

**Irish Congress of Trade Unions
June 2017**

Initial Assessment of the EU Commission Package on Work-Life Balance



The package on work-life balance issued by the Commission within the pillar of social rights aims at ensuring better balance between family and professional commitments for women and men. It consists of a set of legislative and non-legislative measures addressing three interrelated areas:

- 1) *Family-related leave arrangements (parental, paternity and carer's leave) and flexible working arrangements;*
- 2) *Childcare and long-term care;*
- 3) *Economic incentives for parents and carers to work.*

While topics under 1) consist of a mix of legislative and non-legislative measures; topics falling under 2) & 3) deal with non-legislative actions only and so we will concentrate on number 1 in this brief submission.

Congress broadly welcomes the Commission's package and the mixed policy approach. Our family leave provision lags behind many of our EU partners and it is time for us to correct this. Research has demonstrated how this is mutually beneficial to workers and their families, enterprises and indeed to wider society.

While it is clear that only legislation can bring concrete results in the area of family related leave, we also consider that the promotion of policy guidance and best practices is needed to improve care facilities and economic incentives. It is also worth recalling that in some areas where the non-legislative option is undertaken the EU has limited competencies (e.g. childcare facilities, tax incentives for second earners).

Family-Related Leave & flexible Working Arrangements

Congress strongly supports the proposal of a ***new Directive on work life balance***, repealing the EU Directive on Parental leave 2010/18/EU based on the EU social partners' agreement and introducing several improvements that have long been at the core of trade union demands, namely:

Revision of the current individual entitlement on parental leave: payment of parental leave at sick pay level (same level as maternity and paternity pay here and appears to be in line with the commitment in the current Programme for Government to prioritise additional paid parental leave in the first year of a child's life) ; extending the age of the child from eight to twelve years entitling a parent to take parental leave; the right for flexible uptake (i.e., part-time, piecemeal), four months leave non-transferable between parents.

Introduction of an individual entitlement to paternity leave of at least 10 working days, paid at least at sick-pay level – something we now have here since September 2016;

Introduction of an individual entitlement to carer's leave of at least 5 days per year, paid at sick pay level – would be an improvement on unpaid carers leave available under the Carer's leave act 2001, particularly if not eligible for Carer's benefit.

The draft Directive also provides for a ***right to flexible working arrangements*** for workers with children or other dependent relatives – another longstanding demand from Congress.

This provision introduces the possibility for workers to make use of (i) a reduction in working hours; (ii) flexible work schedules and (iii) remote working possibilities. Congress agrees that the modernisation of the EU regulatory framework should not limit itself to leave facilities, and that there should be policy coherence with the issues of working time and work organization. However, flexible working arrangements must be clearly understood as working patterns which are adapted to workers' needs (men and women) throughout a life-cycle approach. It is of paramount importance that flexible working arrangements are open to men and women alike, not only focussing on mothers or women that need to care for their dependent relatives. Flexible working arrangements must also be reversible and employee-friendly.

Finally, employers should seriously consider the employee's request and justify the refusal in writing and only where there are serious and objective reasons. Congress also believes that collective bargaining is the best tool to ensure a balanced transposition of this part of the Directive at national level.

The Directive should apply not only to workers who have an employment contract or other employment relationships (such as part-timers, fixed term contract workers, temporary agency workers) but also to atypical workers, such as self-employed and domestic workers.

Full enforcement of the provisions of the Directive are needed in all companies, irrespective of their size. Therefore, we would be strongly against introducing specific exemptions for SMEs on the basis of supposed administrative, financial or legal burdens.

Noting that the European Commission has failed to put forward a revision of the ***Maternity Protection Directive*** (92/85/EEC) we think this is a lost opportunity to combat pregnancy discrimination.

The proposed non-legislative actions in this field such as '*to monitor the transposition of EU legislation*' and the '*launch of a specific study on enforcement of dismissal protection and a favourable treatment*' are rather weak.

Congress supports the ETUC position that this proposal should be reviewed in two years' time and a new consultation should be undertaken to assess whether substantial progress in terms of maternity protection in Member States was achieved and consider again the legislative option.

Meanwhile, we also support the ETUC call for undertaking EU-wide awareness raise campaign on pregnant women's rights (including protection against dismissal).

The Way Forward for Social Dialogue

The new legislative proposal on work-life balance builds on some rights already regulated by the Council Directive 2010/18/EU, which implemented the Framework Agreement on Parental leave concluded by the ETUC, BusinessEurope, UEAPME and CEEP in 2009.

By the work-life balance proposal the Commission repeals the Parental leave directive and replaces it with a new Directive which contains a broader approach (as it includes paternity and carers' leave which were not addressed by the Parental leave agreement) and more ambitious provisions (as it includes the payment of the parental leave and the other family-related leave arrangements).

Therefore, by doing so the Commission not only preserves the minimum standards regulated by the EU social partners' parental leave agreement, but it also fosters their text with the aim to enhance the take up of parental and family-leave arrangements.

The ETUC constructively contributed to the two-phase consultations ex. Article 154(2) and (3) TFEU launched by the European Commission prior to the publication of the work-life balance package and declared its willingness to engage in negotiations with the EU cross-industry employers to improve and modernize the parental leave agreement. Unfortunately, the social dialogue route could not be exploited due to the refusal of some employers to embark in negotiations on this matter.

In the context of any new directive, Congress will pursue dialogue with employers on how best to foster reconciliation of work and family life. We believe that collective bargaining can positively contribute to foster better work-life balance.

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