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*Plenary sitting*

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**A8-0270/2018**

23.8.2018

**\*\*\*I**  
**REPORT**

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))

Committee on Employment and Social Affairs

Rapporteur: David Casa

Rapporteur for the opinion (\*):  
Agnieszka Kozłowska-Rajewicz, Committee on Women's Rights and Gender  
Equality

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

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**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))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0253),
  - having regard to Article 294(2), and Article 153(1)(i) and (2)(b) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0137/2017),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 6 December 2017<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of 30 November 2017<sup>2</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Women's Rights and Gender Equality and the Committee on Legal Affairs (A8-0270/2018),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> OJ C 129, 11.4.2018, p.44.

<sup>2</sup> Not yet published in the Official Journal.

## 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, **combatting 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 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*

(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 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.

##### *Amendment*

(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 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*

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

#### *Amendment*

(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, 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**

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

(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. ***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*

*Amendment*

(11) This Directive lays down minimum

(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.

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 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.

#### *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. ***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 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.

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

(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 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.

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.

#### *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 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.

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' 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.

*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, **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 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 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.

### *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*

(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 *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. 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

#### *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 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***



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.

*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*

*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.

(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 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*

(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 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.

##### *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

##### *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***

areas covered in this Directive.

*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 Directive.

(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.

## 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***

#### **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

###### *Amendment*

(b) "parental leave" means ***paid*** leave from work on the grounds of the birth, adoption ***or award of custody*** of a child to

child;

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" 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.

*Amendment*

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

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 **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*

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/EC<sup>21</sup>, with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.

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<sup>21</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).

#### *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 **six months**. In the case of successive fixed-term contracts, within the meaning of Council Directive 1999/70/EC<sup>21</sup>, with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.

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<sup>21</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).

## **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

#### *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 writing.

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

###### *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

disability or *long-term* illness.

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

*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 to such requests, taking into account the needs of both employers and workers.

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*

*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 **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.

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,

*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***

*including as regards entitlements to social security*, while ensuring that the employment relationship is maintained during that period.

*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

### *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

prove that the dismissal was based on grounds other than *those* referred to in *paragraph 1*.

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*

*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 discrimination *on grounds of sex* are also competent for issues falling within the scope of this Directive.

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 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

*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 *the persons* concerned throughout their territory.

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*

*Amendment*

1. *At the latest*, by *five* years after the

1. *By...[three* years after the *date of*

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.

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 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 Member States shall bring into force 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.*

## EXPLANATORY STATEMENT

The Commission's proposed directive is one of the first deliverables of the European Pillar for Social Rights. It is based on the 'New Start' initiative aimed to address the work-life balance challenges faced by working parents and carers. The initiative will help in the pursuit of the objectives set out in the Treaty of equality between men and women with regard to labour market opportunities and equal treatment at work and the promotion of high level of employment in the EU.

The legislative proposal thus aims to focus on targeting measures to address the under-representation of women in employment by improving the conditions of reconciling working and private duties, but also their unequal treatment and opportunities in the labour market. Furthermore, it encourages the strengthening of men's roles as carers in the family, which will also benefit children. It is well documented that the use of work-life balance arrangements by fathers, has demonstrated that they have a positive impact in reducing the relative amount of unpaid family work undertaken by women and leaving them more time for paid employment. It thereby promotes non-discrimination and fostering gender equality. The proposed Directive in its current form aims to cover all workers, men and women, who have an employment contract or employment relationship.

It seeks to introduce a number of new or higher minimum standards for parental, paternity and carers' leave, which are geared at helping to address the anomalies that exist in achieving a work life balance for both parents and carers. The Rapporteur believes that these measures are both timely and necessary in order to improve access to work-life balance arrangements and to better reflect the changing working patterns in our society.

The Rapporteur further believes that the availability of quality, accessible, and affordable childcare infrastructure has proven to be a crucial aspect to work-life balance policies in the Member States and that facilitates the rapid return of women to work and their increased participation in the labour market. He would therefore encourage the Member States to improve childcare facilities and would like to see this reflected in the text; he therefore inserts related recital in the Directive.

Within the same spirit of Article 153 on which this Directive is being proposed the Rapporteur would like to introduce in addition to small and medium sized enterprises (SMEs) a specific emphasis on micro enterprises as the Rapporteur believes that due to their particular specificities and constraints, that are different from those of SMEs, they might find it more challenging to implement certain parts of this directive.

Throughout the text, the Rapporteur ensured that additional micro, small and medium sized enterprises (MSMEs) provisions are added to ensure that this Directive shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of such undertakings, without taking away the rights of their workers to avail themselves of work-life balance arrangements. As an example, the Rapporteur qualified in one of his amendments, without any prejudice to whether such a request should be granted or not by the employer that we should take into account the difficulties that flexible working arrangements may cause to MSMEs.

In order to address the concern that certain administrative burdens might be severely

detrimental to micro enterprises the Rapporteur has proposed that Member States should have the option to adopt measures to limit the burden on micro enterprises from the provisions of Article 12 (Protection from dismissal and burden of proof), in order not to risk imposing a disproportionate burden on such enterprises.

The Commission's main proposals introduce the following new elements to what is currently already in force:

- The Directive introduces a right to paternity leave of no less than ten working days around the birth of a child. This is a major new development, considering that presently there are no minimum European-level standards for paternity leave. The Rapporteur fully supports this new proposal as the opportunities and incentives for fathers to take leave range considerably across Member States. Where such leave exists the level of pay and days of leave vary considerably.

The Rapporteur amended the text to include the right to paternity leave also on the occasion of the adoption of a child. It is clear that the birth or adoption of a child is an important time for the father to be present and share the responsibilities with his partner. It is a time for bonding, which has been proven to be important for both the child and the father. The Rapporteur has proposed an amendment to clarify that the worker that is considered a father could also be an equivalent second parent as defined in national law.

With reference to the level of pay or allowance the Rapporteur maintained the Commission proposal for persons availing themselves of paternity leave to be paid at sick pay level in order to mirror existing EU legislation catering for leave at the time of the birth of a child.

- With regards to the Parental leave directive (2010/18/EU), which will be repealed once this proposed Directive enters into force, workers have an individual right to parental leave of at least 4 months, of which one month is non-transferable, on the grounds of birth or adoption of a child. This can be taken at least until the child reaches the age of 8 years. Currently there is no obligation of pay during parental leave and it is up to the Member States and social partners to decide on the detailed conditions of this leave.

