

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

530TH EESC PLENARY SESSION, 6 AND 7 DECEMBER 2017

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions an initiative to support work-life balance for working parents and carers’

[COM(2017) 252 final]

‘Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU’

*[COM(2017) 253 final – 2017/0085 (COD)]**(2018/C 129/07)*Rapporteur: **Erika KOLLER**Co-rapporteur: **Vladimíra DRBALOVÁ**

Consultation

Commission referral: 17.11.2017

Council of the European Union referral: 10.5.2017

European Parliament referral: 15.5.2017

Legal basis

Article 153, paragraph 1, point (i) and Article 153, paragraph 2, point (b) of the Treaty on the Functioning of the European Union

Plenary Assembly decision

8.12.2015

Section responsible

Employment, Social Affairs and Citizenship

Adopted in section

8.11.2017

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6.12.2017

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Outcome of vote

182/11/4

(for/against/abstentions)

1. Conclusions and recommendations

1.1. The EESC welcomes the initiative of the European Commission to increase the labour market participation of parents with children, particularly women, by helping them to achieve a better work-life balance, thereby unlocking their full skills potential.

1.2. In addition, the EESC considers that the package's proposals should be further analysed, taking into account the actual situation in each Member State as well as the costs and organisational efforts for enterprises and, in particular, SMEs. Moreover, the following measures should also be taken: tackle stereotypes, disseminate good practices and create national action plans on work-life balance.

1.3. Modern work-life balance policies should provide families with appropriate choices while taking into consideration the needs of businesses. The EESC encourages the social partners throughout Europe to examine additional practical solutions to promote a work-life balance that suits the specificities of their particular workplace ⁽¹⁾.

1.4. While the EESC acknowledges that implementing the proposals will entail costs for the Member States and businesses, it is confident that the long-term benefits will outweigh the short-term increased costs. The EESC believes that measures to support small and medium-sized enterprises should be further explored.

1.5. The EESC believes that it is important that both women and men have an individual entitlement to leave. However, it recognises that businesses, particularly SMEs, may encounter organisational difficulties due to the increase in the scope of the entitlement. Any problem arising from the application of this provision should be dealt with in accordance with national law, collective agreements and/or practice.

1.6. The EESC is of the opinion that the work-life balance package is a step in the right direction, but also that it should be improved in the future, based on appropriate impact assessments.

1.7. The EESC stresses the need for more investment in high-quality, affordable and available care services and facilities for every family, and calls on the Commission to use the country specific recommendations (CSRs) in the framework of the European Semester, as well as the regional development funds, to encourage the Member States to increase their efforts.

1.8. Although the proposal for a directive deals with tax systems to some extent, the EESC regrets that it does not go far enough. The way in which tax systems are designed can influence peoples' decision whether or not to enter the labour market. Tax deductions that help working parents to continue working should be considered.

2. Introduction

2.1. Equality between women and men is a fundamental value and principle of the European Union ⁽²⁾. Over the course of the last sixty years, the EU has made great progress by adopting a series of equality and anti-discrimination directives, policy programmes and funding instruments to promote gender equality in the European Union ⁽³⁾. The EU's legal framework for family-related forms of leave and flexible working arrangements was established in the 1990s and has been continuously updated, the most recent directive being that on Parental Leave adopted in 2010 ⁽⁴⁾. Outside the legislative framework, recommendations issued in the context of the European Semester ⁽⁵⁾, EU funding and policy guidance ⁽⁶⁾ also play a role.

2.2. However, the progress made over the previous decades has almost come to a standstill ⁽⁷⁾, as evidenced by the persistent gender pay gap of 16,3 % and women's unequal role and participation in the labour market, where 31 % of women work part-time compared to 8,2 % of men, while women's general labour market participation continues to trail

⁽¹⁾ See Eurofound, *Work-life balance and flexible working arrangements in the EU*, EPSCO meeting, Tallinn, 19-20 July 2017.

⁽²⁾ Article 19 and Article 153 TFEU; Charter of Fundamental Rights (Article 23 and Article 33).

⁽³⁾ Directives 2006/54/EC; 2014/124/EU; 79/7/EEC; 2004/113/EEC; 92/85/EEC; 2010/18/EU.

