



**2017/0085(COD)**

9.3.2018

## **DRAFT OPINION**

of the Committee on Women's Rights and Gender Equality

for the Committee on Employment and Social Affairs

on the 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)0253 – C8-0137/2017 – 2017/0085(COD))

Rapporteur for opinion: Agnieszka Kozłowska-Rajewicz

(\*) Associated committees – Rule 54 of the Rules of Procedure



## SHORT JUSTIFICATION

Work life-balance measures are a requirement not limited to women rights, but also necessary for safeguarding the rights of men and gender equality in general. They are also instrumental for the EU economy, including for combating the negative effects of population aging and labour shortages.

The situation of women in the labour market persists to be challenging – women's employment rate is 64% on average in the EU, while it is 76% for men. As evidence shows, the main reason for labour market inactivity for women is related to the lack of possibility to effectively reconcile professional work with family duties. As a consequence, the gender pension gap, which results from accumulated inequalities throughout women's life course and their periods of absence in the labour market stands at a stark 40% average for the EU<sup>1</sup>. The progress in achieving gender equality in the labour market has been slow and work-life balance measures are needed to change this trend<sup>2</sup>. Additionally, work-life balance policies are instrumental for an effective response to labour shortages and an increasingly aging population<sup>3</sup>.

The Rapporteur wishes to focus on the objective of the Directive to increase women's employment and to well reflect its legal basis. Two crucial pillars of the proposal which the Rapporteur defines as fundamental for achieving these objectives are:

- 1) Non-transferability of parental leave is a condition for an equal share of leave between women and men and a tool for increasing women's presence in the labour market and men's engagement in family duties.
- 2) Sick pay level of compensation during leaves is compatible with the existing legal framework and the Maternity Leave Directive. Fathers take up leaves when a sufficiently high level of compensation is provided<sup>4</sup>.

Paid paternity leave is the first precondition for fathers to engage in care responsibilities<sup>5</sup>. The Rapporteur decided, however, to introduce a level of flexibility for the take-up of

---

<sup>1</sup> Data from DG JUST: [https://ec.europa.eu/info/strategy/justice-and-fundamental-rights/discrimination/gender-equality/equal-economic-independence\\_en#womeninwork](https://ec.europa.eu/info/strategy/justice-and-fundamental-rights/discrimination/gender-equality/equal-economic-independence_en#womeninwork)

<sup>2</sup> EIGE: Gender Equality Index 2017: Measuring gender equality in the European Union 2005-2015 - Main findings. Chapter Domain of work: 10 years of slow progress.

<sup>3</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php/Europe\\_2020\\_indicators\\_-\\_employment](http://ec.europa.eu/eurostat/statistics-explained/index.php/Europe_2020_indicators_-_employment)

<sup>4</sup> Eurofound: Promoting uptake of parental and paternity leave among fathers in the European Union (2015), <https://www.eurofound.europa.eu/publications/customised-report/2015/working-conditions-industrial-relations/promoting-uptake-of-parental-and-paternity-leave-among-fathers-in-the-european-union>  
OECD (2017), *The Pursuit of Gender Equality: An Uphill Battle*, OECD Publishing, Paris.  
<http://dx.doi.org/10.1787/9789264281318-en>

<sup>5</sup> Studies show that paternity leave is a condition for further engagement of fathers in care responsibilities, for example, in the form of parental leave take up but also in terms of their general involvement in child rearing: Linda Haas & C. Philip Hwang (2008) *The Impact of Taking Parental Leave on Fathers' Participation In Childcare And Relationships With Children: Lessons from Sweden*, *Community, Work & Family*, 11:1, 85-104, DOI: [10.1080/13668800701785346](https://doi.org/10.1080/13668800701785346)  
Sakiko Tanaka & Jane Waldfogel (2007) *EFFECTS OF PARENTAL LEAVE AND WORK HOURS ON FATHERS' INVOLVEMENT WITH THEIR BABIES*, *Community, Work & Family*, 10:4, 409-426, DOI: [10.1080/13668800701575069](https://doi.org/10.1080/13668800701575069)

paternity leave giving fathers a possibility to use this right within the first year after birth or adoption: more fathers will be likely to take the leave as some men might not be sufficiently confident in taking care of a child just after birth. Still, the Rapporteur decided to maintain the preference for the take-up of paternity leave at the occasion of birth or adoption, as evidence shows that father-child bonding happens most efficiently at that early stage<sup>1</sup>. As for the carers' leave, the Rapporteur views it as a welcome response to the problem of aging population since care responsibilities are not limited just to childcare.