The current proposal on the other hand strengthens the right to parental leave by making the 4 month period compensated at least at the level of sick pay and non-transferable from one parent to another. Parents will also have the right to request to total period of leave in a flexible way and the age of the child up to which parents can take leave will be increased from 8 to 12 years. The Rapporteur agrees with this proposal as the current Union legal framework provides limited incentives for men to assume an equal share of caring responsibilities. It is well documented that the use of work-life balance arrangements by fathers, has demonstrated that they have a positive impact in reducing the relative amount of unpaid family work undertaken by women and leaving them more time for paid employment.

On the other hand, whilst the Rapporteur agrees that parental leave should be paid he deviated from the Commission proposal and is proposing that the worker receives a payment or allowance of at least equivalent to 75% of the gross wage. The Rapporteur believes that setting a standard percentage of payment at EU level will address the anomalies between the different rates at which workers are paid at sick pay level in the different Member States and create a level playing field for all workers and will help in the take up of leave by more fathers, for whom the lack of economic return is a strong disincentive to taking parental leave.

The Rapporteur introduced a proposal to better manage the request of parental leave by establishing a clear notice period to be given by the worker requesting a period of leave to the employer with the exact timeframe for when the worker intends to exercise their right to parental leave. The Rapporteur believes that this would benefit both employers in their planning and workers by giving them the possibility of being able to take up this leave when it is needed most. This is especially even more relevant to MSMEs as they do not afford the luxury of an extensive number of employees or financial resources to recruit additional temporary workers.

- The Rapporteur welcomes the proposal to introduce a right to carer's leave for workers caring for seriously ill or dependant relatives. They will be able to take 5 days per year, compensated at least at the level of sick pay. The Rapporteur has proposed that carers leave are instead paid at least equivalent to 75% of the worker's gross wage.

- In parallel the new proposal also extends the right to request flexible working arrangements and to make use of parental leave to all working parents of children of at least up to the age of 12. The Rapporteur understands that this might generate certain difficulties, particularly for MSMEs, and has therefore proposed to amend the minimum age to 10.

## MINORITY OPINION

### **Minority opinion by Joëlle Mélin and Dominique Martin 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))

The dependency of a child, parent or collateral relative on a worker occurs frequently and is exclusively a private matter. However difficult or painful this situation may be, it should in no way modify the ordinary conditions of working life and alter the terms of parental leave currently in force, as this would skew the work-life balance in favour of private life which would *de facto* become dominant.

Moreover, this is a sovereign prerogative, both in principle and in terms of the amounts of the benefits; for, contrary to what we have been led to believe, the EU does not provide any bonuses here. Ultimately, it is not up to employers to compensate each of their employees for whatever the slings and arrows of outrageous fortune may have thrown at them, as this could undermine the national social protection systems and whole swathes of our industry.

Joëlle Mélin

Dominique Martin



30.5.2018

## **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

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<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.

population<sup>1</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>2</sup>.

Paid paternity leave is the first precondition for fathers to engage in care responsibilities<sup>3</sup>. The Rapporteur decided, however, 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: 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>4</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

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<sup>1</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>2</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>3</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)

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>4</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](https://doi.org/10.1300/J002v39n01_07)

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.

## 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 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) Equality between men and women is a fundamental principle of the Union. According to Article 3 the Treaty on European Union *and Article 8 of the Treaty on the Functioning of the European Union the elimination of inequalities and* promotion of equality between women and men is one of the Union's aims. Similarly, *under* Article 21 of the Charter of Fundamental Rights of the European Union *any discrimination on any ground is prohibited, while Article 23* requires equality between women and men to be ensured in all areas, including employment, work and pay.

### Amendment 2

#### 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

*Amendment*

(4) The Union *and all its Member States are parties* to the United Nations' Convention on the Rights of People with Disabilities. The *Convention underlines that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the*

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.

***full and equal enjoyment of the rights of people with disabilities. The*** provisions of that Convention are 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. ***Moreover, the Convention, in its Article 23, provides that Parties shall take effective and appropriate measures to eliminate discrimination against people with disabilities in all matters relating to marriage, family, parenthood and relationships.***

### **Amendment 3**

#### **Proposal for a directive Recital 5**

*Text proposed by the Commission*

(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 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.

*Amendment*

(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 caring responsibilities on an equal basis with women, and closing gender gaps in earnings, ***pay and pension***. Such policies should take into account demographic changes including the effects of an ageing population. ***Moreover, they should also contribute to tackling the stereotypes ascribed to gender roles.***

### **Amendment 4**

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

## **Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***(6 a) The European Pillar of Social Rights, which was proclaimed by Member States 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 “[p]arents and people with caring responsibilities have the right to suitable leave, flexible 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 5**

**Proposal for a directive**

**Recital 6 b (new)**

*Text proposed by the Commission*

*Amendment*

***(6b) Approximately 80% of informal, usually unpaid care across the Union is provided by families and friends, who are providing an indispensable part of the provision, organisation and sustainability of health and social care systems. Approximately two-thirds of carers in Europe are women. The economic value of unpaid informal care in the Union, as a percentage of the overall cost of formal long-term care provision, is estimated to range from 50 to 90%;***

## **Amendment 6**

**Proposal for a directive**

**Recital 7**

*Text proposed by the Commission*

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

*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 family **and work responsibilities**. 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 **with care or support needs** has also been shown to have a negative impact on female employment, leading some women to drop out of the labour market **partly or entirely which translates into a negative financial effect on their pay and pensions**.

**Amendment 7**

**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

*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 **contribute** 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

employment.

paid employment. *Furthermore, Eurofound research shows that take-up rates among parents depend on many intertwined factors. Such factors include: information about the leave available; leave compensation and pay disparities; availability and flexibility of childcare facilities; prevailing family organisation models; and the extent to which workers fear isolation from the labour market when taking leave<sup>1a</sup>.*

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*<sup>1a</sup> Eurofound: Promoting uptake of parental and paternity leave among fathers in the European Union (2015) and The gender employment gap: Challenges and solutions (2016).*

## **Amendment 8**

### **Proposal for a directive Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

*(8 a) 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 mothers to, and an increasing participation of women on, the labour market. However, by 2018 the majority of Union Member States have still not yet achieved the so-called Barcelona objectives for childcare, set in 2002. The achievement of these 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 for unlocking the situation.*



## Amendment 9

### Proposal for a directive Recital 8 b (new)

*Text proposed by the Commission*

*Amendment*

***(8b) A disproportionately high tax burden on the second earner in most Member States remains a significant disincentive to the participation of women in the labour market. The identification and removal of all obstacles resulting from gender-biased tax benefit systems is essential to promote women to fully participate in employment and to promote the equal share of reproductive work and care responsibilities.***

