

AMENDMENTS 001-095

by the Committee on Employment and Social Affairs

Report**David Casa**

Work-life balance for parents and carers

A8-0270/2018

Proposal for a directive (COM(2017)0253 – C8-0137/2017 – 2017/0085(COD))

Amendment 1**Proposal for a directive****Recital 2***Text proposed by the Commission*

(2) ***Equality between men and women*** is a fundamental principle of the Union. According to Article 3 of the Treaty on European Union ***the promotion of*** equality between women and men ***is one*** of the ***Union's aims***. ***Similarly, Article 23*** of the Charter of Fundamental Rights of the European Union ***requires*** equality between women and men to be ensured in all areas, including employment, work and pay.

Amendment

(2) ***Gender equality*** is a fundamental principle of the Union. According to Article 3 of the Treaty on European Union, ***combating social exclusion and discrimination, promoting social justice and protection***, equality between women and men, ***solidarity between generations and protecting*** of the ***rights of the child*** ***are aims of the Union***. ***Article 8 of the Treaty on the Functioning of the European Union provides that the Union must aim to eliminate inequalities and to promote equality between men and women in all its activities***. ***Moreover, Title III*** of the Charter of Fundamental Rights of the European Union (***the Charter***) ***provides that everyone is equal before the law, that discrimination is prohibited and that*** equality between women and men ***is*** to be ensured in all areas, including employment, work and

pay (*Articles 20, 21 and 23 of the Charter*).

Amendment 2

Proposal for a directive Recital 3

Text proposed by the Commission

(3) Article 33 of the Charter *of Fundamental Rights of the European Union* provides for 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, to reconcile family and professional life.

Amendment

(3) Article 33 of the Charter provides for ***legal, economic and social protection of the family***, 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, to reconcile family and professional life.

Amendment 3

Proposal for a directive Recital 4

Text proposed by the Commission

(4) The Union *is* party to the United Nations' Convention on the Rights of People with Disabilities. The provisions of that Convention are thus, from the time of its entry into force, an integral part of the European Union legal order and Union legislation must as far as possible be interpreted in a manner that is consistent with the Convention. The Convention provides, among other things, in *its* Article 7 that Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

Amendment

(4) The Union ***and all Member States are*** party to the United Nations' Convention on the Rights of People with Disabilities ***and more generally are to to promote and protect the fundamental rights enshrined in the Universal Declaration of Human Rights***. The provisions of that Convention are thus, from the time of its entry into force, an integral part of the European Union legal order and Union legislation must as far as possible be interpreted in a manner that is consistent with the Convention. The Convention provides, among other things, in ***point 24 of its Preamble and in*** Article 7 that Parties shall take all necessary measures to ensure the full ***and equal*** enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

Moreover, the Convention, in its Article 23, provides that Parties are to take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships on an equal basis with others.

Amendment 4

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The Member States have signed and ratified the United Nations Convention on the Rights of the Child and are therefore legally bound to take all measures for the implementation of the rights concerned. The Convention provides, inter alia, in its Article 18 that parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child, and that the best interests of the child will be their basic concern. It also reminds States of their responsibility to take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Amendment 5

Proposal for a directive Recital 5

Text proposed by the Commission

Amendment

(5) Work-life balance policies should contribute to the achievement of gender equality by promoting the participation of women in the labour market, making it easier for men to share caring

(5) Work-life balance policies should contribute to the achievement of gender equality by promoting the participation of women in the labour market, **encouraging and** making it easier for men to share

responsibilities on an equal basis with women, and closing gender gaps in earnings **and** pay. Such policies should take into account demographic changes including the effects of an ageing population.

caring responsibilities on an equal basis with women, and closing gender gaps in earnings, pay **and pension**. Such policies should take into account **reducing gender stereotypes, recognising and redistributing care responsibilities and developing and implementing quality standards for all types of care services and, further, acknowledging** demographic changes including the effects of an ageing population **and its impact on care responsibilities. Addressing the challenge presented by demographic change is vital to ensuring the preparedness of work-life balance policies for the future of work. Particular attention needs to be given to the labour market participation of vulnerable categories of women.**

Amendment 6

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Policies addressing work-life balance in relation to informal carers – who currently provide, free of charge, 80 % of all care across the Union – are relevant to and commensurate with the challenges posed by demographic changes. Those policies are expected to contribute to mitigating the effects of an increasing care demand on the one hand, and the trend towards smaller and more geographically dispersed families as well as increasing number of women entering the labour market, decreasing the informal care potential, on the other. The prevalence of informal care in the Union, coupled with the pressure on public expenditure in some countries means that this form of support is expected to increase in significance. It is therefore clear that informal care needs to be supported and measures that enable carers to combine care with work are

indispensable.

Amendment 7

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The European Pillar of Social Rights, which was proclaimed by the Union institutions on 17 November 2017 aims to deliver new and more effective rights for citizens of the Union. The Pillar builds upon 20 key principles, including Principle 2 on Gender Equality, Principle 3 on Equal Opportunities, and Principle 9 on Work-life Balance. The latter states that “parents and people with caring responsibilities have the right to suitable leave, adaptable working arrangements and access to care services. Women and men shall have equal access to special leaves of absence in order to fulfil their caring responsibilities and be encouraged to use them in a balanced way”.

Amendment 8

Proposal for a directive Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Parents and other people with caring responsibilities should have the right to suitable leave, adaptable working arrangements and access to care services. Women and men should have equal access to special leave of absence in order to fulfil their caring responsibilities and should be encouraged to use them in a balanced way.

Amendment 9

Proposal for a directive Recital 6 c (new)

Text proposed by the Commission

Amendment

(6c) The European Parliament's report of 18 June 2013 on 'Impact of the crisis on access to care for vulnerable groups' specifically calls on the Commission to propose a directive on carers' leave.

Amendment 10

Proposal for a directive Recital 6 d (new)

Text proposed by the Commission

Amendment

(6d) According to Commission (Eurostat) data for October 2017, the male employment rate in the Union was 71,9 %, compared to the female employment rate of 61,4 %, despite the fact that women have a higher level of education.

Amendment 11

Proposal for a directive Recital 7

Text proposed by the Commission

Amendment

(7) Work-life balance remains ***however*** a considerable challenge for many parents and workers with caring responsibilities, with a negative impact on female employment. A ***major*** factor contributing to the underrepresentation of women in the labour market is the difficulty of balancing work and family ***obligations***. When they have children, women tend to work less hours in paid employment and spend more time fulfilling unpaid care ***responsibilities***. Having ***an ill or dependent*** relative has

(7) Work-life balance remains a considerable challenge for many parents and workers with caring responsibilities, with a negative impact on female employment. A ***determining*** factor contributing to the underrepresentation of women in the labour market, ***besides discrimination in access to work and in their employment status and payment and in the types of work open to them***, is the difficulty of balancing work and family ***responsibilities***. When they have children,

also been shown to have a negative impact on female employment, leading *some* women to drop out of the labour market entirely.