The Rapporteur introduces several modifications with intention of making the proposal responsive to the demands of the EU economies:

Firstly, while work-life balance measures are long-term investments bringing economic prosperity and enhancing women's employment, particular attention has to be paid to ensuring that the short-term and long-term functioning of business, in micro, small and medium-sized companies, are safeguarded. Better clarity for companies which will allow for a more efficient planning and prevention of the loss of productivity is required. To this end, the Rapporteur emphasizes the need for clear notice periods as well as qualifying periods for the leaves and for flexible working arrangements.

While the Rapporteur recognizes the need for paying special attention to disadvantaged groups, she decided not to introduce an extended leave right for single working parents since the objectives of the Directive focus on increasing women's presence in the labour market. Extending leave periods for single parents may in practice prolong the absence from employment of single mothers, who are the majority of single parents, and therefore, undermine the objective of the Directive with detrimental effects to these women's financial independence. The Directive leaves it to the Member States to determine the nature and structure of support in cases of disadvantaged families which the Rapporteur fully supports. To conclude, the Rapporteur believes that the position of the European Parliament should be focused on defending the principal objectives of the Directive and on the legal basis which is founded on equality between women and men. The European Parliament should also be strategic and avoid the failure of an overambitious proposal by respecting the expressed reservations of Member States with a goal of rapid adoption in the Council.

---

Eyal Abraham, Talma Hendler, Irit Shapira-Lichter, Yaniv Kanat-Maymon, Orna Zagoory-Sharon and Ruth Feldman: Father's brain is sensitive to childcare experiences, *Proceedings of the National Academy of Sciences (PNAS)* 2014 July, 111 (27) 9792-9797

<sup>1</sup> The stronger the bond, the more likely that the father will be engaged in care, and the greater engagement of father with the first child, the higher chances for a family to decide for a second child.

Ann-Zofie Duvander & Gunnar Andersson (2008) Gender Equality and Fertility in Sweden, *Marriage & Family Review*, 39:1-2, 121-142, DOI: 10.1300/J002v39n01\_07

## AMENDMENTS

The Committee on Women's Rights and Gender Equality calls on the Committee on Employment and Social Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### 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 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. ***Furthermore, the availability of quality, accessible, and affordable infrastructure for the care of children and other dependants has proven to be a crucial factor for work-life balance policies that facilitate the rapid return of new mothers to, and an increasing participation of women on, the labour market.***

Or. en

##### *Justification*

*Care facilities for both children and dependant relatives are crucial measures of work-life balance policies to support equality in the labour market.*

## Amendment 2

### Proposal for a directive Recital 13

#### *Text proposed by the Commission*

(13) In order to encourage 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.

#### *Amendment*

(13) In order to encourage a more equal sharing of caring responsibilities between women and men, the right to paternity leave for fathers to be taken ***within the first year of a child's life, preferably*** on the occasion of the birth ***or adoption*** 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. ***In order to deter potential abuse, the Member States should be able to introduce a requirement of a minimum period of service before a worker is entitled to benefit from that right, with a maximum duration of one year.***

Or. en

#### *Justification*

*The Rapporteur sees a need to reflect the current legislation in this area (Council directive 1999/70/EC) and the social partners' agreement by reinstating the need for a defined period of service qualification when exercising the right to paternity leave.*

## Amendment 3

### 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

#### *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 ***eight*** years old. Member States should be able to specify ***taking into***

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.

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.

**account in particular the constraints of micro, small and medium-sized businesses, a reasonable** period of notice to be given by the worker to the employer when applying for parental leave. **In order to deter potential abuse, the Member States should be able to introduce a requirement of a minimum period of service before a worker is entitled to benefit from that right, with a maximum duration of one year.** 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.

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 disabilities, serious medical conditions or illness, in accordance with their national law and practice.**

Or. en

#### *Justification*

*Eight years better reflects the current situation in the Member States and meets the criteria of*

*a minimum standard at EU level as well as decreases the administrative burden for companies of this portable entitlement.*

*While a special attention should be paid to disadvantaged groups, the Directive's objectives focus on increasing women's employment rate. The Directive makes accommodations for disadvantaged groups while giving the Member States the primary role in determining the structure of support.*

#### **Amendment 4**

##### **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 men and women carrying of elderly family member and/or other relatives in need of care, workers with a relative ***in need of care or support due to a serious medical reason*** 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, ***medical*** proof of the serious ***medical reason should*** be required prior to granting of the leave.

Or. en

#### **Amendment 5**

##### **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,

###### *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 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. 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.

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 deter potential abuse, the Member States should be able to introduce a requirement of a minimum period of service before a worker is entitled to benefit from that right, with a maximum duration of one year.*** 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. 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.