## Amendment 10

### 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 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.

(13) In order to encourage a more equal sharing of caring responsibilities between women and men, the right to ***paid*** paternity leave for fathers ***or an equivalent second parent as defined in national law*** to be taken ***around*** the occasion of the birth ***or adoption*** of a child ***and within duration limits of the maternity leave*** 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 11

### Proposal for a directive Recital 13 a (new)

***(13 a) Member States should also assess whether the conditions and detailed arrangements of paternity leave should be adapted to the specific needs of fathers in special situations requiring them to be more present, in particular with regard to fathers having a disability and fathers with children with disabilities including mental health problems or serious medical conditions or illnesses, and single fathers as defined by the national law and practice in Member States.***

## Amendment 12

### 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 the other.

(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. ***Member States should be able to specify that two months of parental leave should be taken during the first four years of the child's life. However, if not used within this timeframe, Member States should ensure that the leave is not lost and can be used up to at least 10 years of a child.***

## Amendment 13

### 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.

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***

#### *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 *ten* years old. Member States should be able to specify ***taking into account in particular the constraints of micro companies, 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 six months.*** 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 ***in a written form.***

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 ***special***

*disadvantaged* situations.

situations *requiring them to be more present, in particular with regard to parents having a disability and parents with children with a disability including mental health problems, serious medical condition or illness and single parents as defined by the national law and practice in Member States.*

## Amendment 14

### 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 ***have the possibility to voluntarily*** maintain contact during the period of leave. ***Contact between workers and employers should not result in any burden or distress for workers and family members and should facilitate the making of*** arrangements for any appropriate reintegration measures, to be decided between the parties concerned, taking into account national law, collective agreements and practice. ***Workers who do not wish to maintain contact should not be discriminated against in any way.***

## Amendment 15

### 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

*Amendment*

(17) In order to provide greater opportunities to remain in the work force for ***workers taking care*** of 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***

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.

*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 for care or support needs should* be required prior to granting of the leave.

## Amendment 16

### Proposal for a directive Recital 17 a (new)

*Text proposed by the Commission*

*Amendment*

*(17a) The establishment of a leave for individual carers should not serve as a substitute for professional, accessible, affordable and high-quality community-based care services, which will also greatly contribute to future economic development.*

## Amendment 17

### Proposal for a directive Recital 19

*Text proposed by the Commission*

*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 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.

(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 *defined by the Member State and should be equivalent to the maternity leave pay as defined at the national level in case of paternity leave, while in the case of the parental leave and the carers' leave it should be at least equivalent to 80% of the worker's gross wage. With this, Member States would ensure that the payment or allowance is set at a level that encourages*

*parents to better share the entitlements and* should take into account the importance of the continuity of the entitlements to social security, including healthcare *and pension schemes*.

## Amendment 18

### 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 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.

#### *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, the Member States should therefore ensure that the employment relationship is maintained *without prejudice to entitlements to social security including to pension contribution to which the worker remains subject throughout the period of leave. In that perspective, Member States should ensure the leave provided for in this Directive does not affect the worker's pension entitlements during all this period.*

## Amendment 19

### Proposal for a directive Recital 21

(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.

(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 *where appropriate*, 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. *While* the ultimate decision as to whether or not to accept a worker's request for flexible working arrangements should lie with the employer, *it should take into account the needs of employees as well as the constraints to the working arrangements and planning for the micro enterprises, and should justify a refusal*. 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 *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.

## **Amendment 20**

### **Proposal for a directive**

## Recital 22

*Text proposed by the Commission*

(22) Leave arrangements are intended to support working parents and carers during a specific period of time, and are aimed at maintaining and promoting their continued attachment to the labour market. It is therefore appropriate to make express provision for the protection of the employment rights of workers taking leave covered by this Directive and in particular their right to return to the same or an equivalent post, and not to suffer any detriment in their terms and conditions as a result of their absence. Workers should retain their entitlement to relevant rights already acquired, or in the process of being acquired, until the end of such leave.

*Amendment*

(22) Leave arrangements are intended to support working parents and carers during a specific period of time, and are aimed at maintaining and promoting their continued attachment to the labour market. It is therefore appropriate to make express provision for the protection of the employment rights of workers taking leave covered by this Directive and in particular their right to return to the same or an equivalent post, and not to suffer any detriment in their terms and conditions as a result of their absence. Workers should retain their entitlement to relevant rights already acquired, or in the process of being acquired, until the end of such leave.

***Equally important is the goal of leave arrangements to ensure that working parents maintain quality of family life, by taking care of their children, carrying out their responsibilities, including their primary educational role especially during early childhood, in the best possible way and by spending quality time with their children. An ineffective reconciliation of family and professional life can also have a negative impact on the physical and mental health of children and parents.***

## Amendment 21

**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 ***any form of*** 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.*

## **Amendment 22**

### **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 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 *in writing*.

## **Amendment 23**

### **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

#### *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.

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 inspections 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 24

### 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 ***and child rights*** bodies should also be competent in the areas covered in this Directive.

## Amendment 25

### Proposal for a directive

#### Recital 28

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

(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

##### *Amendment*

(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 legislation, ***national legislation and collective agreements*** in this field nor can it constitute valid grounds

the general level of protection afforded to workers in the field covered by this Directive.

for reducing the general level of protection afforded to workers in the field covered by this Directive.

## Amendment 26

### Proposal for a directive Recital 28 a (new)

*Text proposed by the Commission*

*Amendment*

***(28 a) Member states should consider extending the measures contained in this Directive to the workers who are self-employed.***

## Amendment 27

### Proposal for a directive Recital 30

*Text proposed by the Commission*

*Amendment*

(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.

