



Council of the
European Union

Brussels, 28 April 2017
(OR. en)

Interinstitutional File:
2017/0085 (COD)

8633/17
ADD 3

EMPL 219
SOC 293
GENDER 12
SAN 166
CODEC 681

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	27 April 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2017) 203 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document 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

Delegations will find attached document SWD(2017) 203 final.

Encl.: SWD(2017) 203 final



Brussels, 26.4.2017
SWD(2017) 203 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

**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) 253 final }
{ SWD(2017) 202 final }

Executive Summary Sheet

Impact assessment accompanying the document 'A 'New Start' to Support Work-Life Balance for Parents and Caregivers'

A. Need for action

Why? What is the problem being addressed?

As outlined in the Roadmap of this initiative¹, **the problem to be addressed is women's underrepresentation in employment, particularly due to the lack of equal sharing of caring and professional responsibilities by parents with children or those with dependent relatives.** In 2015 the gender employment gap (age 20-64) in the EU amounted to 11.6 percentage points (pps). This initiative aims to address the problem of the underrepresentation of women in the labour market by addressing one of its main drivers, which is the unequal distribution of caring responsibilities between women and men. Gender gaps in the labour market are most acute for parents and people with other caring responsibilities. The gender employment gap has been shown to widen substantially after having children. On average in 2015, the employment rate of women with one child under 6 is 8.8 pps less than women without young children, and in several countries this difference is over 30 pps². Similarly, women are much more likely to assume the role of informal carers for elderly or dependent relatives than men³. One of the main reasons for this problem is inadequate work-life balance policies. Insufficient possibilities to take leaves to care for children/dependent relatives, the design of the leave system which hinders a better sharing of caring responsibilities between women and men, limited possibilities to make use of flexible working arrangements, and insufficient formal care services have all been shown to exacerbate the female employment challenges. Economic disincentives (such as the disincentives for second earners which mostly affects women) can further reinforce the unequal sharing of caring responsibilities by women and men and act as a reinforcing driver of the gender gap in employment.

What is this initiative expected to achieve?

The general policy objective of this initiative is to address women's underrepresentation in the labour market and to promote equality between men and women with regard to labour market opportunities by modernising the current EU legal and policy framework and adapting it to today's labour market. This will allow parents with children or workers with dependent relatives to better balance caring and professional responsibilities⁴.

The specific objectives of this initiative are therefore defined as follows:

- to **improve access to work-life balance arrangements** – such as leaves and flexible working arrangements
- to **increase take-up of family-related leaves and flexible working arrangements by men**

It should be noted that some aspects related to the problem to be addressed are not covered in this

¹ European Commission (2015), *Roadmap: A new start to address the challenges of work-life balance faced by working families*

² Gender gaps in employment are 24.7 pp among those with 1 child below 6 years of age, 25.6 pp among those with 2 children (youngest below 6 years of age) and 35.4 pp for those with three children or more.

³ See for instance European Commission (2013) *Long term care in ageing societies*; Eurofound (2016) *The Gender Employment Gap: Challenges and Solutions*

⁴ Article 153(1) (i) TFEU: "equality between men and women with regard to labour market opportunities and treatment at work."

impact assessment. With regard to the provision of formal care services and 'economic disincentives, this is due to the limited EU competence in these areas. Considering their significant influence on the addressed problem, the initiative could foresee measures to enhance current efforts in these areas, in particular in relation to the monitoring of Member States' policies in the EU Semester and to the use of EU funding in the case of formal care services.

What is the value added of action at the EU level?

EU action has a strong added-value in addressing the challenges mentioned in the problem definition. First, the current situation demonstrates that EU action has a strong influence on Member States' legal frameworks. In the policy area covered by this initiative, it is only when EU legislation is in place (i.e., maternity and parental leave) that there is legislation in place in every Member State. When Member States do have legal entitlements, variations between Member States with regard to length and the generosity of the conditions could result in an unbalanced level of rights, an unequal protection for EU citizens across the EU and differences in the functioning of labour markets. Secondly, the projections based on the available information clearly demonstrate that only EU action will ensure that sufficient progress is achieved in all Member States. Employers, particularly small and medium-sized enterprises, may be hesitant to provide greater work-life balance measures on their own, given the short-term costs and administrative burdens that may result⁵. Member States may hesitate to correct such a failure through regulation in this area because they may perceive a risk of putting their own companies at a disadvantage with companies from other Member States. Considering that a significant percentage of EU firms' trade is intra-EU, EU-level action could mitigate such concerns and establish a level-playing field while taking into account the need to avoid additional burdens on businesses, particularly SMEs, and ensuring that all Member States move in the same direction. Thirdly, EU-level intervention could mitigate trends in some Member-States to reduce work-life balance provisions. Indeed, as a result of the recent crisis, policy priorities diverge between Member States, and other issues (particularly those expected to produce short-term benefits) are focussing national authorities' attention. Finally, there is a clear European horizontal dimension to the issues related to work-life balance and the underrepresentation of women in the labour market. Low labour market participation of women hinders the EU's goals in relation to gender equality, fighting poverty and supporting employment and growth.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

A range of non-legislative and legislative measures have been considered in the following areas: maternity leave, paternity leave, parental leave, carers' leave and flexible work arrangements.