Or. en

#### *Justification*

*The Rapporteur sees a need to reflect the current legislation in this area (Council directive 1999/70/EC) and the social partners' agreement by reinstating the need for a defined period of service qualification when exercising the right to flexible working arrangements.*

## Amendment 6

### 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 flexible working arrangements should be protected against discrimination or any less favourable treatment on that ground. ***At the same time, in order to ensure balance between the interests of employers and workers, Member States should ensure that employers are protected against any abuse of such rights and detrimental effects for the functioning of companies, taking into account in particular the constraints of micro, small and medium-sized businesses.***

Or. en

## Amendment 7

### 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. 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, ***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.*

Or. en

*Justification*

*The rapporteur is concerned with the lack of data available on the implementation of the 2010 Parental leave directive and makes a recommendation for publication of assessments on administrative burdens for micro, small and medium-sized companies in application of this directive.*

**Amendment 8**

**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 agreement and/or practices in force in each Member State.***

Or. en

*Justification*

*The rapporteur intends to well reflect the current legal framework in the Member States as regards employment contracts including collective agreements and practices in force in the Member States and reinstate the definition of the 2010/18 parental leave directive.*

**Amendment 9**

**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

*Amendment*

(a) "paternity leave" means ***paid*** leave from work for fathers ***on the grounds of***

occasion of the birth of a child;

*the birth or adoption of a child*, to be taken *within the first year, of the child's life, preferably* on the occasion of the birth or adoption of a child;

Or. en

#### *Justification*

*Paid paternity leave is the first precondition for fathers to engage in care responsibilities. The Rapporteur decided to introduce a level of flexibility for the take up of paternity leave giving fathers a possibility to use this right within the first year after birth or adoption, which is more accommodating to the existing legal framework in the Member States. However, the Rapporteur decided to maintain that the preference for the take up of paternity leave on the occasion of birth, as evidence show that father-child bonding happens most efficiently at that early stage.*

### **Amendment 10**

#### **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 *to a relative in need of care or support due to* a serious *medical reason*;

Or. en

### **Amendment 11**

#### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point c a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

(ca) *"carers' leave" means leave from work for carers in order to provide personal care or support to a relative in need of care or support due to a serious medical reason*;

## Amendment 12

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

*Text proposed by the Commission*

*Amendment*

(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;* **deleted**

Or. en

*Justification*

*Deletion due to the deletion of the term "dependency" from the definition of the "carer".*

## Amendment 13

### Proposal for a directive Article 4 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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.

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 ***within the first year of a child's life, preferably*** on the occasion of the birth ***or adoption*** of a child.

Or. en

*Justification*

*Paid paternity leave is the first precondition for fathers to engage in care responsibilities. The Rapporteur decided to introduce a level of flexibility for the take up of paternity leave giving fathers a possibility to use this right within the first year after birth or adoption, which is more accommodating to the existing legal framework in the Member States. However, the Rapporteur decided to maintain that the preference for the take up of paternity leave on the*

*occasion of birth, as evidence show that father-child bonding happens most efficiently at that early stage.*

## **Amendment 14**

### **Proposal for a directive**

#### **Article 4 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. Member States may make the right to paternity leave subject to a period of work qualification or a length of service qualification not exceeding one year. In the case of successive fixed-term contracts, within the meaning of Council Directive 1999/70/EC<sup>1a</sup>, with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.**

---

**<sup>1a</sup>. 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)**

Or. en

#### *Justification*

*The Rapporteur sees a need to reflect the current legislation in this area (Council directive 1999/70/EC) and the social partners' agreement by reinstating the need for a defined period of service qualification when exercising the right to flexible working arrangements.*

## **Amendment 15**

### **Proposal for a directive**

#### **Article 5 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall take the

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*.

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 *eight*.

Or. en

#### *Justification*

*Eight years better reflects the current situation in the Member States and meets the criteria of a minimum standard at EU level.*

### **Amendment 16**

#### **Proposal for a directive Article 5 – paragraph 3**

##### *Text proposed by the Commission*

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.*

##### *Amendment*

3. Member States shall establish *framework guidelines for the* 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, *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.*

Or. en

#### *Justification*

*The Rapporteur emphasises the need for legal clarity for all companies especially micro, small and medium-sized ones, specifying the reasonable period of notice in the frame of parental and paternity leave.*

## Amendment 17

### 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 good functioning of the establishment. Employers shall justify any postponement of parental leave. ***In addition, Member States may authorise special arrangements to meet the operational and organisational requirements of micro, small and medium-sized undertakings.***

Or. en

#### *Justification*

*The rapporteur is of opinion that justification on the side of employer can take different forms which should be defined at the Member States' level taking into account specific needs of micro, small and medium-sized companies.*

## Amendment 18

### 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.

#### *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.

Employers shall justify any refusal of such a request *in writing*.