(30) ***In implementing*** this Directive ***Member States*** should avoid imposing ***unjustified*** 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 ***regularly*** 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.***

## Amendment 28

### Proposal for a directive

## Recital 32 a (new)

*Text proposed by the Commission*

*Amendment*

***(32 a) To achieve better work-life balance and gender equality in the area of reconciliation of family and professional life and to fully achieve the intended goal of this Directive, the Commission should also consider to assess the review of the Council Directive 92/85/EEC that dates from 1992, taking into account the new rights and provisions agreed in the present Directive.***

## Amendment 29

### Proposal for a directive Article 2 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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

This Directive applies to all workers 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 30

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

*Text proposed by the Commission*

*Amendment*

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

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

*duration limits of the maternity leave;*

### **Amendment 31**

#### **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 or adoption of a child to take care of that child;

### **Amendment 32**

#### **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 disability as defined by the United Nations Convention on the Rights of Persons with Disabilities;***

### **Amendment 33**

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

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

*Text proposed by the Commission*

*Amendment*

***(c a) "carers' leave" means paid 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 or disability;***

## Amendment 34

### 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 **at least** a worker's son, daughter, mother, father, **sibling, step children, foster children, grandchildren, grandparents, legal guardian or ward**, spouse or partner in civil partnership, where such partnerships are envisaged by national law;

## Amendment 35

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

*Text proposed by the Commission*

*Amendment*

**(da) “designated third party” means a worker to whom a parent transfers their right to leaves covered in this Directive.**

## Amendment 36

### 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 a **state** in which a person is, temporarily or permanently, in need of care due to a disability or a serious medical **reason and requires personal assistance or support**;

## Amendment 37

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

*Text proposed by the Commission*

(f) “flexible 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.

*Amendment*

(f) “flexible working arrangements” 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 38**

**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 take paternity leave of at least ten working days ***around*** the occasion of the birth ***or adoption*** of a child, ***within duration limits of the maternity leave***.

**Amendment 39**

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

*Text proposed by the Commission*

*Amendment*

***1 a. Member States shall assess the need for the conditions of access and detailed arrangements for the application of paternity leave to be adapted to the needs of fathers in special situations requiring them to be more present, to be defined by Member States. Such special situations may include: fathers having a disability, fathers with children with disabilities including mental health problems, serious medical conditions or***

*illnesses, and single fathers as defined by the national law and practice in Member States.*

## **Amendment 40**

### **Proposal for a directive Article 5 – paragraph 1**

*Text proposed by the Commission*

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*.

*Amendment*

1. Member States shall take the necessary measures to ensure that workers have an individual right to *paid and non-transferable* parental leave of at least four months to be taken before the child reaches a given age which shall be at least *ten*. *Member States shall assess the possibility to extend the right to parental leave for workers in special situations requiring them to be more present, to be provided for by Member States.. Such special situations may include: parents having a disability, parents with children with a disability including mental health problems, serious medical condition or illness and single parents as defined by the national law and practice in Member States.*

## **Amendment 41**

### **Proposal for a directive Article 5 – paragraph 2**

*Text proposed by the Commission*

2. Where Member States allow one parent to transfer their parental leave entitlement to the other parent, they shall ensure that at least four months of parental leave cannot be transferred.

*Amendment*

2. Where Member States allow one parent to transfer their parental leave entitlement to the other parent, they shall ensure that at least four months of parental leave cannot be transferred. *Where Member States provide for more than four months' parental leave, a limited amount of that leave might be transferable not only to the other parent, but also to a*



*designated third party who effectively takes care of the child.*

## Amendment 42

### Proposal for a directive Article 5 – paragraph 4

*Text proposed by the Commission*

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/EC<sup>21</sup>, with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.

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<sup>21</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).

*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 **six months**. In the case of successive fixed-term contracts, within the meaning of Council Directive 1999/70/EC<sup>21</sup>, with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.

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<sup>21</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).

## Amendment 43

### 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

*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 **no more than twice and for a maximum period of six months** the granting of parental leave by a reasonable period of time on the grounds that it would seriously disrupt the good functioning of the

writing.

establishment. Employers shall justify any postponement of parental leave in writing. ***In addition, Member States shall take into account in particular the constraints of micro companies.***

#### Amendment 44

##### 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. Employers shall justify any refusal of such a request in writing, ***within a reasonable period of time following the submission of the application.***

#### Amendment 45

##### 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 parents ***in special situations to be defined by Member States. Such special situations may include: parents having a disability, parents with children with a disability including mental health problems, serious medical condition or illness and single parents as defined by the national law and***

*practice in Member States.*

#### **Amendment 46**

##### **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.

#### **Amendment 47**

##### **Proposal for a directive Article 6 a (new)**

*Text proposed by the Commission*

*Amendment*

##### **Article 6a**

##### **Confidentiality of information**

***The information on the medical condition or situation of loss of autonomy shall be kept confidential and 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.***

#### **Amendment 48**

##### **Proposal for a directive Article 8 – paragraph 1**

*Text proposed by the Commission*

In accordance with national circumstances, such as national law, collective agreements

*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.

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 equivalent to maternity leave pay as defined at the national level whilst ensuring the principle of equal pay for women and men;*

*(b) for parental leave as referred to in Article 5(1), a payment or allowance of at least equivalent to 80 % 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 80 % of the worker's gross wage.*

#### **Amendment 49**

##### **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 *ten*, 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 50**

##### **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 flexible working arrangements referred to in paragraph 1, taking into account the needs of both employers and workers, ***in particular in micro businesses***. Employers shall justify any refusal of such a request ***while providing options for alternative arrangements***.

**Amendment 51**

**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 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 ***in writing*** to such requests, taking into account the needs of both employers and workers.

**Amendment 52**

**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 the application of flexible working time is adapted to the specific needs of parents in special situations requiring more of their presence, in particular with regard to***

*parents having a disability and parents having with children with a disability including mental health problems, serious medical condition or illness and single parents as defined by the national law and practice in Member States. .*

## Amendment 53

### 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 referred to in Article 4, 5 or 6 while ensuring that the employment relationship is maintained during that period ***but also without prejudice to entitlements to social security including to pension contribution to which the worker remains subject throughout the period of leave.***

## Amendment 54

### 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 ***any form of 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 or 6, or on the ground that they have exercised their right to flexible working arrangements referred to in Article 9.

## Amendment 55

### Proposal for a directive

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## Article 13 – paragraph 1

### *Text proposed by the Commission*

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.

### *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 *shall* take the form of a fine. They may also comprise payment of compensation.

## Amendment 56

### 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

##### *Non regression*

1. Member States *and/or the social partners* 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 be without prejudice to any more specific provisions in Union law, and in particular Union law provisions concerning equal treatment or opportunities for men and women.*
3. *The implementation of this Directive shall not constitute valid grounds for reducing the rights conferred to and the general level of protection afforded to workers.*

## Amendment 57

### 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 the persons concerned throughout their territory, ***also through the Single Digital Gateway.***

## Amendment 58

### 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. At the latest, by ***three*** 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 ***and assess the implementation of this Directive's objectives, including that of gender equality and additionally its impact on the development of micro, small and medium-sized enterprises,*** to the European Parliament and the Council on the application of this Directive.