women tend to work less hours in paid employment and spend more time fulfilling unpaid care *tasks*. ***Moreover, there is an increasing tendency to extend working hours until late in the evening and a prevalence in certain sectors of night work or work on public holidays and this makes it difficult for workers to reconcile work with their duties towards children and other relatives or persons from their immediate circle in need of care or support.*** Having a relative *with care or support needs* has also been shown to have a negative impact on female employment, leading *a number of* women to drop out of the labour market *partly or* entirely. ***This in turn has a negative impact on the social security and pension rights of those carers, in some cases leading to an increased risk of poverty and social exclusion, especially during old age. Research and practise demonstrate benefits to employers as a consequence of addressing the needs of working carers, leading to better outcomes, such as reduced absenteeism, a greater ability to attract staff and to retain and motivate staff.***

Amendment 12

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The availability of quality, accessible, and affordable infrastructure for the care of children and relatives with care or support needs has proven to be a crucial factor for work-life balance policies that facilitate the rapid return of mothers to, and an increasing participation of women on, the labour market. However, by 2018 the majority of the Member States still have not yet achieved the 2002 Barcelona objectives

for childcare. The achievement of those objectives is crucial to allow women to fully participate in employment and prioritising the investment in community-based quality, accessible and affordable childcare in the Multiannual Financial Framework is pivotal to unlocking the situation. The establishment of leave for individual carers should therefore not serve as a substitute for professional, accessible, affordable and high-quality community-based care services.

Amendment 13

Proposal for a directive Recital 8

Text proposed by the Commission

(8) The current Union legal framework provides limited incentives for men to assume an equal share of caring responsibilities. Lack of paid paternity and parental leave in many Member States contributes to the low take-up of such leave by fathers. The imbalance in the design of work-life balance policies between women and men reinforces gender differences between work and care. Conversely, use of work-life balance arrangements by fathers, such as leave or **flexible** working arrangements, has been shown to have a positive impact in reducing the relative amount of unpaid family work undertaken by women and leaving them more time for paid employment.

Amendment

(8) The current Union legal framework provides limited incentives for men to assume an equal share of caring responsibilities. Lack of paid paternity and parental leave **as well as transferability of parental leave** in many Member States contributes to the low take-up of such leave by fathers. The imbalance in the design of work-life balance policies between women and men reinforces gender **stereotypes and** differences between work and care. Conversely, use of work-life balance arrangements by fathers, such as leave or **adaptable** working arrangements, has been shown to have a positive impact in reducing the relative amount of unpaid family work undertaken by women and leaving them more time for paid employment. **Furthermore, Eurofound research shows that take-up rates among parents depend on many interlinked factors. Of particularly great importance are high-quality, accessible and affordable facilities for childcare, care for elderly people and for people with disabilities; information about the leave available; leave compensation and pay**

disparities; prevailing family organisation models; and the extent to which workers fear isolation from the labour market when taking leave. Young people is the group that is clearly among the most vulnerable to all those factors.

Amendment 14

Proposal for a directive Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) In order to improve work-life balance, discriminatory practices such as the persistent gender pay gap should be tackled as to eventually ensure greater equity in the labour market. Member States together with the social partners and relevant stakeholders should include gender equality education in their curricula in compulsory and pre-school education and to continue with public authorities' efforts to provide information and raise awareness. Policies on equal treatment should aim to address the issue of stereotypes in both male and female occupations and roles and the social partners should act upon their key role in informing both workers and employers and in raising their awareness about tackling discrimination.

Amendment 15

Proposal for a directive Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) To better assess the impact of the underlying and other related legislation, relevant data such as the number of working hours, pay, position, including a breakdown by gender and age should be collected and published at local, regional

and national level in order to document intersectional discrimination and shape policies in a targeted and resource-efficient way. The European Institute for Gender Equality (EIGE), the European Foundation for the Improvement of Living and Working Conditions (EUROFOUND) and the European Centre for the Development of Vocational Training (Cedefop), together with national and regional equality bodies, should continuously update work-life balance indicators to ensure data is relevant and timely.

Amendment 16

Proposal for a directive Recital 8 c (new)

Text proposed by the Commission

Amendment

(8c) Investing in community-based public services for people with disabilities or age-related support needs is key to ensuring that women are not forced out of the labour market or unable to remain or re-enter paid employment, in line with the Council Conclusions of 7 December 2017 on Enhancing Community-Based Support and Care for Independent Living.

Amendment 17

Proposal for a directive Recital 8 d (new)

Text proposed by the Commission

Amendment

(8d) In order to build a socially and economically sustainable society, the responsibility for a suitable work-life balance should be shared among workers, families, the social partners, local and regional authorities and all public and private employers and service providers.

Amendment 18

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The social partners should be encouraged by Member States to continue their active work with regard to facilitating the reconciliation of work, private and family life and improving gender equality and equal treatment in the labour market through education, adult learning, raising awareness and information campaigns.

Amendment 19

Proposal for a directive Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) The social partners should be consulted about the design and implementation of economic, employment and social policies according to national practices. They should be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and their right to collective action.

Amendment 20

Proposal for a directive Recital 10

Text proposed by the Commission

Amendment

(10) It is appropriate to repeal and replace Directive 2010/18/EU which currently regulates parental leave by putting into effect a framework agreement concluded between the social partners. This Directive builds, in particular, upon the rules laid down in Directive 2010/18/EU and

(10) It is appropriate to repeal and replace Directive 2010/18/EU which currently regulates parental leave by putting into effect a framework agreement concluded between the social partners. This Directive builds, in particular, upon the rules laid down in Directive 2010/18/EU and

complements them by strengthening existing rights and by introducing new rights.

complements them by strengthening existing rights and by introducing new rights. ***Nothing in this Directive should be interpreted as diminishing previously existing rights pursuant to that Directive.***

Amendment 21

Proposal for a directive Recital 11

Text proposed by the Commission

(11) This Directive lays down minimum requirements related to paternity, parental and carers' leave and to ***flexible*** working arrangements for parents and workers with caring responsibilities. By facilitating the reconciliation of work and family life for parents and carers, this Directive should contribute to the Treaty-based goals of equality between men and women with regard to labour market opportunities, equal treatment at work and the promotion of a high level of employment in the Union.

Amendment

(11) This Directive lays down minimum requirements related to paternity, parental and carers' leave and to ***adaptable*** working arrangements for parents and workers with caring responsibilities. By facilitating the reconciliation of work and family life for parents and carers, this Directive should contribute to the Treaty-based goals of equality between men and women with regard to labour market opportunities, equal treatment at work and the promotion of a high level of employment in the Union. ***Moreover, this Directive recalls current demographic developments that lead to increasing care needs due to the ageing of society and, consequently, the need to invest and develop accessible, affordable and high-quality care facilities for child and elderly persons that allow carers to maintain an active professional life.***

Amendment 22

Proposal for a directive Recital 12

Text proposed by the Commission

(12) This Directive should apply to all workers who have employment contracts or other employment relationships. As is

Amendment

(12) This Directive should apply to all workers who have employment contracts or other employment relationships. As is

currently the case under Clause 2(3) of the Annex to Directive 2010/18/EU, this should include contracts relating to employment or employment relationships of part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency.

currently the case under Clause 2(3) of the Annex to Directive 2010/18/EU, this should include contracts relating to employment or employment relationships of part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency. ***The Commission should assess the possibility of extending the enjoyment of the rights provided for in this Directive to self-employed persons. The Commission should if appropriate, submit a legislative proposal on that basis.***

Amendment 23

Proposal for a directive Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Union law ensures the principle of equal treatment between various types of employment relationships, prohibits any direct or indirect discrimination based on sex in matters of employment, occupation, social protection and access to goods and services, ensures portability and preservation of rights in the case of mobility between Member States and guarantees minimum requirements for the acquisition and preservation of supplementary pension rights across borders, as well as minimum requirements of transparency with regard to occupational schemes.

