption are equal to those for biological parents, and so in general there seems not to be a case for a specific position on this leave scheme. Furthermore, the number of parents who adopt is relatively low, and so the costs involved are fairly insignificant.

## Impact of minimum EU provisions for filial leave

The investigation of the filial leave arrangements during the case studies reveal that they differ much between EU Member States. Furthermore, they are most not provided as single, specific arrangement, but are integrated into the labour market or social security systems in different ways. Hence, it is considered to be impossible to define a concerted EU action. Furthermore, it is not feasible to specify scenarios - because of insufficient availability of data, and an indeterminable target group and thus take-up rate.