## Amendment 59

### Proposal for a directive Article 18 – paragraph 2

*Text proposed by the Commission*

2. On the basis of the information

*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, accompanied, if appropriate, by a legislative proposal.

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 to assess the possibility to extend in the future the rights contained in this Directive to self-employed workers..***

## **Amendment 60**

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

*Text proposed by the Commission*

*Amendment*

***2a. The Commission shall also assess soon after the date of entry into force of this Directive its compliance 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.***

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Work-life balance for parents and carers		
<b>References</b>	COM(2017)0253 – C8-0137/2017 – 2017/0085(COD)		
<b>Committee responsible</b> Date announced in plenary	EMPL 15.5.2017		
<b>Opinion by</b> Date announced in plenary	FEMM 15.5.2017		
<b>Associated committees - date announced in plenary</b>	14.9.2017		
<b>Rapporteur</b> Date appointed	Agnieszka Kozłowska-Rajewicz 20.10.2017		
<b>Discussed in committee</b>	19.2.2018	27.3.2018	15.5.2018
<b>Date adopted</b>	28.5.2018		
<b>Result of final vote</b>	+: -: 0:	19 8 4	
<b>Members present for the final vote</b>	Daniela Aiuto, Beatriz Becerra Basterrechea, Heinz K. Becker, Vilija Blinkevičiūtė, Anna Maria Corazza Bildt, Anna Hedh, Mary Honeyball, Teresa Jiménez-Becerril Barrio, Agnieszka Kozłowska-Rajewicz, Florent Marcellesi, Angelika Mlinar, Angelika Niebler, Maria Noichl, Margot Parker, Marijana Petir, Pina Picierno, João Pimenta Lopes, Terry Reintke, Liliana Rodrigues, Michaela Šojdrová, Ernest Urtsun, Jadwiga Wiśniewska, Anna Záborská, Maria Gabriela Zoaň		
<b>Substitutes present for the final vote</b>	Eleonora Forenza, Julie Girling, Kostadinka Kuneva, Clare Moody, Branislav Škripek, Mylène Troszczynski, Julie Ward		

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

19	+
ALDE	Beatriz Becerra Basterrechea, Angelika Mlinar
EFDD	Daniela Aiuto
PPE	Heinz K. Becker, Teresa Jiménez-Becerril Barrio, Agnieszka Kozłowska-Rajewicz, Michaela Šojdrová
S&D	Vilija Blinkevičiūtė, Anna Hedh, Mary Honeyball, Clare Moody, Maria Noichl, Pina Picierno, Liliana Rodrigues, Julie Ward, Maria Gabriela Zoană
VERTS/ALE	Florent Marcellesi, Terry Reintke, Ernest Urtasun

8	-
ECR	Branislav Škripek, Jadwiga Wiśniewska
EFDD	Margot Parker
ENF	Mylène Troszczynski
GUE/NGL	João Pimenta Lopes
PPE	Anna Maria Corazza Bildt, Julie Girling, Angelika Niebler

4	0
GUE/NGL	Eleonora Forenza, Kostadinka Kuneva
PPE	Marijana Petir, Anna Záborská

**Key to symbols:**

+ : in favour

- : against

0 : abstention

23.5.2018

## OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

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: Joëlle Bergeron

### SHORT JUSTIFICATION

The Commission considers that the proposal for a directive is consistent with the need to take a broader approach to the issue of the work-life balance and reflects recent societal trends.

Its aim is to address the under-representation of women in the labour market and to support their career progression by making it easier for them to reconcile their professional and family responsibilities. With this aim in view, it lays down minimum criteria needed to establish proper equality between men and women as regards labour market opportunities and treatment at work. It promotes non-discrimination and gender equality by adapting and updating the EU legal framework in this area.

In the EU, most people working part time are women (32% of all women, as against 8% of men), and this is largely due to the difficulties they face in reconciling their professional and private lives. This in turn very often leads to very significant pay and pension gaps between men and women. The current legal framework in the EU and in the Member States offers men few incentives to take on an equal share of family duties. These shortcomings must be addressed as a matter of urgency. Your rapporteur very much endorses the specific objectives set in the proposal for a directive, which involve in particular improving access to schemes which make it easier to reconcile professional and private life and encouraging more men to make use of family leave and flexible working arrangements. On that latter point, the level of pay offered to people on parental leave is an important consideration in ensuring fairness in the way that men and women take such leave. The gender gap in this regard is considerable, however, as parental leave pay is currently ridiculously low. The Commission proposal to bring parental leave pay up to the same level as sick pay is a step forward. What we need to keep in mind at all times and use as the guiding principle is child protection. Your rapporteur has no doubt that it is in a child's best interests to be brought up and cared for by, and have the company of, both parents equally. She therefore takes the view that men and women should be put in a position to play an equal role in raising a family. This can be done by eliminating inequalities between women and men in paid and unpaid jobs, and by encouraging them to take an equal share of responsibility for work in the home and for caring

for children and relatives who require assistance.

Due account needs to be taken of the requirements of and the constraints on employers, however – particularly in small companies made up of two or three people. Granting parental leave can put such companies in a very difficult position. For that reason, your rapporteur highlights the need to guarantee employers better protection, but also to prevent abuses of the system by workers absent for what they claim are urgent family reasons. With that aim in mind, the right to parental leave should be made contingent on the submission of supporting documents and completion of a minimum period of service of no more than nine months. Leave for carers should also be better regulated to protect employers against abuses of the system. At the same time, it is essential that workers wishing to care for a close relative be given the opportunity to establish a better work-life balance, so that they do not quit the job market once and for all.

Your rapporteur also stresses that the situation of parents of a child with a disability or a serious illness and instances of multiple births or adoptions have not been taken into account by the Commission. She takes the view that the option to double parental leave should be available in such cases.

The same should apply to single parents, who are constantly increasing in number and who cannot be ignored.

## AMENDMENTS

The Committee on Legal Affairs 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 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) 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. ***This Directive contributes to those objectives by***

*eliminating disparities, strengthening gender equality, promoting a high level of employment and consolidating the Union's social dimension, as well as boosting upward convergence in the Member States with regard to of social benefits.*

## **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 of Fundamental Rights of the European Union *(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 a (new)**

*Text proposed by the Commission*

*Amendment*

*(4a) People with disabilities should have the right to income support that ensures living in dignity, services that enable them to participate in the labour market and in society, as well as a work environment adapted to their needs.*

## **Amendment 4**

### **Proposal for a directive Recital 4 b (new)**

**(4b) Equality of treatment and opportunities between women and men should be ensured and fostered in all areas, including participation in the labour market, terms and conditions of employment and career progression. Women and men have the right to equal pay for work of equal value.**

## Amendment 5

### Proposal for a directive

#### Recital 5

Text proposed by the Commission

(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 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.