⁽⁴⁾ See Directive 2010/18/EU (OJ L 68, 18.3.2010); Directive 2006/54/EC (OJ L 204, 26.7.2006), Directive 92/85/EEC (OJ L 348, 28.11.1992), Directive 97/81/EC (OJ L 14, 20.1.1998). The Maternity Leave Directive (Directive 92/85/EEC) was adopted in 1992 and has not changed since. The Parental Leave Directive, first adopted in 1996, was revised and improved in 2010.

⁽⁵⁾ For more information, see https://ec.europa.eu/info/strategy/european-semester_en.

⁽⁶⁾ The Council issued a Recommendation on childcare (92/241/EEC, OJ L 123, 8.5.1992) as early as 1992.

⁽⁷⁾ Eurostat, Gender pay gap:
<http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tsdsc340&plugin=1>.

more than 12 percentage points behind that of men⁽⁸⁾. At the same time, studies show that the gender pension gap is as high as 40 %. All this points to the need to be even more proactive to ensure equality between women and men in all areas of life, including a focus on the feminisation of poverty.

2.3. Women's unequal participation in the labour market is closely related to the unequal distribution of care responsibilities. The lack of adequate, accessible, affordable and high-quality care services ranging from childcare to community-based care services for older family members and persons with disabilities also contributes to the care gap⁽⁹⁾.

2.4. Obstacles and barriers to work-life balance have not only been identified as factors preventing women from participating fully in the labour market, but also as having an impact on demographic trends, the economy and the role of men as equal carers. Regarding the economic impact, a recent study by Eurofound⁽¹⁰⁾ estimates the economic loss due to the gender employment gap at EUR 370 billion per year. In some Member States, more than 25 % of women are economically inactive because of care responsibilities. While staying at home is rarely a choice these days due to economic reasons, there are still societal expectations based on the stereotypical view of women as primary carers and men as family breadwinners. Evidence shows that mothers who stay at home for all or part of their active life will be less economically independent, have fewer chances of making a career and be more likely to experience poverty in old age. Work-life balance policies are tools that will enable women and men to make their choices starting from a level-playing field. The EESC highlights that provisions on worker's rest time and work-life balance should take into account, where applicable, a common weekly day of rest recognised by tradition and custom in the country or region, also respecting relevant (sectoral) collective agreements and established practices at local and company level.

2.5. The European Commission announced its initiative New start to address the challenge of work-life balance faced by working families⁽¹¹⁾ in a roadmap in August 2015. In November 2015, in line with Article 154(2) TFEU, the Commission launched a two-stage consultation⁽¹²⁾ with the European social partners to obtain their views on this initiative. The social partners did not open negotiations. While European employers considered the current EU legal framework to be sufficient, the European trade unions pushed for a stronger legislative framework. The Commission also launched a public consultation, which revealed that 60 % of respondents wanted an EU legislative framework on work-life balance. On 26 April 2017, the Commission adopted a proposal for a European Pillar of Social Rights, which includes a proposal for a directive to support work-life balance for working parents and carers alongside a set of non-legislative proposals.

3. General comments

3.1. The EESC agrees with the need for proactive policies aimed at fostering shared responsibility for childcare between men and women. Studies also show that involving men in care responsibilities benefits families as well as Europe's economy and competitiveness. Boosting women's participation in the labour market would also improve businesses' access to skilled labour and talent, helping to unlock the full potential of women at a time when the EU's workforce is shrinking, the population is ageing and the demographic curve remains a serious challenge for public finances. These policies should also focus on creating incentives for employers to increase labour supply, on providing childcare support and on various forms of leave and flexible working arrangements.

3.2. The EESC would like to point out the fundamental role the Commission and the Member States (in consultation with the social partners and wider civil society) must play in tackling stereotypes (including through education and public awareness-raising campaigns), reducing labour market segregation and equipping individuals with updated and upgraded skills fit for future labour market needs.

⁽⁸⁾ Eurostat, Labour Force Survey, 2016.

⁽⁹⁾ See the following EESC opinions: OJ C 21, 21.1.2011, p. 39, OJ C 218, 23.7.2011, OJ C 12, 15.1.2015, p. 16, OJ C 332, 8.10.2015, p. 1, OJ C 487, 28.12.2016, p. 7.

⁽¹⁰⁾ Eurofound (2016), *The gender employment gap: Challenges and solutions*, Publications Office of the European Union, Luxembourg.

