



EUROPEAN
COMMISSION

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2013/0189 (NLE)

Proposal for a

COUNCIL DECISION

amending Council Directive 2010/18/EU because of the change in status of Mayotte

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

By Decision 2012/419/EU, the European Council amended the status of Mayotte with regard to the European Union with effect from 1 January 2014. Therefore, from this date, Mayotte will cease to be an overseas territory and will become an outermost region of the Union within the meaning of Articles 349 and 355(1) TFEU. Union law will apply to Mayotte from 1 January 2014.

This proposal is in response to a request from the French authorities for a modification of the Union *acquis* by way of deferred implementation of Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC.

This request for postponement is objectively justified in the light of the specific economic situation of the island of Mayotte.

- The jobs market is underdeveloped and the employment rate is low for an active population totalling 43 200 people.
- 15 % of total employment is still in traditional industries (agricultural food production, crafts and small-scale commerce), comprising subsistence activities.
- Per capita GDP is 30 % less than the EU average.
- The French authorities plan to increase social rights gradually in order to avoid any economic destabilisation of the island. The planned increase in contributions is therefore to be very slow, with the alignment of contributions on those generally applicable to be staggered up to 2036.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENTS

The Commission has not carried out an impact assessment. However, after examining various points and in particular France's request, the Commission has been in contact with the representatives of the French authorities in order to better assess the reasons for the requested postponement.

3. LEGAL ELEMENTS OF THE PROPOSAL

In accordance with Article 155(2) TFEU, the Council has the power to adopt implementing measures for agreements concluded at Union level between management and labour in the field of equal treatment between men and women concerning labour market opportunities and equality at work.

The French request for a deferred implementation date of 31 December 2018 is justified in the light of the specific economic situation of the new overseas department of Mayotte, which calls for a progressive alignment of the legislation of Mayotte with French and European legislation, together with a gradual increase in social rights, in order to avoid any economic destabilisation of the island resulting from a non-progressive increase in social rights and to ensure the gradual achievement of equal treatment in the particular field of parental leave.

On this basis, it is proposed that Council Directive 2010/18/EU of 8 March 2010 be amended to grant France a deferment until 31 December 2018 for the implementation of the Directive in Mayotte.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 155(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Decision 2012/419/EU¹, the European Council decided to amend the status of Mayotte with regard to the European Union with effect from 1 January 2014. Therefore, from that date, Mayotte will cease to be an overseas territory and will become an outermost region of the Union within the meaning of Articles 349 and 355(1) of the Treaty. Union law will apply to Mayotte from that date. Certain specific measures, justified by the particular situation of Mayotte, should be established.
- (2) Considering the specific economic and social situation of Mayotte, particularly the fact that the jobs market is underdeveloped and the employment rate is low, an additional implementation period for Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC² is appropriate to ensure that equal treatment in the particular field of parental leave is achieved progressively and so as not to destabilise the economic development of the island, which will allow this specific situation to be improved.
- (3) Directive 2010/18/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 3(2) of Directive 2010/18/EU, the following subparagraph is added:

‘For the French overseas department of Mayotte, the additional period referred to in the first subparagraph shall be extended to 31 December 2018.’

¹ OJ L 204, 31.7.2012, p. 131.

² OJ L 68, 18.3.2010, p. 13.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels,

*For the Council
The President*