Employers shall justify any refusal of such a request.

Or. en

## Amendment 19

### 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 *shall* be subject to appropriate *medical* substantiation of the medical condition of the worker's relative.

Or. en

#### *Justification*

*With a view to avoiding abuses, the rapporteur emphasises the need for medical substantiation as a ground for requesting carer's leave.*

## Amendment 20

### 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 *eight*, 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.

*Justification*

*Eight years better reflects the current situation in the Member States and meets the criteria of a minimum standard at EU level.*

**Amendment 21**

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

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall establish framework guidelines for the period of notice to be given by the workers to employers when exercising the right to flexible working arrangements, specifying the intended beginning and end of the period of 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.***

Or. en

*Justification*

*The Rapporteur emphasises the need for 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 flexible working arrangements.*

**Amendment 22**

**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 to requests for flexible working arrangements referred to in paragraph 1, taking into account the needs of both employers and workers, ***in particular in micro, small and medium-sized businesses***. Employers shall justify any refusal of such a request.

Or. en

**Amendment 23**

**Proposal for a directive  
Article 9 - paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States may make the right to flexible working arrangements 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/EC<sup>1a</sup>, with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.***

---

***<sup>1a</sup>. 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).***

Or. en

*Justification*

*The Rapporteur sees a need to reflect the current legislation in this area (Council directive 1999/70/EC) and the social partners' agreement by reinstating the need for a defined period*

*of service qualification when exercising the right to flexible working arrangements.*

## **Amendment 24**

### **Proposal for a directive**

#### **Article 10 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 10a**

##### **Collective agreements**

***Member States may allow social partners to conclude collective agreements, in accordance with national law or practice, which, while respecting the overall protection of workers and the minimum standards laid down in this Directive, establish arrangements concerning the working conditions of workers.***

Or. en

## **Amendment 25**

### **Proposal for a directive**

#### **Article 13 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Member States shall lay down rules on penalties applicable to 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. Member States shall take all measures necessary to ensure that those penalties are ***applied***. ***Penalties shall be effective, proportionate and dissuasive. They may take the form of a fine. They may also comprise payment of compensation.***

Member States shall lay down rules on penalties applicable to 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. Member States shall take all measures necessary to ensure that those penalties are effective, proportionate and dissuasive.

*Justification*

*The objective of the directive is to give general guidelines without specifying operational details in a very precise manner leaving the space for implementation at the Member State levels.*

**Amendment 26****Proposal for a directive  
Article 14 – paragraph 1***Text proposed by the Commission*

Member States shall introduce measures necessary to protect workers, ***including workers who are employees' representatives***, from any adverse treatment by the employer or adverse consequences resulting from a complaint lodged within the undertaking or any legal proceedings initiated with the aim of enforcing compliance with the rights provided for in this Directive.

*Amendment*

Member States shall introduce measures necessary to protect workers from any adverse treatment by the employer or adverse consequences resulting from a complaint lodged within the undertaking or any legal proceedings initiated with the aim of enforcing compliance with the rights provided for in this Directive.

Or. en

*Justification*

*The rapporteur is of the view that the term “workers” de facto includes employees’ representatives and consequently this addition is of no added value.*

**Amendment 27****Proposal for a directive  
Article 16 a (new)***Text proposed by the Commission**Amendment****Article 16a******Non regression***

***The implementation of this Directive shall***

*not be sufficient grounds for any regression in relation to the situation which already prevails in each Member State and in relation to the general level of protection of workers in the areas to which it applies.*

Or. en

*Justification*

*The rapporteur wants to emphasize that this directive sets minimum standards and will not change the situation prevailing in the Member States that already contain more generous entitlements.*

**Amendment 28**

**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 undertakings, especially micro, small and medium-sized undertakings**, concerned throughout their territory, **including through the Single Digital Gateway**.

Or. en

*Justification*

*This change aims at bringing the proposal in line with the Single Digital Gateway adopted in May 2017 as the gateway aims at giving the companies access to good quality information and assistance online.*

## Amendment 29

### 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.

Or. en

#### *Justification*

*The rapporteur is concerned with the lack of data available on the implementation of the 2010 Parental leave directive and calls for comparable sex-disaggregated data as well as the assessment of the impact on SMEs to be collected in a systematic manner.*