Amendment

(5) Work-life balance policies should contribute to the achievement of gender equality by promoting the participation of women in the labour market **and encouraging the participation and role of men in family life, in accordance with Article 24 of the Charter, which provides that every child is to have the right to maintain on a regular basis a personal relationship and direct contact with both parents unless that is contrary to the child's interests, in favour of the fair sharing of responsibilities for bringing up and caring for children, thereby helping to close the** gender gaps in earnings, **pay and pensions**. Such policies should take into account demographic changes including the effects of an ageing population. **In that context, promoting a better work-life balance could represent an important incentive for increasing the birth-rate.**

## Amendment 6

### Proposal for a directive

#### Recital 6 a (new)

**(6a) According to the data for October 2017 (Commission statistics), 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 7

### Proposal for a directive Recital 7

Text proposed by the Commission

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

Amendment

(7) **The rise of the dual-earner household has led to work intensification and greater pressures on, and demands for, work-life balance. As a result,** work-life balance remains 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, **elderly dependents or immediate relatives with incapacitating chronic diseases,** women **are obliged** to work **fewer** hours in paid employment and spend more time fulfilling unpaid care responsibilities. **This contributes substantially to the gender pay gap, which is as high as 28 % in certain Member States, and accumulates over the working life into a gender pension gap, which averages 40 % in the Union, and results in a higher risk of poverty and social exclusion for women.** Having an ill or dependent relative has also been shown to have a negative impact on female employment, leading some women to drop out of the labour market **in part or** entirely.

## Amendment 8



**Proposal for a directive**  
**Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

**(7a)** *According to Eurofound data, over three million people have left full-time employment because of they lack facilities for childcare or care for dependent family members.*

**Amendment 9**

**Proposal for a directive**  
**Recital 7 b (new)**

*Text proposed by the Commission*

*Amendment*

**(7b)** *Children should have the right to affordable early childhood education and care of good quality.*

**Amendment 10**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

*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.

(8) The current Union legal framework provides limited incentives for men to assume an equal share of caring responsibilities. ***There are no harmonised Union rules providing for paternity leave or leave to care for ill or dependent relatives, with the exception of absence for reasons of force majeure.*** Lack of paid paternity and parental leave in many Member States contributes to the low take-up of such leave by fathers. The imbalance ***or inadequacy*** in the design of work-life balance policies between women and men ***slows down growth, leads to a departure from the objectives of social inclusion, puts women at greater risk of poverty, especially in old age, and*** reinforces gender differences between work and care.

Conversely, use of work-life balance arrangements by fathers, such as *leave, sufficient incentives to avail themselves of such* 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 *and their social, economic and professional emancipation.*

## **Amendment 11**

### **Proposal for a directive Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

*(8a) Parents and other people with caring responsibilities should have the right to suitable leave, flexible 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 12**

### **Proposal for a directive Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

*(9a) It is important to achieve a balance between professional, private and family life by means of a broad approach which includes legislative and non-legislative action, such as effective incentives and measures, such as tax credits for childcare and for caring for people in need.*

## **Amendment 13**

**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 14**

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

(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. ***Nothing in the proposed Directive should be interpreted as diminishing previously existing rights pursuant to that Directive.***

**Amendment 15**

**Proposal for a directive**  
**Recital 11**

*Text proposed by the Commission*

*Amendment*

(11) This Directive lays down minimum requirements related to paternity, parental and carers' leave and to flexible working arrangements for parents and workers with

(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.

caring responsibilities, **while respecting national rules on leave and flexible working arrangements that comply with the requirements of this Directive and enabling Member States and the social partners to determine the specific provisions thereof. The Directive fully respects the freedom and preferences of workers and families to organise their lives and does not impose on them any obligation to avail themselves of its provisions. If a wide margin of manoeuvre for decision-making is achieved at individual and national level,** 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, **as well as of a decent standard of living for workers and their families.**

## Amendment 16

### 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 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.

*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 **or open-ended** contract workers or persons with a contract of employment or employment relationship with a temporary agency.

## Amendment 17

### Proposal for a directive

## Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

***(12a) The Directive prioritises the establishment of a good work-life balance without resorting to the introduction of precarious and atypical working conditions.***

## Amendment 18

**Proposal for a directive**

**Recital 12 b (new)**

*Text proposed by the Commission*

*Amendment*

***(12b) This Directive aims to improve and strengthen the provisions concerning admissibility and regulatory certainty for the granting of parental leave to those with children with disabilities or serious long-term illnesses, especially in order to avoid arbitrary treatment regarding the granting of leave for the relevant age groups going beyond current provisions, the introduction of vouchers or special contributions to meet the costs of child care services.***

## Amendment 19

**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 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.

(13) In order to encourage a more equal sharing of caring responsibilities between women and men, the right to paternity leave for ***the second parent*** to be taken, ***if requested***, 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 *irrespective of the seniority or the nature of the employment contract.*

## Amendment 20

### Proposal for a directive

#### Recital 14

*Text proposed by the Commission*

(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.

*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 *foster a close early relationship with the child and* 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.

## Amendment 21

### 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*

*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 *thirteen* 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. 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 *in writing* for

*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.

## **Amendment 22**

### **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 23**

### **Proposal for a directive Recital 18**

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 (single parents, children with disabilities, serious illnesses).

#### *Amendment*

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

*Text proposed by the Commission*

(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.

*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 for urgent and unexpected family reasons, currently provided for by Directive 2010/18/EU, under the conditions established by the Member States.

## **Amendment 24**

### **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 an adequate allowance while on leave. The level of the allowance should be ***adequate and no less than the amount*** 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 25**

### **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, ***employers should give them the possibility*** to adapt their working schedules to their personal needs and ***preference***. ***Without abusing that right, working*** parents and carers should be able to request



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.

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 **and ensure that they are properly balanced**, it should be possible for Member States to limit the duration of **part-time work, giving priority to other** flexible working arrangements. While working part-time has **indeed** been shown to be useful in allowing some women to remain in the labour market after having children **or other family responsibilities**, 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.