Amendment 24

Proposal for a directive Recital 13

Text proposed by the Commission

Amendment

(13) In order to ***encourage*** a more equal sharing of caring responsibilities between

(13) In order to ***strengthen*** a more equal sharing of caring responsibilities between

women and men, the right to paternity leave for fathers to be taken ***on the occasion*** of the birth of a child should be introduced. In order to take account of differences among Member States, the right to paternity leave should be irrespective of marital or family status as defined in national law.

women and men, the right to ***paid*** paternity leave for fathers ***or for equivalent second parents, as established in national law, which is*** to be taken ***around the time*** of the birth ***or adoption*** of a child, ***or of a stillbirth***, should be introduced. In order to take account of differences among Member States, the right to paternity leave should be irrespective of marital or family status as defined in national law.

Amendment 25

Proposal for a directive Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Member States should take specific measures whereby all the benefits provided for in this Directive are applicable when parents have a lengthy stay abroad in order to complete an international adoption procedure.

Amendment 26

Proposal for a directive Recital 14

Text proposed by the Commission

Amendment

(14) As the majority of fathers do not avail themselves of their right to parental leave or transfer a considerable proportion of their leave entitlement to mothers, in order to encourage the second parent to take parental leave, this Directive, while maintaining the right of each parent to at least four months of parental leave currently provided for by Directive 2010/18/EU, extends from one to four months the period of parental leave which cannot be transferred from one parent to

(14) As the majority of fathers do not avail themselves of their right to parental leave or transfer a considerable proportion of their leave entitlement to mothers, in order to encourage the second parent to take parental leave, this Directive, while maintaining the right of each parent to at least four months of parental leave currently provided for by Directive 2010/18/EU, extends from one to four months the period of parental leave which cannot be transferred from one parent to the other. ***Ensuring that four months of***

the other.

parental leave is exclusively available to men and cannot be transferred to the other parent, prompts fathers to take it, thus promoting fatherhood. It also promotes and facilitates mothers' reintegration to work after maternity and parental leave. Creating conditions for a more balanced distribution of the responsibilities of care between both parents certainly contributes to an increase in the participation of men and women in employment.

Amendment 27

Proposal for a directive Recital 15

Text proposed by the Commission

(15) In order to provide greater possibility for parents to use parental leave as their children grow up, the right to parental leave should be granted until the child is at least **twelve** years old. Member States should be able to specify **the** period of notice to be given by the worker to the employer when applying for parental leave and to decide whether the right to parental leave may be subject to a certain period of service. In view of the growing diversity of contractual arrangements, the sum of successive fixed-term contracts with the same employer should be taken into account for the purpose of calculating the period of service. To balance the needs of workers with those of employers, Member States should also **be able to decide** whether they define if the employer may be allowed to postpone the granting of parental leave under **certain** circumstances. In such cases, the employer should provide justification for the postponement.

Amendment

(15) In order to provide greater possibility for parents to use parental leave as their children grow up, the right to parental leave should be granted until the child is at least **10** years old. Member States should be able to specify **taking into account in particular the constraints of micro, small and medium-sized enterprises, a reasonable** period of notice to be given by the worker to the employer when applying for parental leave and to decide whether the right to parental leave may be subject to a certain period of service. **Member States should be able to introduce a requirement for a minimum period of service, of no longer than six months, before the worker is entitled to benefit from that right.** In view of the growing diversity of contractual arrangements, the sum of successive fixed-term contracts with the same employer should be taken into account for the purpose of calculating the period of service. To balance the needs of workers with those of employers, Member States should also **determine** whether they define if the employer may be allowed to postpone the granting of

Given that flexibility makes it more likely that second parents, in particular fathers, will take up their entitlement to such leave, workers should be able to request to take parental leave on a full-time or part-time basis or in other flexible forms. It should be up to the employer whether or not to accept such a request for parental leave in other flexible forms than full-time. Member States should also assess if the conditions and detailed arrangements of parental leave should be adapted to the specific needs of parents in particularly disadvantaged situations.

parental leave *for a reasonable period of time* under *objective* circumstances. In such cases, the employer should provide justification for the postponement *in writing*.

Given that flexibility makes it more likely that second parents, in particular fathers, will take up their entitlement to such leave, workers should be able to request to take parental leave on a full-time or part-time basis or in other flexible forms. It should be up to the employer whether or not to accept such a request for parental leave in other flexible forms than full-time. Member States should also assess if the conditions and detailed arrangements of parental leave should be adapted to the specific needs of parents in particularly disadvantaged situations, *in particular with regard to children with a disability, a mental health problem, or a serious medical condition or illness, as well as with regard to single parents, who should have access to at least the same level of rights and protection ensured to parents under this Directive and may benefit from specific provisions in accordance with national law considering their specific situation*.

Amendment 28

Proposal for a directive Recital 16

Text proposed by the Commission

(16) In order to facilitate the return to work following parental leave, workers and employers should be encouraged to maintain contact during the period of leave and may make arrangements for any appropriate reintegration measures, to be decided between the parties concerned, taking into account national law, collective agreements and practice

Amendment

(16) In order to facilitate the return to work following parental leave, workers and employers should be encouraged to maintain *voluntary* contact during the period of leave and may make arrangements for any appropriate reintegration measures, *such as training or retraining*, to be decided between the parties concerned, taking into account national law, collective agreements and

practice. ***It should be made clear that workers who do not wish to maintain contact are not obliged to do so and are not to be discriminated against in any way. Furthermore, employers should inform workers during their period of leave or adaptable working arrangements about any training offered to the rest of the workers, promotion process and internal vacancies available, and those workers should retain their right to participate in them.***

Amendment 29

Proposal for a directive Recital 17

Text proposed by the Commission

(17) In order to provide greater opportunities to remain in the work force for ***men and women carrying*** of elderly family member and/or other relatives in need of care, workers with a ***seriously ill or dependant*** relative should have the right to take time off from work in the form of carers' leave to take care of that relative. ***To prevent abuse of that right***, proof of the serious ***illness or dependency may*** be required prior to granting of the leave.

Amendment

(17) In order to provide greater opportunities to remain in the work force for ***workers caring for*** elderly family member and/or other relatives in need of care, workers with a relative ***with care or support needs due to a serious medical reason or an age-related impairment*** should have the right to take time off from work in the form of carers' leave to take care of that relative. ***Medical*** proof of the serious ***medical reason for care or support needs should*** be required prior to granting of the leave, ***while at all times protecting the privacy and personal data of both the worker and the person in need of care, in accordance with national law.***

Amendment 30

Proposal for a directive Recital 18

Text proposed by the Commission

(18) In addition to the right to carers'

Amendment

(18) In addition to the right to carers'

leave provided for in this Directive, all workers should maintain their right to take time off from work on the grounds of force majeure for urgent and unexpected family reasons, currently provided for by Directive 2010/18/EU, under the conditions established **by** the Member **States**.

leave provided for in this Directive, all workers should maintain their right to take time off from work, **without loss of employment rights**, on the grounds of force majeure for urgent and unexpected family reasons, currently provided for by Directive 2010/18/EU, under the conditions established **in accordance with national law**.