⁽¹¹⁾ http://ec.europa.eu/smart-regulation/roadmaps/docs/2015_just_012_new_initiative_replacing_maternity_leave_directive_en.pdf.

⁽¹²⁾ Letter Ref. Ares(2015)5003207 — 11/11/2015 from Michel Servoz addressed to the European social partners.

3.3. The EESC welcomes the Commission's package to address work-life balance, as it proposes a more equal sharing of tasks as a way of removing some of the more significant structural barriers to bringing women into employment.

4. Specific comments

4.1. Paternity leave

4.1.1. The EESC believes that the Commission's decision to address the lack of uptake of paternity leave by introducing an individual entitlement to non-transferable paternity leave of at least ten working days, paid at no less than the level of the existing sick pay entitlement, accompanied by a cost-benefit analysis at national level, is a step in the right direction. The Committee, however, points out that 'sick pay entitlements' vary considerably throughout Europe and range from lump sums well below the wage earned up to a 100 % replacement rate of the wage concerned. It stresses that the compensation should be adequate, encourage fathers to take their responsibility as well as and give parents more choice both before and after the birth of their child, taking into account national practices regarding maternity pay.

4.1.2. While noting that provisions for paternity leave already exist in 21 Member States, with an average length of two and a half days⁽¹³⁾, the EESC deems this duration to be very short and regrets that uptake is largely still lacking, something which should be further analysed. The EESC therefore believes that the Commission's proposal meets the need to provide incentives for fathers to take paternity leave, taking account of existing successful practices in some Member States⁽¹⁴⁾ and noting the equal role of fathers in family responsibilities.

4.1.3. Nonetheless, the EESC stresses that it considers the right to a period of leave of 10 days for this purpose, as provided for in the proposal for a directive, to be a first step in the right direction in order to achieve the proposal's goal of substantially increasing fathers' participation. In the Committee's view, however, a longer period — e.g. up to one month — to be agreed between employer and employee would be more appropriate to achieve the proposal's goal.

4.2. Parental leave

4.2.1. The share of men taking advantage of parental leave ranges from 40 % to as little as 2 % in some Member States⁽¹⁵⁾. The existing parental leave framework and mind-sets have not sufficiently addressed the reasons behind men's low take-up of this leave.

4.2.2. The EESC recognises that businesses, especially SMEs and microbusinesses, may encounter organisational difficulties due to the extension of the age of the child from eight to 12 years for parental leave purposes.

4.2.3. The EESC particularly welcomes the Commission's proposal for the individualisation of parental leave entitlements and their non-transferability. It notes the need for a decent salary compensation for at least the level of sick pay, which may be subject to any ceiling laid down in national legislation⁽¹⁶⁾, accompanied by a cost-benefit analysis at national level, as well as for non-discrimination provisions, as all this can have a positive impact on the uptake of parental leave by fathers.

4.2.4. Moreover, the EESC also believes that the negotiation on the proposal should maintain a balance between the needs of employees and those of employers. The Commission's Impact Assessment (IA) showed that the impact of the proposal is mixed, depending on the time frame. The costs of the proposed measures (resulting mainly from loss of production due to the administrative burden of processing applications and the need to temporarily replace staff) will rise in the short to medium term, while over a longer time frame the package should entail only limited costs for businesses⁽¹⁷⁾.

⁽¹³⁾ [http://www.europarl.europa.eu/RegData/etudes/ATAG/2016/593543/EPRS_ATA\(2016\)593543_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2016/593543/EPRS_ATA(2016)593543_EN.pdf).

⁽¹⁴⁾ RAND Europe, Policy brief by Janna van Belle, *Paternity and parental leave policies across the European Union*.

⁽¹⁵⁾ <http://www.oecd.org/social/parental-leave-where-are-the-fathers.pdf>.

⁽¹⁶⁾ Article 11(3) of Directive 92/85/EC.

⁽¹⁷⁾ Commission SWD Impact assessment accompanying the Communication *A new start to support work-life balance for parents and carers*.

4.3. Carers' leave

4.3.1. The EESC notes that the lack of adequate provision for leave to provide care for relatives with support needs also contributes to the unequal distribution of care responsibilities, with women often exclusively shouldering the care burden. This hampers their physical and mental health, social inclusion and participation in the labour market and consequently contributes to them having inadequate pension entitlements.