Following an assessment of the effectiveness, efficiency and coherence of each option, a preferred combination of options was identified. The preferred combination includes:

- Maternity leave: non-legislative measures to enhance the enforcement of current legislation on dismissal protection, raise awareness on the dismissal of pregnant women and give policy guidance on facilitating successful transitions between maternity leave and employment

⁵ OECD (2007) *Babies and Bosses*

(including breastfeeding facilities and breaks)

- Paternity leave: introduction of an individual entitlement for 10 working days, paid at least at sick pay level
- Parental leave: individual non-transferable entitlement of 4 months paid at least at sick pay level to be taken for each child up to the age of 12 ; right to flexible uptake (part-time, piecemeal),
- Carers' leave: introduction of an individual entitlement of 5 days/year, paid at least at sick pay level
- Flexible working arrangements: right for parents of children up to 12 and carers to request flexibility in working hours, schedule or place of work for a set period of time. The employer has no obligation to grant the requested change.

Who supports which option?

Trade unions have indicated their desire for EU-level legislation on paternity leave and carers' leave; increasing the length, pay and dismissal protection for maternity leave; a right to request flexible working arrangements; and amending the parental leave directive to extend the length and non-transferability as well as to introduce payment for the leave.

Employers' organisations are not favourable to further EU legislative action.

The European Parliament has called for extending the duration of parental leave and introducing pay, as well as introducing paternity leave and carers' leave.

Many other stakeholders have also called for increased EU legislative and non-legislative action in the area of work-life balance.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise main ones)?

The estimated benefits of the preferred combination of options are summarised as follows:

- Individuals: the leave and flexible working arrangement provisions should positively impact parents and carers' work-life balance and well-being, the sharing of caring responsibilities between women and men, female participation in the labour market and lead to a decrease in the risk of poverty for women and children.

- Companies: by increasing women employment the combination of options would enable employers to benefit from a wider pool of talented skilled workers and by increasing work-life balance for parents and carers, this would lead to an increase in workers' productivity. Provisions on leave and flexible working arrangements will lead to a decrease in replacement costs (by €100 bn) and in absence from work (which will lead to a benefit of €23 bn) between 2015-2055 (NPV).

- Central Governments and Social Security: the combination of options would lead to a decrease in the payment of unemployment benefits (+ €8 bn) an increase in tax revenue (+ €381 bn) and a decrease in health care expenditure (by €2 bn) between 2015-2055 (NPV).

- Remote working arrangements, as part of the provision on flexible working arrangements, could also have a positive impact on the environment.

- The combination of options is also expected to have a positive impact on GDP (€838.8 bn in NPV 2015-2055) and on employment (> 1.5bn in 2050), labour force (>1.4bn in 2050) and real incomes (€120 bn in 2050).

What are the costs of the preferred option (if any, otherwise main ones)?

Over the period of 2015-2055, the estimated costs (in NPV) of the preferred combination of options are

summarised as follows:

- Companies: The combination of options will lead to adjustment costs (€3 bn), administrative costs (€109 bn), costs due to benefit payments (€27 bn), recruitment costs (€7 bn) and costs due lost production (€144 bn).
- Central Government and Social Security: expected costs are mainly due to benefit payments (€14 bn for Central Governments and €41 bn for Social Security partners) and administrative costs (€1 bn for Central Government and €258 mil for Social Security partners).
- The assessment reveals no direct negative impact on individuals, macro-economic figures or on the environment.

How will businesses, SMEs and micro-enterprises be affected?

No specific exemptions for SMEs are considered. The total cost of the options for micro-businesses represents a small share of the companies' total turnover (under 1% of turnover in most countries and under 3% in all countries), and very close to the level of cost under the baseline. Therefore the policy options do not disproportionately affect the performance of SMEs.

Will there be significant impacts on national budgets and administrations?

As outlined above, some options will have higher impacts on national budgets and administrations than others. The preferred options for paternity leave and parental leave entail some costs for central governments due to benefit payments and administrative costs in processing applications. That being said, these options also have positive impacts on female employment, increased tax revenue, increased real incomes and consumption, and overall GDP. The preferred options for carers' leave and flexible working arrangements are estimated to have benefits for central governments.

Will there be other significant impacts?

All options would facilitate the exercise of the rights recognised in Article 33 of the Charter of the Fundamental Rights of the European Union, which specifically refers to the reconciliation of family and professional life.

D. Follow up

When will the policy be reviewed?

The Commission will review and evaluate the operation and impact of the legislative proposals five years after the deadline for transposition and produce an implementation report. The Commission will also continue to regularly monitor female employment and Member States' work-life balance provisions, including in the European Semester.