## Amendment 26

### 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, **retaliation** or any less favourable treatment on that ground.  
***Exercising one's right to leave or flexible working arrangements should not have adverse effects on the level of employment***

*or other working conditions.*

## **Amendment 27**

### **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 flexible working arrangements provided for in this Directive should enjoy protection from dismissal, ***pressures and mobbing to the detriment of the worker*** 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 28**

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

*Text proposed by the Commission*

This Directive lays down minimum requirements designed to achieve equality between men and women with regard to labour market opportunities and treatment at work through facilitating the reconciliation of work and family life for working parents and carers.

*Amendment*

This Directive lays down minimum requirements designed to achieve equality between men and women with regard to labour market opportunities and treatment at work ***in terms of social rights and pay*** through facilitating the reconciliation of work and family life for working parents and carers.

## **Amendment 29**

### **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, **both** men and women, who have an employment contract or employment relationship **as defined in law, collective agreements and/or the practice applicable in each Member State**.

**Amendment 30**

**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 **the second parent** to be taken on the occasion of the birth **or adoption** of a child;

**Amendment 31**

**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 or adoption of a child to take care of that child;

**Amendment 32**

**Proposal for a directive**

**Article 3 – paragraph 1 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

**(fa) 'single parent' means a person who is neither married nor in a partnership as recognised by national law, and who has the sole parental responsibility for a child.**

## Amendment 33

### 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 **the second parent has** the right to take **mandatory paid** paternity leave of at least **fourteen** working days on the occasion of the birth **or adoption** of a child, **or at least fifteen days in the event of multiple births or adoptions**.

## Amendment 34

### Proposal for a directive

#### Article 4 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. The right to paternity leave referred to in paragraph 1 shall be granted irrespective of the second parent's length of service and the nature of the employment contract.**

## Amendment 35

### Proposal for a directive

#### Article 5 – paragraph 1

*Text proposed by the Commission*

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**.

*Amendment*

1. Member States shall take the necessary measures to ensure that workers have an individual right to parental leave of at least **six** months to be taken before the child reaches a given age which shall be at least **thirteen**.

## Amendment 36

### Proposal for a directive

#### Article 5 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***The length of parental leave shall be doubled for single parents.***

## Amendment 37

### Proposal for a directive

#### Article 5 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Where Member States allow one parent to transfer their parental leave entitlement to the other parent, they shall ensure that at least four months of parental leave cannot be transferred.

2. Where Member States allow one parent to transfer their parental leave entitlement to the other parent, they shall ensure that at least four months of parental leave cannot be transferred. ***The duration of parental leave shall be doubled for parents looking after a child with a disability or seriously illness.***

## Amendment 38

### 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/EC<sup>21</sup>, 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 ***nine months***. In the case of successive fixed-term contracts, within the meaning of Council Directive 1999/70/EC<sup>21</sup>, with the same employer, the sum of those contracts shall be ***compulsory*** taken into account for the purpose of calculating the qualifying period.

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<sup>21</sup> Council Directive of 28 June 1999

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<sup>21</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).

concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ L 175, 10.7.1999, p.43).

### **Amendment 39**

#### **Proposal for a directive Article 5 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. Workers shall be informed in writing at the start of employment about their rights and obligations resulting from the employment relationship, including during their probation period.**

### **Amendment 40**

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

*Text proposed by the Commission*

*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 having a disability and parents with children with a disability or long-term illness.

7. Member States shall assess the need for the conditions of access and detailed arrangements for the application of parental leave to be ***extended to meet*** the needs of adoptive parents, parents having a disability, ***single parents (single-parent families)*** and parents with children with a disability or ***serious*** long-term illness. ***In particular, for parents of children with a disability or serious illness, as certified in accordance the Member State's health authorities, rejection of requests for parental leave shall be prohibited.***

### **Amendment 41**

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

*Text proposed by the Commission*

*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 substantiation of the medical condition of the worker's relative.

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

## **Amendment 42**

### **Proposal for a directive Article 6 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 6a**

***Leave for mothers and the second parent  
where they have a disability***

***The Member States shall guarantee that the length of types of leave described in this Directive is extendible by at least 50 % for mothers and the second parent where they have a disability.***

## **Amendment 43**

### **Proposal for a directive Article 7 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Member States shall take the necessary measures to ensure that workers have the right to time off from work on grounds of force majeure for urgent family reasons in cases of illness or accident making the immediate presence of the worker indispensable. Member States may **limit** the right to time off from work on grounds of force majeure **to a certain amount of time per year or per case, or both.**

Member States shall take the necessary measures to ensure that workers have the right to time off from work on grounds of force majeure for urgent family reasons in cases of illness or accident making the immediate presence of the worker indispensable. Member States may **make** the right to time off from work on grounds of force majeure **conditional on the submission of evidence they consider to be appropriate.**

## **Amendment 44**

**Proposal for a directive**  
**Article 8 – paragraph 1**

*Text proposed by the Commission*

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.

*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, **a tax credit** or an adequate allowance **that is no less than the amount** the worker concerned would receive in case of sick leave.

**Amendment 45**

**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 **thirteen**, 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 46**

**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 flexible working arrangements referred to in paragraph 1, taking into account the needs of both employers and workers. Employers shall justify **in writing** any refusal of such



a request.

## Amendment 47

### 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 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. ***Provision shall also be made for a transitional protection period following the worker's return to work in order to allow the worker an easier and more effective reintegration into professional life, bearing in mind that, during that protection period, the use of new technologies could help workers to move more quickly towards resuming work in a lasting, more agile manner, while updating their skills.*** The worker shall have the right to request to return to the original working pattern ***at the same level of employment.*** Employers shall ***justify in writing any refusal of such a request.***

## Amendment 48

### 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 or 6, or on the ground that they have exercised their right to flexible working arrangements referred to in Article 9.

## Amendment 49

### 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 or of exercising the right to request flexible working arrangements referred to in Article 9 ***shall be entitled to*** request the employer to provide duly substantiated grounds for the dismissal. The employer shall ***be required to*** provide ***in due time*** those grounds in writing.

## Amendment 50

### Proposal for a directive Article 13 – paragraph 1

*Text proposed by the Commission*

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.***

*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 effective, proportionate and dissuasive ***penalties are applied***.

## Amendment 51

### Proposal for a directive Article 14 – paragraph 1

*Text proposed by the Commission*

Member States shall introduce measures

*Amendment*

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.

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.

## Amendment 52

### 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 within the scope of this Directive.

*Amendment*

***Without prejudice to the powers of the labour inspection services or other bodies, including social services, responsible for monitoring workers' rights***, 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 within the scope of this Directive.