Amendment 31

Proposal for a directive Recital 19

Text proposed by the Commission

(19) To increase the incentives for workers with children and caring responsibilities, men in particular, to take the periods of leave provided for in this Directive, they should have the right to an adequate allowance while on leave. The level of the allowance should be at least equivalent to **what the worker concerned would receive in case of sick leave**. Member States should take into account the importance of the continuity of the entitlements to social security, including healthcare.

Amendment

(19) To increase the incentives for workers with children and caring responsibilities, men in particular, to take the periods of leave provided for in this Directive, they should have the right to **a payment or** an adequate allowance while on leave. The level of the **payment or** allowance should be at least equivalent to **78 % of the worker's gross wage in the case of parental leave and carers' leave**. Member States should take into account the importance of the continuity of the entitlements to social security, including **pension and** healthcare.

Amendment 32

Proposal for a directive Recital 20

Text proposed by the Commission

(20) In accordance with Directive 2010/18/EU Member States are required to define the status of the employment contract or employment relationship for the period of parental leave. In accordance with the case-law of the Court of Justice of

Amendment

(20) In accordance with Directive 2010/18/EU Member States are required to define the status of the employment contract or employment relationship for the period of parental leave. In accordance with the case-law of the Court of Justice of

the European Union, the employment relationship between the worker and his employer is therefore maintained during the period of leave and, as a result, the beneficiary of such leave, remains, during that period, a worker for the purposes of Union law. When defining the status of employment contract or employment relationship during the period of the leaves covered by this Directive, including as regards entitlements to social security, the Member States should therefore ensure that the employment relationship is maintained.

the European Union, the employment relationship between the worker and his employer is therefore maintained during the period of leave and, as a result, the beneficiary of such leave, remains, during that period, a worker for the purposes of Union law. When defining the status of employment contract or employment relationship during the period of the leaves covered by this Directive, including as regards entitlements to social security, the Member States should therefore ensure that the employment relationship is maintained ***without prejudice to entitlements to social security including pension contribution, which the worker remains subject to throughout the period of leave. To that end, the Members States should ensure that the leave provided for in this Directive does not affect the worker's pension entitlements during the entire period.***

Amendment 33

Proposal for a directive Recital 21

Text proposed by the Commission

(21) In order to encourage working parents and carers to remain in the work force, those workers should be able to adapt their working schedules to their personal needs and preferences. Working parents and carers should therefore be able to request ***flexible*** working arrangements, meaning the possibility for workers to adjust their working patterns, including through the use of remote working arrangements, ***flexible*** working schedules, or a reduction in working hours, for caring purposes. In order to address the needs of workers and employers, it should be possible for Member States to limit the duration of ***flexible*** working arrangements, including a reduction in working hours.

Amendment

(21) In order to encourage working parents and carers to remain in the work force, those workers should be able to adapt their working schedules to their personal needs and preferences. Working parents and carers should therefore be able to request ***adaptable*** working arrangements, meaning the possibility for workers to adjust their working patterns, including through the use of remote working arrangements, ***adaptable*** working schedules, or a reduction in working hours, for caring purposes, In order to address the needs of workers and employers, it should be possible for Member States to limit the duration of ***adaptable*** working arrangements, including a reduction in

While working part-time has been shown to be useful in allowing some women to remain in the labour market after having children, long periods of reduced working hours may lead to lower social security contributions translating into reduced or non-existing pension entitlements. The ultimate decision as to whether or not to accept a worker's request for *flexible* working arrangements should lie with the employer, Specific circumstances underlying the need for *flexible* working arrangements can change. Workers should therefore not only have the right to return to their original working patterns at the end of a given agreed period, but should also be able to request to do so at any time where a change in the underlying circumstances so requires.

working hours. While working part-time has been shown to be useful in allowing some women to remain in the labour market after having children, *or caring for relatives with care or support needs*, long periods of reduced working hours may lead to lower social security contributions translating into reduced or non-existing pension entitlements. *In the case of many carers, this can lead to financial hardship, due to loss of direct as well as of future income, while the provision of informal care is ultimately a sizeable contribution to society as well as to tight health and social budgets.* The ultimate decision as to whether or not to accept a worker's request for *adaptable* working arrangements should lie with the employer *who should justify the refusal in writing.* Specific circumstances underlying the need for *adaptable* working arrangements can change. Workers should therefore not only have the right to return to their original working patterns at the end of a given *mutually* agreed period, but should also be able to request to do so at any time where a change in the underlying circumstances so requires. *Member States should take the specificity and the constraints to the working arrangements and planning for the micro and small enterprises into account when implementing those arrangements.*

Amendment 34

Proposal for a directive Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Council Directive 2010/18/EC provides the baseline reference for any actions by the Member States or the worker in the case of parental leave.

Amendment 35

Proposal for a directive Recital 23

Text proposed by the Commission

(23) Workers exercising their rights to leave or to request **flexible** working arrangements should be protected against discrimination or any less favourable treatment on that ground.

Amendment

(23) Workers exercising their rights to leave or to request **adaptable** working arrangements should be protected against **any form of** discrimination or any less favourable treatment on that ground. **At the same time, it should be ensured that the interest of both employers and workers is protected.**

Amendment 36

Proposal for a directive Recital 24

Text proposed by the Commission

(24) Workers exercising their rights to take leave or to request **flexible** working arrangements provided for in this Directive should enjoy protection from dismissal and any preparations for a possible dismissal on the grounds that they applied for, or have taken such leave or have exercised the right to request such **flexible** working arrangements. Where workers consider that they have been dismissed on those grounds, they should be able to ask the employer to provide duly substantiated grounds for the dismissal.

Amendment

(24) Workers exercising their rights to take leave or to request **adaptable** working arrangements provided for in this Directive should enjoy protection from dismissal and any preparations for a possible dismissal on the grounds that they applied for, or have taken such leave or have exercised the right to request such **adaptable** working arrangements. Where workers consider that they have been dismissed on those grounds, they should be able to ask the employer to provide duly substantiated grounds for the dismissal **in writing**.

Amendment 37

Proposal for a directive Recital 25

Text proposed by the Commission

(25) The burden of proof that there has

Amendment

(25) The burden of proof that there has

been no dismissal on the grounds that workers have applied for, or have taken, leave referred to in Article 4, 5 or 6 **or have exercised the right to request flexible working arrangements referred to in Article 9** should fall on the employer when workers establish, before a court or other competent authority, facts from which it may be presumed that they have been dismissed on such grounds.

Amendment 38

Proposal for a directive Recital 26

Text proposed by the Commission

(26) Member States should provide for effective, proportionate and dissuasive penalties in the event of breaches of national provisions adopted pursuant to this Directive or the relevant provisions already in force concerning the rights which are within the scope of this Directive. The effective implementation of the principle of equal treatment requires adequate judicial protection of workers against adverse treatment or adverse consequences resulting from a complaint or proceeding relating to the rights under this Directive. Victims may be deterred from exercising their rights on account of the risk of retaliation and therefore should be protected from any adverse treatment where they exercise their rights provided for by this Directive. Such protection is particularly relevant as regards workers' representatives in the exercise of their function.

been no dismissal on the grounds that workers have applied for, or have taken, leave referred to in Article 4, 5 or 6 should fall on the employer when workers establish, before a court or other competent authority, facts from which it may be presumed that they have been dismissed on such grounds.