4.3.2. Legislation on access to leave for carers has been adopted in almost all EU Member States, but duration, eligibility, benefit level and entitlement to social security rights vary greatly across countries⁽¹⁸⁾. The EESC therefore welcomes the proposal to establish a minimum European playing-field by introducing an individual entitlement to carers' leave of at least five days per year, paid at the level of sick pay. However, this is only a first step and more will need to be done by the Commission to support and complement the Member States' efforts to help families cope better with growing care responsibilities. The introduction of this individual entitlement should be linked to the development of support mechanisms for carers.

4.3.3. The EESC welcomes the approach taken by the Commission, namely to propose work-life balance measures covering workers throughout their lives, including women belonging to the 'sandwich generation', i.e. those who find themselves with care responsibilities for relatives from more than one generation. Lack of care provision often forces these workers, especially women, out of paid employment just a few years before retirement, with the concomitant barriers to re-entering the labour market after the age of 50.

4.3.4. The EESC also stresses that leave for individual carers should not serve as a substitute for professional, accessible, affordable and high-quality community-based care services, which will also greatly contribute to future economic development.

4.3.5. Furthermore, the EESC notes that the different types of care leave cannot be fully and exactly compared, as not only is caring for an elderly person different in nature to caring for a child, it can also involve the extended family, including in decision-making.

4.3.6. An important aspect of care for people with disabilities is separating professional care from family care in an attempt to create a situation in which the burden on families can be alleviated as much as possible. However, regardless of the form of care in question, carers must have access to the social security system.

4.4. Flexible working arrangements

4.4.1. Flexibility in working arrangements is essential to enable businesses to adapt their workforce to a changing economic context. It is also a useful tool for enhancing performance and productivity⁽¹⁹⁾, as well as for enabling workers to manage their work-life balance. It is therefore important that social dialogue at local and sectoral level tackles these aspects in order to put in place forms of work that enable a balance between private and work life.

4.4.2. Flexible working arrangements can help with many care responsibilities, but should not impact negatively on the employment situation of working carers. The proposal for a directive provides for a right of a working parent or carer of relatives in need of care or support to ask for flexible working arrangements.

4.4.3. The proposal introduces the possibility for workers to make use of (i) a reduction in working hours, (ii) flexible work schedules and (iii) remote working possibilities. The EESC points out that such flexible working arrangements must meet most workers' needs and incorporate a life-cycle approach. These issues should be tackled through social dialogue and collective bargaining at the level closest to the situation in question. In addition, the right to return to the original working pattern must be guaranteed. At the same time, the right of employers to consider the request for flexible working

⁽¹⁸⁾ See: Bouget, D., Spasova, S. and Vanhercke, B. (2016), *Work-life balance measures for persons of working age with dependent relatives in Europe. A study of national policies*, European Social Policy Network (ESPN), Brussels: European Commission <https://webgate.ec.europa.eu/emplcms/social/BlobServlet?docId=16325&langId=en>.

⁽¹⁹⁾ Chung, H., (2017) *Work Autonomy, Flexibility and Work Life Balance*: final report accessible at: <http://wafproject.org/research-outputs/final-report/>.

arrangements taking into account the needs of both employers and workers should be respected. Any problem arising from the application of this provision should be dealt with in accordance with national law, collective agreements and/or practice.

4.4.4. The impact of the digitalisation of the workplace and employment relationships may go as far as reshaping traditional working patterns. In that respect, further reflection is needed on the way in which leave for care purposes is traditionally viewed as the pivotal choice for families to balance work and family life. All too often, it is women who take up flexible working arrangements to cope with care responsibilities while continuing to work. This hampers their progress within their place of work, in terms of both their remuneration and their professional development. Moreover, the EESC wants to highlight that flexible working arrangements should not be treated as a 'women's issue' by focusing on mothers or women that need to care for their dependent relatives. Businesses must encourage flexible forms of work for both men and women and contribute to a cultural evolution that is in line with men's and women's aspirations and that also promotes greater professional equality. Flexible working arrangements must also be fully reversible, employee-friendly and available in all forms of contracts. Effectively enforcing the right to return to the original working pattern is particularly important in this context.

