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## NOTE

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From:	Presidency
To:	Permanent Representatives Committee
No. Cion doc.:	8633/17 + ADD 1 - ADD 3
Subject:	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 - Preparation for the trilogue

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## I. INTRODUCTION

In April 2016, the Commission published its proposal for a Directive on Work-Life Balance for Parents and Carers (WLB) which aims at increasing female labour market participation, through encouraging an equal sharing of care responsibilities between women and men. Once adopted, it would repeal the current Parental Leave Directive (Council Directive 2010/18/EU).

On 21 June 2018, the Council reached a general approach<sup>1</sup>.

The European Parliament adopted its negotiation mandate on 12 September 2018.<sup>2</sup>

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<sup>1</sup> ST 10291/18.

<sup>2</sup> P8\_A(2018)0270

The Rapporteur for the lead Committee (EMPL) is David CASA (MT/EPP).

The Rapporteur for the FEMM Committee (Rule 54) is Agnieszka KOZŁOWSKA-RAJEWICZ (PL/EPP).

## II. STATE OF PLAY

So far, four trilogues have taken place under the Austrian Presidency. Both sides remain committed to advancing rapidly in the negotiations.

In the fourth trilogue, the Parliament provisionally accepted the Council's offer on the payment of Paternity Leave, but strongly insisted that it expected return concessions on the other two major issues, namely on parental leave and on carers' leave. At the last Coreper, the Council was unable to offer anything to the Parliament's on this issue, and therefore work has continued mainly on the technical level.

On 6 December, Commissioners Thyssen and Jourová, together with First Vice-President Timmermans, proposed a possible compromise solution on the core issues to the Presidency and the Rapporteur. The Presidency would now like to share this proposal with Member States as a possible basis for a revised negotiating mandate.

## III. PRESIDENCY COMPROMISE SUGGESTIONS

Based on the Commission's proposal, delegations will find below a set of suggestions that form a compromise package that covers all the core issues. Furthermore, in the Annex to this document, delegations will find the possible drafting proposed by the Commission, which, if Coreper can support the new mandate, would form the basis for further negotiations.

### 1) Paternity Leave

Member States have already showed willingness to change the level of payment or allowance foreseen in the General Approach, to bring it in line with the level of payment or allowance during maternity leave as currently prescribed at the EU level (in line with Article 11 of Council Directive 92/85/EEC).

However, some Member States seemed reluctant to accept this change. To this end, an **additional passerelle clause** providing flexibility for Member States with generous parental leave systems can be inserted.

## 2) Parental Leave

The Parliament has consistently reiterated its strong support for the Commission's view whereby linking the *non-transferability of leaves* and *remuneration for leaves* is the most effective way of ensuring that men take up their leave entitlements. This is a prerequisite for ensuring that the Directive fulfils its central objective.

Previously, the Parliament has already signalled its willingness to reduce the *length of non-transferable, paid* parental leave from 4 months to **2 months of paid, non-transferable parental leave**.

Cognisant of Member States' budgetary concerns, the Presidency invites Member States to consider extending the length of paid, non-transferable parental leave by 2 weeks. The level of payment would be set by the Member States themselves.

## 3) Carers' Leave

The Parliament is determined to establish a minimum length of 5 working days per year per worker for carers' leave, as proposed by the Commission. In addition, it would prefer to establish a minimum pay level for such leave; however, it could consider allowing the Member States to set this level.

Heartened by the significant degree of flexibility shown by a number of Member States at the Coreper meeting on 23 November, the Presidency now asks Member States to consider accepting the following elements, as part of an overall package: re-establishing the minimum **5 working days of carers' leave** as proposed by the Commission, while at the same time, ensuring that Member States are free to establish a **different reference period** than a year, as well as allowing them **more flexibility** in establishing **the modalities** of the take-up of the leave and the **distribution of the days**.

## IV. CONCLUSION

The Committee of Permanent Representatives is invited

- to examine the Presidency's compromise suggestions as set out above; and
- to agree on an updated Presidency negotiation mandate for future trilogues.

Commission's suggestions for  
Possible drafting for compromise package

Paternity leave

Additional passerelle clause providing flexibility for Member States with a generous parental leave system to be inserted into a new paragraph in Article 20:

*"Where Member States ensure an adequate payment or allowance of at least 65% of the worker's net wage possibly subject to a ceiling, for at least 6 months of parental leave for each parent, they may decide to maintain such system instead of providing for the payment or allowance referred to in Article 8 (1) [as regards paternity leave]"*.

Carers' leave

Amended paragraph 1 and new paragraph 2 in Article 6 to allow for flexibility in allocating the leave:

*"1. Member States shall take the necessary measures to ensure that workers have the right to carers' leave of five working days per year, per worker. **Additional details on the scope and conditions can be determined by the Member States in accordance with national legislation or practice.** The use of this right may be subject to appropriate substantiation, in accordance with national law or practice."*

*"2. Member States may allocate leave over a reference period other than a year, per person in need of care or support, or per case."*

Amended recital 17:

*"In order to provide greater opportunities to remain in the workforce for men and women with caring responsibilities, workers should have the right to carers' leave of five working days per year, per worker. **Member States may decide that the leave can be taken up in one or several working days per case.** In order to take account of various national systems, **Member States may allocate the leave on the basis of a period other than a year. Member States may equally allocate the leave by reference to the person in need of care or support, or per case.**"*