Amendment

(26) Member States should provide for effective, proportionate and dissuasive penalties in the event of breaches of national provisions adopted pursuant to this Directive or the relevant provisions already in force concerning the rights which are within the scope of this Directive. The effective implementation of the principle of equal treatment requires adequate judicial protection of workers against adverse treatment or adverse consequences resulting from a complaint or proceeding relating to the rights under this Directive. Victims may be deterred from exercising their rights on account of the risk of retaliation and therefore should be protected from any adverse treatment where they exercise their rights provided for by this Directive. Such protection is particularly relevant as regards workers' representatives in the exercise of their function. ***Labour and social inspectors should monitor the appropriate implementation of this Directive with the adequate means to avoid discrimination and ensure equal access of workers to their social and labour rights.***

Amendment 39

Proposal for a directive Recital 27

Text proposed by the Commission

(27) With a view to further improving the level of protection of rights provided for in this Directive, national equality bodies should also be competent in the areas covered in this Directive.

Amendment

(27) With a view to further improving the level of protection of rights provided for in this Directive, national equality bodies **and bodies concerned with the rights of children** should also be competent in the areas covered in this Directive.

Amendment 40

Proposal for a directive Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) Local and regional authorities, which play a key role in drafting, implementing and evaluating policies in areas where they often have vital expertise, such as childcare (including the different types of child minding), care for elderly persons and people with a disability, education and social services or employment, as well as social integration and employability, should be involved in the implementation of the proposed measures. Moreover, local and regional authorities should promote best practices and mutual learning on work-life balance measures.

Amendment 41

Proposal for a directive Recital 27 b (new)

Text proposed by the Commission

Amendment

(27b) Civil society, including equality bodies should have a role in the effective application of gender equality laws and

provisions in employment relations with a view to ensuring equal treatment. Member States should improve the social dialogue and the exchange of experience and best practice among all relevant stakeholders.

Amendment 42

Proposal for a directive Recital 27 c (new)

Text proposed by the Commission

Amendment

(27c) In order to enhance the adoption of work-life balance measures, Member States should promote voluntary certification systems assessing the performance of public and private organisations. The implementation of those certification systems should be enhanced by means of incentives.

Amendment 43

Proposal for a directive Recital 28

Text proposed by the Commission

Amendment

(28) This Directive lays down minimum requirements, thus **giving** the Member States **the option of introducing** or **maintaining** more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing Union **legislation** in this field nor can it constitute valid grounds for reducing the general level of protection afforded to workers in the field covered by this

(28) This Directive lays down minimum requirements, thus **allowing** the Member States **to introduce** or **maintain** more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing Union **law, national law and collective agreements** in this field nor can it constitute valid grounds for reducing the general level of protection afforded to workers in the field covered by this

Directive.

Directive.

Amendment 44

Proposal for a directive Recital 30

Text proposed by the Commission

(30) ***This*** Directive should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings. Member States are therefore invited to assess the impact of their transposition act on ***SMEs*** in order to make sure that ***SMEs*** are not disproportionately affected, with specific attention for micro-enterprises and for administrative burden.

Amendment

(30) ***In implementing this*** Directive, ***Member States*** should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of ***micro***, small and medium-sized undertakings ***or overburden employers***. Member States are therefore invited to ***regularly*** assess ***thoroughly in advance and to monitor*** the impact of their transposition act on ***micro, small and medium-sized enterprises*** in order to make sure that ***they*** are not disproportionately affected, with specific attention for micro-enterprises and for administrative burden, ***particularly concerning the impact of arrangements for parental leave and patterns of flexible work on the work organisation, and to publish the results of such assessments***. ***Member States are encouraged to provide guidance and advice to micro, small and medium-sized enterprises and further can choose to reduce the administrative burden on such enterprises without prejudicing the rights of workers laid down in this Directive, and essentially maintaining equality of treatment between workers employed by such enterprises and workers employed by other undertakings.***

Amendment 45

Proposal for a directive Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) To achieve better work-life balance and gender equality in the area of reconciliation of private and professional life and to fully achieve the intended goal of this Directive, the Commission should also consider reviewing Council Directive 92/85/EEC, taking into account the rights and provisions agreed in this Directive.

Amendment 46

Proposal for a directive Article 2 – paragraph 1

Text proposed by the Commission

This Directive applies to all workers, men and women, who have an employment contract or employment relationship.

Amendment

This Directive applies to all workers, men and women, who have an employment contract or employment relationship ***as defined by law, collective agreements and/or practices in force in each Member State, in accordance with the criteria for determining the status of a worker as established by the case law of the Court of Justice of the European Union.***

Amendment 47

Proposal for a directive Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) "paternity leave" means leave from work for fathers to be taken ***on the occasion*** of the birth of a child;

Amendment

(a) "paternity leave" means ***paid*** leave from work for fathers ***or an equivalent second parent as defined in national law*** to be taken ***around the time*** of the birth, ***or adoption*** of a child ***or of a stillbirth;***

Amendment 48

Proposal for a directive Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) “parental leave” means leave from work on the grounds of the birth or adoption of a child to take care of that child;

Amendment

(b) “parental leave” means ***paid*** leave from work on the grounds of the birth, adoption ***or award of custody*** of a child to take care of that child;

Amendment 49

Proposal for a directive Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) "carer" means a worker providing personal care or support ***in case of a serious illness or dependency of*** a relative;

Amendment

(c) "carer" means a worker providing personal care or support ***on a not-for-profit basis due to a serious medical reason, including a disability, a chronic illness or a mental health condition, as well as hospitalisation, surgical intervention without hospitalisation, or an age-related impairment, to:***

(i) a relative; or

(ii) a person from the worker's immediate circle who is not a relative, following the written request of that person.

Amendment 50

Proposal for a directive Article 3 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) "carers' leave" means paid leave from work for carers in order to provide personal care or support to a relative or a person from the worker's immediate circle

following his or her written request, due to a serious medical reason, including a disability, a chronic illness or a mental health condition, as well as hospitalisation, surgical intervention without hospitalisation, or an age-related impairment;

Amendment 51

Proposal for a directive Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) "relative" means a worker's **son, daughter, mother, father, spouse** or partner in civil partnership, where such partnerships are envisaged by national law;

Amendment

(d) "relative" means a worker's **relatives up to the second degree of consanguinity or affinity, including foster children and legal guardians**, or partner in civil partnership, where such partnerships are envisaged by national law;

Amendment 52

Proposal for a directive Article 3 – paragraph 1 – point e

Text proposed by the Commission

(e) "**dependency**" means a situation in which a person is, temporarily or permanently, in need of care due to disability or a serious medical condition other than serious illness;

Amendment

(e) "**care and support needs**" means personalised assistance or support which allows a person with a disability, a mental health condition, a health condition, or an age-related impairment, to participate fully in society.