4.4.5. Moreover, while digitalisation can support flexible working arrangements by allowing employees to work remotely, it can also present some challenges and risks.

4.5. Non-legislative initiatives

The Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers repealing Council Directive 2010/18/EU is accompanied by a range of non-legislative initiatives which complete the whole work-life balance package. The EESC welcomes the additional non-legislative proposals that complete the package on work-life balance, such as:

4.5.1. Childcare and long-term care

4.5.1.1. The lack of available childcare and the high cost of childcare are among the biggest disincentives to return to work for a second earner in a dual-income couple. In the EU, only 28 % of children aged 0-3 years old were cared for in formal care services in 2014, compared to 83 % of children aged between 3 and the compulsory school age. These numbers are below the Barcelona targets set in 2001, which should have been reached by 2010. For these reasons, the EESC regrets that the Barcelona childcare targets, which aimed at providing sufficient accessible, affordable and high-quality childcare at Member State level, have not been met.

4.5.1.2. High costs for parents and the opening hours of facilities, which are incompatible with full-time work, remain a challenge. The Commission's report demonstrates that investment in high-quality services must continue. The European Parliament also notes that for 27 per cent of Europeans the lack of infrastructure and the quality of the services available makes them difficult to access ⁽²⁰⁾.

4.5.1.3. The EESC notes that the Commission proposes to revise the Education and Training targets but does not mention the achievements of the Barcelona targets. However, the Education and Training target for early childhood education and care (ECEC) has a smaller scope as it only focuses on children from 4 years of age to school age. The EESC therefore calls for urgent action to revise the Education and Training target for ECEC to align it with the Barcelona targets by enlarging its scope (i.e. including targets for children below 4 years of age). The new targets resulting from this revision should be more ambitious than the current Barcelona targets. Moreover, the EESC calls for the development of EU-level benchmarks for out-of-school care and long-term care services.

4.5.1.4. The EESC welcomes the Commission's plans to step up the guidance and monitoring of care service provision in the Member States in the context of the European Semester and to promote the exchange of best practices. It also encourages the improvement of data collection at EU level and supports the plan to revise the Education and Training targets for early childhood education set for 2020. Moreover, the EESC is particularly keen to see the use of various

⁽²⁰⁾ See the European Parliament Resolution of 13 September 2016 on *Creating labour market conditions favourable for work-life balance* (2016/2017(INI)).

European funding instruments tailored to the specific needs of the Member States. In this context, the EESC has on several occasions called for far more ambitious promotion of social investment, considering in particular the 'multiple dividends' of investing in childcare facilities ⁽²¹⁾.

4.5.1.5. The Committee believes that capacity building/information seminars, with the full participation of all stakeholders, are very important as accompanying measures but notes that they are required on a much larger scale than currently proposed. There is a particular need for information seminars on dismissal protection after returning from maternity leave.

4.5.2. Work-life balance and fiscal policy

4.5.2.1. Although the proposal for a directive deals with tax systems to some extent, the EESC regrets that it does not go far enough. Tax systems can have a direct impact on labour market participation, in particular for 'second earners', the majority of whom are women. The way in which tax systems are designed can influence peoples' decision whether or not to enter the labour market. Tax deductions that help working parents to continue working should be considered.

4.5.2.2. The EESC considers that the European Commission's proposal to address fiscal disincentives will complement and support the other measures in the package. In particular, it supports the identification of country-specific obstacles resulting from gender-biased tax benefit systems and proposes that these be addressed through recommendations issued in the context of the European Semester.

4.5.3. The role of civil society actors

4.5.3.1. In addition to the need for high-quality, accessible and affordable public services, including care services for children, older relatives and other dependents, the social economy and the non-governmental sector can make a useful contribution to providing services to support work-life balance. In many cases, without their efforts, service provision would not be ensured.

4.5.3.2. The social partners have a particular role to play in implementing work-life balance policies in the workplace, in particular through negotiations and collective agreements. The EESC welcomes the attention that the European social partners have given to gender equality in their work programmes over the years, with the aim of producing tangible results.

Brussels, 6 December 2017.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽²¹⁾ See, inter alia, the EESC opinions OJ C 271, 19.9.2013, p. 91, OJ C 226, 16.7.2014, p. 21, OJ C 125, 21.4.2017, p. 10.