## Amendment 53

### Proposal for a directive Article 16 – paragraph 1

*Text proposed by the Commission*

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*

Member States may introduce or maintain provisions that are more favourable to workers than those laid down in this Directive, ***but shall not lower the standards laid down in their national legislation***. They shall however ensure that at least four months of parental leave remain non-transferable in accordance with Article 5(2) ***and that the leave protection is mandatory for the parents of children***

*with a disability and serious illnesses, as certified in accordance with the Member State's health authorities.*

## **Amendment 54**

### **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 entry into force of this Directive], Member States shall communicate to the Commission all relevant information concerning the application of this Directive *and an in-depth evaluation of the effects of the Directive on female employment statistics, accompanied, if appropriate, by a legislative proposal.*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Work-life balance for parents and carers		
<b>References</b>	COM(2017)0253 – C8-0137/2017 – 2017/0085(COD)		
<b>Committee responsible</b> Date announced in plenary	EMPL 15.5.2017		
<b>Opinion by</b> Date announced in plenary	JURI 15.5.2017		
<b>Rapporteur</b> Date appointed	Joëlle Bergeron 3.5.2017		
<b>Discussed in committee</b>	9.10.2017	21.11.2017	21.2.2018
<b>Date adopted</b>	27.3.2018		
<b>Result of final vote</b>	+: –: 0:	19 2 1	
<b>Members present for the final vote</b>	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Kostas Chrysogonos, Rosa Estaràs Ferragut, Enrico Gasbarra, Lidia Joanna Geringer de Oedenberg, Heidi Hautala, Sylvia-Yvonne Kaufmann, António Marinho e Pinto, Emil Radev, Julia Reda, Evelyn Regner, Pavel Svoboda, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka		
<b>Substitutes present for the final vote</b>	Luis de Grandes Pascual, Pascal Durand, Angel Dzhambazki, Evelyne Gebhardt, Virginie Rozière, Rainer Wieland		
<b>Substitutes under Rule 200(2) present for the final vote</b>	Mylène Troszczynski		

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

<b>19</b>	<b>+</b>
ALDE	António Marinho e Pinto
EFDD	Joëlle Bergeron
GUE/NGL	Kostas Chrysogonos
PPE	Rosa Estaràs Ferragut, Luis de Grandes Pascual, Emil Radev, Pavel Svoboda, Axel Voss, Rainer Wieland, Francis Zammit Dimech
S&D	Enrico Gasbarra, Evelyne Gebhardt, Lidia Joanna Geringer de Oedenberg, Sylvia-Yvonne Kaufmann, Evelyn Regner, Virginie Rozière
VERTS/ALE	Max Andersson, Pascal Durand, Julia Reda

<b>2</b>	<b>-</b>
ENF	Marie-Christine Boutonnet, Mylène Troszczynski

<b>1</b>	<b>0</b>
ECR	Angel Dzhabazki

**Key to symbols:**

+ : in favour

- : against

0 : abstention

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Work-life balance for parents and carers			
<b>References</b>	COM(2017)0253 – C8-0137/2017 – 2017/0085(COD)			
<b>Date submitted to Parliament</b>	27.4.2017			
<b>Committee responsible</b> Date announced in plenary	EMPL 15.5.2017			
<b>Committees asked for opinions</b> Date announced in plenary	JURI 15.5.2017	FEMM 15.5.2017		
<b>Associated committees</b> Date announced in plenary	FEMM 14.9.2017			
<b>Rapporteurs</b> Date appointed	David Casa 3.10.2017			
<b>Discussed in committee</b>	23.1.2018	21.2.2018	27.3.2018	15.5.2018
<b>Date adopted</b>	11.7.2018			
<b>Result of final vote</b>	+: –: 0:	34 14 4		
<b>Members present for the final vote</b>	Laura Agea, Mara Bizzotto, Enrique Calvet Chambon, David Casa, Ole Christensen, Michael Detjen, Geoffroy Didier, Lampros Fountoulis, Elena Gentile, Arne Gericke, Marian Harkin, Czesław Hoc, Agnes Jongerius, Rina Ronja Kari, Adam Kósa, Agnieszka Kozłowska-Rajewicz, Kostadinka Kuneva, Jean Lambert, Jérôme Lavrilleux, Jeroen Lenaers, Verónica Lope Fontagné, Javi López, Thomas Mann, Dominique Martin, Anthea McIntyre, Miroslavs Mitrofanovs, Georgi Pirinski, Sofia Ribeiro, Robert Rochefort, Claude Rolin, Siôn Simon, Romana Tomc, Yana Toom, Ulrike Trebesius, Marita Ulvskog, Renate Weber, Jana Žitňanská			
<b>Substitutes present for the final vote</b>	Maria Arena, Georges Bach, Lynn Boylan, Karima Delli, Tania González Peñas, Dieter-Lebrecht Koch, Paloma López Bermejo, António Marinho e Pinto, Ivari Padar, Evelyn Regner, Joachim Schuster, Csaba Sógor, Flavio Zanonato			
<b>Substitutes under Rule 200(2) present for the final vote</b>	Maria Noichl, Francis Zammit Dimech			
<b>Date tabled</b>	24.8.2018			

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

34	+
ALDE	Enrique Calvet Chambon, Marian Harkin, António Marinho e Pinto, Robert Rochefort, Yana Toom, Renate Weber
ECR	Arne Gericke, Jana Žitňanská
EFDD	Laura Agea
ENF	Mara Bizzotto
PPE	Georges Bach, David Casa, Geoffroy Didier, Agnieszka Kozłowska-Rajewicz, Jérôme Lavrilleux, Verónica Lope Fontagné, Claude Rolin, Francis Zammit Dimech
S&D	Maria Arena, Michael Detjen, Elena Gentile, Agnes Jongerius, Javi López, Maria Noichl, Ivari Padar, Georgi Pirinski, Evelyn Regner, Joachim Schuster, Siôn Simon, Marita Ulvskog, Flavio Zanonato
VERTS/ALE	Karima Delli, Jean Lambert, Mirosłav Mitrofanovs

14	-
ECR	Czesław Hoc, Anthea McIntyre, Ulrike Trebesius
ENF	Dominique Martin
GUE/NGL	Rina Ronja Kari
NI	Lampros Fountoulis
PPE	Dieter-Lebrecht Koch, Ádám Kósa, Jeroen Lenaers, Thomas Mann, Sofia Ribeiro, Csaba Sógor, Romana Tomc
S&D	Ole Christensen

4	0
GUE/NGL	Lynn Boylan, Tania González Peñas, Kostadinka Kuneva, Paloma López Bermejo

Key to symbols:

+ : in favour

- : against

0 : abstention