Amendment 53

Proposal for a directive Article 3 – paragraph 1 – point f

Text proposed by the Commission

(f) "**flexible** working arrangements"

Amendment

(f) "**adaptable** working arrangements"

means the possibility for workers to adjust their working patterns, including through the use of remote working arrangements, flexible working schedules, or a reduction in working hours.

means the possibility for workers to adjust their working patterns *on a voluntary basis* including through the use of remote working arrangements *where feasible*, flexible working schedules, or a reduction in working hours.

Amendment 54

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that fathers have the right to *take* paternity leave of at least ten working days *on the occasion* of the birth of a child.

Amendment

1. Member States shall take the necessary measures to ensure that fathers *or the equivalent second parents, as defined in national law*, have the right to paternity leave of at least ten working days *to be taken around the time* of the birth, *or adoption* of a child. *Member States may determine whether such leave may be taken partly before or only directly after the birth, adoption or stillbirth.*

Amendment 55

Proposal for a directive Article 4 – paragraph 1 - subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The right to paternity leave shall be granted irrespective of the length of service.

Amendment 56

Proposal for a directive Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall assess whether it is appropriate to adapt the need for the conditions of access and detailed arrangements for the application of paternity leave to the needs of fathers in special situations that require those fathers to be more present in national law. Such special situations may include fathers with a disability, fathers of children with a disability including a mental health condition or a serious medical condition or illness, and single fathers, as defined in national law or practice.

Amendment 57

Proposal for a directive Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall assess the need for arrangements needed to ensure the application of paternity leave is adapted to the needs of multiple births, premature births, adoptive parents, parents with a disability, parents with a mental health condition and parents of children with a disability or mental health condition. Member States may define other cases that require special arrangements for the application of paternity leave.

Amendment 58

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall take the necessary measures to ensure that workers

1. Member States shall take the necessary measures to ensure that workers

have an individual right to parental leave of at least four months to be taken before the child reaches a given age which shall be at least *twelve*.

have an individual right to parental leave of at least four months to be taken before the child reaches a given age which shall be at least *10*. ***Member States may increase that threshold for children with a disability or a chronic illness, adoptive parents, parents with a disability and parents with a mental health condition.***

Amendment 59

Proposal for a directive Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall assess the possibility of extending the provisions on parental leave laid down in this Directive in regard to single parents. Single parents shall have access to at least the same level of rights and protection ensured to parents under this Directive and may benefit from specific provisions that take account of their specific situation in accordance with national law or collective agreements, depending on their specific situation.

Amendment 60

Proposal for a directive Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall establish ***the*** period of notice to be given by workers to employers when exercising the right to parental leave. In doing so, Member States shall take into account the needs of both employers and workers. ***Member States shall ensure that the worker's request specifies the intended beginning and end of the period of leave.***

3. Member States shall establish ***a reasonable*** period of notice to be given by ***the*** workers to employers when exercising the right to parental leave, ***specifying the intended beginning and end of the period of leave.*** In doing so, Member States shall take into account the needs of both employers, ***in particular micro and small undertakings,*** and workers.

Amendment 61

Proposal for a directive Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall take specific measures to ensure that all benefits provided for by this Directive apply when parents go abroad for a protracted period in order to complete an international adoption procedure.

Amendment 62

Proposal for a directive Article 5 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States may make the right to parental leave subject to a period of work qualification or a length of service qualification which shall not exceed **one year**. In the case of successive fixed-term contracts, within the meaning of Council Directive 1999/70/EC²¹, with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.

4. Member States may make the right to parental leave subject to a period of work qualification or a length of service qualification which shall not exceed **six months**. In the case of successive fixed-term contracts, within the meaning of Council Directive 1999/70/EC²¹, with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.

²¹ Council Directive of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ L 175, 10.7.1999, p.43).

²¹ Council Directive of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ L 175, 10.7.1999, p.43).

Amendment 63

Proposal for a directive Article 5 – paragraph 5

Text proposed by the Commission

5. Member States may define the circumstances in which an employer, following consultation in accordance with national law, collective agreements and/or practice, may be allowed to postpone the granting of parental leave by a reasonable period of time on the grounds that it would seriously disrupt the **good** functioning of the establishment. Employers shall justify any **postponement** of parental leave in writing.

Amendment

5. Member States may define the circumstances in which an employer, following consultation in accordance with national law, collective agreements and/or practice, may be allowed to postpone the granting of parental leave by a reasonable period of time on the grounds that it would seriously disrupt the **proper** functioning of the establishment **or seriously negatively impact the business of the employer**. Employers shall justify any **postponing** of parental leave in writing. **In the event where of a justified postponement, the employer shall, where possible, offer flexible forms of parental leave pursuant to paragraph 6.**

Amendment 64

**Proposal for a directive
Article 5 – paragraph 6**

Text proposed by the Commission

6. Member States shall take the necessary measures to ensure that workers have the right to request parental leave also on a part-time basis, in blocks separated by periods of work or in other flexible forms. Employers shall consider and respond to such requests, taking into account the needs of both employers and workers. Employers shall justify any refusal of such a request in writing.

Amendment

6. Member States shall take the necessary measures to ensure that workers have the right to request parental leave also on a part-time basis, in blocks separated by periods of work or in other flexible forms. Employers shall consider and respond to such requests, taking into account the needs of both employers and workers, **in particular in micro and small-sized enterprises**. Employers shall justify any refusal of such a request in writing **within a reasonable period following submission of the application**.

Amendment 65

**Proposal for a directive
Article 5 – paragraph 7**

Text proposed by the Commission

7. Member States shall assess the need for the conditions of access and detailed arrangements for the application of parental leave to be adapted to the needs of adoptive parents, parents **having** a disability and parents with children with a disability or **long-term** illness.

Amendment

7. Member States shall assess the need for the conditions of access and detailed arrangements for the application of parental leave to be adapted to the needs of adoptive parents, parents **with** a disability, **parents with a mental health condition** and parents with children with a disability or **chronic** illness, **in particular by means of measures such as the extension of the age limit of the child for the purpose of parental leave, facilitated access to part-time work upon the worker's return to the workplace or an extension of the length of the parental leave.**

Amendment 66

**Proposal for a directive
Article 6 – paragraph 1**

Text proposed by the Commission

Member States shall take the necessary measures to ensure that workers have the right to carers' leave of at least five working days per year, per worker. Such right may be subject to appropriate substantiation of **the medical condition** of the worker's relative.

Amendment

Member States shall take the necessary measures to ensure that workers have the right to carers' leave of at least five working days per year, per worker. Such right may be subject to appropriate **medical** substantiation of **the care and support needs** of the worker's relative **or the person for whom the worker provides care pursuant to point (ca) of Article 3. The information concerning the medical condition shall be confidential and shall be shared only with a restricted number of involved services to safeguard the right to data protection of both the worker and the person in need of care or support.**

Amendment 67

**Proposal for a directive
Article 6 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

Member States' arrangements that guarantee workers the right to personal care or support for relatives or persons from the worker's immediate circle may be recognised as carers' leave in accordance with paragraph 1 if the national system offers an equivalent or higher level of protection that that laid down in this Directive.

Amendment 68

Proposal for a directive Article 6 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Member States shall assess the need to adapt or extend the definition of "carer" for the purpose of applying for the relevant leave, with the aim of taking into account situations of particular difficulty.

Amendment 69

Proposal for a directive Article 8 – paragraph 1

Text proposed by the Commission

Amendment

In accordance with national circumstances, such as national law, collective agreements and/or practice, and taking into account the powers delegated to social partners, Member States shall ensure that workers exercising the rights to leave referred to in Article 4, 5 or 6 will receive a payment or an adequate allowance ***at least equivalent to what the worker concerned would receive in case of sick leave.***

In accordance with national circumstances, such as national law, collective agreements and/or practice, and taking into account the powers delegated to social partners, Member States shall ensure that workers exercising the rights to leave referred to in Article 4, 5 or 6 will receive a payment or an adequate allowance ***as follows:***

(a) for paternity leave as referred to in Article 4(1), a payment or allowance of at least 80 % of the worker's gross wage;

(b) for parental leave as referred to in Article 5(1), a payment or allowance of at least equivalent to 78 % of the worker's gross wage;

(c) for carers' leave as referred to in Article 6, a payment or allowance of at least equivalent to 78 % of the worker's gross wage.

Amendment 70

Proposal for a directive Article 9 – paragraph 1 – title

Text proposed by the Commission

Flexible working arrangements

Amendment

Adaptable working arrangements

Amendment 71

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that workers with children up to a given age, which shall be at least *twelve*, and carers, have the right to request *flexible* working arrangements for caring purposes. The duration of such *flexible* working arrangements may be subject to a reasonable limitation.

Amendment

1. Member States shall take the necessary measures to ensure that workers with children up to a given age, which shall be at least *10*, and carers, have the right to request *adaptable* working arrangements for caring purposes. The duration of such *adaptable* working arrangements may be subject to a reasonable limitation.

Amendment 72

Proposal for a directive Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States may establish framework guidelines for the period of

notice to be given by the workers to employers when exercising the right to adaptable working arrangements, specifying the beginning and end of the period for exercising this right. In doing so, Member States shall take into account the needs of both employers, especially micro, small and medium-sized undertakings, and workers. Member States shall also take into account force majeure as well as the possibility for a mutual agreement on changes to the period of notice between the worker and the employer.

Justification

*This amendment contributes to better legal clarity for all companies especially micro, small and medium-sized ones, specifying the reasonable period of notice in the frame of the uptake of **adaptable** working arrangements.*

Amendment 73

Proposal for a directive Article 9 – paragraph 2

Text proposed by the Commission

2. Employers shall consider and respond to requests for **flexible** working arrangements referred to in paragraph 1, taking into account the needs of both employers and workers. Employers shall justify any refusal of such a request.

Amendment

2. Employers shall consider and respond **in writing** to requests for **adaptable** working arrangements referred to in paragraph 1, taking into account the needs of both employers, **in particular micro, small and medium-sized enterprises**, and workers. Employers shall justify **in writing** any refusal **or postponement** of such a request **within a reasonable period of time following submission of the application on the grounds that it would seriously disrupt the proper functioning of the establishment, or seriously and negatively impact on the business of the employer.**

Amendment 74

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

3. When **flexible** working arrangements referred to in paragraph 1 are limited in duration, the worker shall have the right to return to the original working pattern at the end of the agreed period. The worker shall also have the right to request to return to the original working pattern whenever a change of circumstances so justifies. Employers shall be obliged to consider and respond to such requests, taking into account the needs of both employers and workers.

Amendment

3. When **adaptable** working arrangements referred to in paragraph 1 are limited in duration, the worker shall have the right to return to the original working pattern at the end of the agreed period. The worker shall also have the right to request to return to the original working pattern whenever a change of circumstances so justifies. Employers shall be obliged to consider and respond **in writing** to such requests, taking into account the needs of both employers and workers.

Amendment 75

Proposal for a directive Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall assess the need for arrangements to ensure that the application of adaptable working time is adapted to the specific needs of parents in special situations requiring them to be more present, in particular with regard to parents with a disability and parents of children with a disability including a mental health problem, or another serious medical condition or illness, and single parents, as defined in national law and practice. .

Amendment 76

Proposal for a directive Article 10 – paragraph 1

Text proposed by the Commission

1. Rights acquired or in the process of being acquired by workers on the date on which leave referred to in Article 4, 5 **or 6** starts shall be maintained until the end of such leave. At the end of such leave, those rights, including any changes arising from national law, collective agreements or practice, shall apply.

Amendment

1. Rights acquired or in the process of being acquired by workers on the date on which leave referred to in Article 4, 5, 6, 7 **or 9** starts shall be maintained until the end of such leave **or of the respective period of time for the adaptable working arrangements**. At the end of such leave, those rights, including any changes arising from national law, collective agreements or practice, shall apply.

Amendment 77

**Proposal for a directive
Article 10 – paragraph 2**

Text proposed by the Commission

2. Member States shall ensure that, at the end of leave referred to in Article 4, 5 or 6, workers are entitled to return to their jobs or to equivalent posts on terms and conditions which are no less favourable to them, and to benefit from any improvement in working conditions to which they would have been entitled during their absence.

Amendment

2. Member States shall ensure that, at the end of leave referred to in Article 4, 5 or 6, workers are entitled to return to their jobs or to **obtain** equivalent posts on terms and conditions which are no less favourable to them **and which correspond to the employment contract**, and to benefit from any improvement in working conditions to which they would have been entitled during their absence.

Amendment 78

**Proposal for a directive
Article 10 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. Member States shall ensure that, at the end of the leave referred to in Article 5, workers can benefit, if necessary, from a reintegration plan to support their reintegration into the employer undertaking.

Amendment 79

Proposal for a directive Article 10 – paragraph 3

Text proposed by the Commission

3. Member States shall define the status of the employment contract or employment relationship for the period of leave referred to in Article 4, 5 *or* 6, ***including as regards entitlements to social security***, while ensuring that the employment relationship is maintained during that period.

Amendment

3. Member States shall define the status of the employment contract or employment relationship for the period of leave ***or of the respective period of time for the adaptable working arrangements*** referred to in Article 4, 5, 6, 7 *or* 9 while ensuring that the employment relationship is maintained during that period ***and without prejudice to the entitlements to social security, including to pension contributions, to which the worker shall remain subject throughout the period of leave.***

Amendment 80

Proposal for a directive Article 11 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to prohibit less favourable treatment of workers on the ground that they have applied for, or have taken, leave referred to in Article 4, 5 or 6, or on the ground that they have exercised their right to ***flexible*** working arrangements referred to in Article 9.

Amendment

Member States shall take the necessary measures to prohibit ***discrimination and*** less favourable treatment of workers on the ground that they have applied for, or have taken, leave referred to in Article 4, 5, 6 or 7 or on the ground that they have exercised their right to ***adaptable*** working arrangements referred to in Article 9.

Amendment 81

Proposal for a directive Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States together with the social partners shall take the appropriate steps

to ensure that reasonable, available and accessible legal advice and assistance can be obtained and is provided to those in need of it, including confidential and in-person counselling, by equality bodies or appropriate intermediaries.

Amendment 82

Proposal for a directive Article 12 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to prohibit the dismissal and all preparations for dismissal of workers, on the grounds that they have applied for, or have taken, leave referred to in Article 4, 5 or 6, or have exercised the right to request **flexible** working arrangements referred to in Article 9.

Amendment

1. Member States shall take the necessary measures to prohibit the dismissal and all preparations for dismissal of workers, on the grounds that they have applied for, or have taken, leave referred to in Article 4, 5 or 6, or have exercised the right to request **adaptable** working arrangements referred to in Article 9.

Amendment 83

Proposal for a directive Article 12 – paragraph 2

Text proposed by the Commission

2. Workers who consider that they have been dismissed on the grounds that they have applied for, or have taken, leave referred to in Article 4, 5 or 6 **or of exercising the right to request flexible working arrangements referred to in Article 9** may request the employer to provide duly substantiated grounds for the dismissal. The employer shall provide those grounds in writing.

Amendment

2. Workers who consider that they have been dismissed on the grounds that they have applied for, or have taken, leave referred to in Article 4, 5 or 6 may request the employer to provide duly substantiated grounds for the dismissal. The employer shall provide those grounds in writing.

Amendment 84

Proposal for a directive

Article 12 – paragraph 3

Text proposed by the Commission

3. Member States shall take the necessary measures to ensure that, when workers referred to in **paragraph 2** establish, before a court or other competent authority, facts from which it may be presumed that there have been such dismissal, it shall be for the respondent to prove that the dismissal was based on grounds other than **those** referred to in **paragraph 1**.

Amendment

3. Member States shall take the necessary measures to ensure that, when workers **who consider that they have been dismissed on the grounds that they have applied for, or have taken, leave** referred to in **Article 4, 5 or 6** establish, before a court or other competent authority, facts from which it may be presumed that there have been such dismissal, it shall be for the respondent to prove that the dismissal was based on grounds other than **having applied for, or having taken, leave** referred to in **Article 4, 5 or 6**.

Amendment 85

Proposal for a directive Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Micro, small and medium-sized enterprises

Member States may provide for tax relief or other incentives to help micro, small and medium-sized enterprises comply with the terms of this Directive.

Amendment 86

Proposal for a directive Article 15 – paragraph 1

Text proposed by the Commission

Member States shall ensure that the body or bodies designated, pursuant to Article 20 of Directive 2006/54/EC, for the promotion, analysis, monitoring and support of equal treatment of parents and carers without discrimination **on grounds of sex** are also competent for issues falling

Amendment

Member States shall ensure that the body or bodies designated, pursuant to Article 20 of Directive 2006/54/EC, for the promotion, analysis, monitoring and support of equal treatment of parents and carers without **gender** discrimination are also competent for issues falling within the

within the scope of this Directive.

scope of this Directive. ***Those national bodies shall also be competent in monitoring the implementation of this Directive on national level and provide gender disaggregated data to the EIGE in order to allow for the proper monitoring and assessment of the implementation of this Directive.***

Amendment 87

Proposal for a directive Article 16

Text proposed by the Commission

Article 16

Level of protection

Member States may introduce or maintain provisions ***that are*** more favourable ***to*** workers than those ***laid down*** in this Directive. They shall however ensure that at least four months of parental leave remain non-transferable in accordance with Article 5(2).

Amendment

Article 16

Level of protection

1. Member States may introduce or ***shall*** maintain more favourable provisions ***for*** workers than those ***set out*** in this Directive. They shall however ensure that at least four months of parental leave remain non-transferable in accordance with Article 5(2).
2. ***This Directive shall not constitute valid grounds for reducing the rights conferred to or the level of protection already afforded to workers within Member States in any form.***
3. ***This Directive shall not affect Member States' prerogative to apply or to introduce laws, regulations or administrative provisions which are more favourable to workers or to encourage or permit the application of collective agreements more favourable to workers.***
4. ***This Directive is without prejudice to any other rights conferred on workers by other legal acts of the Union.***

Amendment 88

Proposal for a directive

Article 17 – paragraph 1

Text proposed by the Commission

Member States shall ensure that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force relating to the subject matter as set out in Article 1 of this Directive, are brought by all appropriate means to the attention of ***the persons*** concerned throughout their territory.

Amendment

Member States shall ensure that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force relating to the subject matter as set out in Article 1 of this Directive, are brought by all appropriate means to the attention of ***workers and employers, in particular micro, small and medium-sized undertakings***, concerned throughout their territory.

Amendment 89

Proposal for a directive Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall assess the possibility to promote voluntary certification systems. In order to foster a broader adoption of work-life balance measures by public and private organisations, public authorities could set up incentive measures in favour of certificated organisations.

Amendment 90

Proposal for a directive Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17 a

Dialogue with relevant stakeholders
With a view to promoting the objectives of this Directive, the Union and its Member States shall encourage dialogue with relevant stakeholders, in particular with associations for parents and families and with employers and trade unions.

Amendment 91

Proposal for a directive Article 18 – paragraph 1

Text proposed by the Commission

1. *At the latest*, by *five* years after the entry into force of this Directive, Member States shall communicate to the Commission all relevant information concerning the application of this Directive necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

Amendment

1. *By...[three years after the date of entry into force of this Directive]*, Member States shall *assess the implementation of the objectives of this Directive, in particular that of gender equality and its impact on the development of micro, small and medium-sized enterprises, and shall* communicate to the Commission all relevant information concerning the application of this Directive necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

Amendment 92

Proposal for a directive Article 18 – paragraph 2

Text proposed by the Commission

2. On the basis of the information provided by Member States pursuant to paragraph 1, the Commission shall submit to the European Parliament and the Council a report in which it reviews the application of this Directive, accompanied, if appropriate, by a legislative proposal.

Amendment

2. On the basis of the information provided by Member States pursuant to paragraph 1, the Commission shall submit to the European Parliament and the Council a report in which it reviews the application of this Directive, *including data disaggregated by sex, on the take-up of different types of leave contained in this Directive and its impact on micro, small and medium-sized undertakings*, accompanied, if appropriate, by a legislative proposal, *and shall assess the possibility to extend the rights contained in this Directive to self-employed persons.*

Amendment 93

Proposal for a directive Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The report referred to in paragraph 2 shall include impact assessments, inter alia, on the following points:

(a) possibilities to extend the duration of carers' leave;

(b) possibilities to extend the definition of carers;

(c) the effect of this Directive on family carers who use the possibility of carers' leave, who have used the possibility of requesting adaptable working arrangements, and who have used none of the arrangements laid down in this Directive.

Amendment 94

Proposal for a directive Article 18 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Commission shall, by ...[.. after the date of entry into force of this Directive] assess compliance of this Directive with the principle of equal treatment of different levels of income replacement for different types of leave and introduce immediately the necessary legislative measures if such discrimination is identified.

Amendment 95

Proposal for a directive Article 20 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

The Member States shall bring into force

The Member States shall bring into force

the laws, regulations and administrative provisions necessary to comply with this Directive, ***at the latest*** two years after the entry into force. They shall forthwith communicate to the Commission the text of those provisions.

the laws, regulations and administrative provisions necessary to comply with this Directive, ***by ...***[two years after the ***date of*** entry into force ***of this Directive***]. They shall forthwith communicate to the Commission the text of those provisions.

Member States shall ensure that the measures referred to in the first subparagraph are the subject of a consultation procedure involving the social partners, in accordance with specific national circumstances.