



22/06/2017

Work-Life Balance for Working Parents and Carers

KEY MESSAGES

- 1** The EU needs more and efficient childcare facilities with extended opening hours, as well as facilities for older people. This is where European and national policy efforts should concentrate to allow men and women to better reconcile work and family life. Public-private partnership should also be fostered in this area.
- 2** BusinessEurope fully supports the goal to increase women's employment participation. However, the European Commission's legislative proposal on work-life balance will have a main impact to encourage more parents and carers, men and women, to not work. This is an outdated and one-sided vision of reconciliation, which does not fit with today's reality of the workplace. It will also have far-reaching costs for employers, which the Commission's impact assessment underestimates while anticipating unrealistic returns.
- 3** Putting forward a catalogue of leaves at EU level, whereas Europe is already at the forefront in this field globally, jeopardises the current functioning of leave arrangements in the Member States, and creates the risk of making leaves counterproductive for the economy. Subsidiarity and proportionality principles must be respected. In addition, by proposing to repeal the current parental leave directive, the Commission has chosen an approach that is ignoring the autonomy of the social dialogue.
- 4** The European Commission clearly misses the point that, in fact, companies' competitiveness is the main variable leading them to create more jobs. Flexible working arrangements agreed at company level can play a key role to respond at the same time to companies' changing needs reflecting production cycles and to workers' preferences.
- 5** Europe's changing demographics can be detrimental to long-term economic growth potential in the EU if levels of fertility remain lower than the number of children that men and women actually desire.

WHAT DOES BUSINESSEUROPE AIM FOR?

- *BusinessEurope aims for a change of policy focus at EU level from leaves to investments and coordinated national policies aiming to improve the availability and functioning of care infrastructures.*
- *Families being able to choose for themselves how best to reconcile work and family life duties in a way that does not hinder parents' and carers' participation in work.*
- *Supporting progress in cultural roles of men and women in terms of the sharing of family responsibilities, in accordance with their values and wishes.*



WORK-LIFE BALANCE FOR WORKING PARENTS AND CARERS

BUSINESSEUROPE'S POSITION PAPER ON AN INITIATIVE TO SUPPORT WORK-LIFE BALANCE FOR WORKING PARENTS AND CARERS

I. INTRODUCTION

1. On 26 April 2017, the European Commission presented a series of legislative and non-legislative proposals to support work-life balance for working parents and carers, published together with the European Pillar of Social Rights. One of the alleged main goals is to address women's underrepresentation in the labour market.
2. Against this background, this paper outlines BusinessEurope's position on the above-mentioned issues and makes the case for a discussion on what are the drivers of increasing women's share in employment and on how to better address persistent gaps and unbalances.

II. GENERAL REMARKS

A. On the role of demographics to nurture long-term economic growth

3. A growing population is an important structural condition for economic growth to occur in the long-term. However, available Eurostat population projections show that without migration there would be a 17% population fall for the EU-27 in the projected total population in 2060.
4. The rapid ageing of Europe's population is the result of low fertility rates combined with low mortality rates and increasing life expectancy at birth. In addition, population ageing in Europe leads to a rapidly increasing dependency ratio. The ratio of people aged 65 years and over will increase from 29% at present to 54% in 2050.
5. Fertility rates in Europe have decreased significantly over the past decades. In 2015, the total fertility rate in the EU-28 was 1.58 live births per woman. A total fertility rate of around 2.1 live births per woman is considered to be the replacement level in developed countries: i.e. the average number of live births per woman required to keep the population size constant in the absence of migration.
6. It is up to couples to decide the number of children they want. In this respect, it is important to note the significant gap measured by the OECD between the number of children men and women ideally would like, and the actual number of children they actually have. On average across OECD countries with available data, the mean personal ideal number of children for men is just under 2.2 and for women around 2.3, slightly above the population replacement rate level of 2.1 children per woman.
7. In view of the present demographic make-up, it is important for the EU and the Member States to create the conditions for couples to have the number of children they desire. Moreover, the increasing life expectancy at birth in Europe is an essential achievement which needs to be celebrated and further improved as a sign of human development. However, if the consequences of demographic change are left unaddressed, population change in Europe risks making currently enjoyed levels of social protection unaffordable in the future.



B. On work-life balance as part of an appropriate demographic policy mix

8. Work-life balance policies need to be conceived as part of an appropriate demographic policy mix:
 - Very relevant to work-life balance policies, a key policy challenge is to increase employment participation women. According to the European Commission (source European semester thematic factsheet: Labour force participation of women 2016), more than 40% of the potential female workforce in 2015 is inactive in some countries because of personal and family responsibilities. Childcare services have been shown to strongly influence the participation of women in the labour market. The availability of childcare is also likely to have a positive impact in terms of reducing the gap between the number of children that couples desire, and the number of children they actually have.
 - Less related to work-life balance policies but equally important to address demographic change challenges is the need to modernise social protection systems to adapt them to the changing demographic and employment context. This includes for example the need to maintain the priority and engage the necessary reforms in the Member States for the continuous adaptation of pensions systems to life expectancy improvements, as well as incentives for men and women to work with as limited gaps as possible throughout their careers. Facing demographic change challenges also requires attracting third-country nationals that have skills in demand on our labour markets.

C. On leave arrangements in Europe

9. Europe tops world rankings when it comes to the availability and number of leave arrangements¹. The levels reached in the EU are particularly high compared to global standards. This is due to the variety of leave arrangements that the Member States designed, reflecting different culture and national practices.
10. Women's employment rate has reached an all-time high, reaching 65.5 % in the third quarter of 2016². Some see this unprecedented achievement as being a glass half empty, due to the relative decrease of men's employment rate, or the persistent segregation in low-paid employment. By contrast, BusinessEurope prefers to see the glass half full. We should not forget that only ten years ago, women's employment rates in the EU were 5 percentage points lower than today at around 60%. More progress needs to be done to fully benefit from women's talents on the labour market, but the way forward proposed by the European Commission is not the right solution.
11. The role of EU law is to support and complement certain fields of social policy in the member states, through minimum standards or coordination rules, but never the full harmonisation of social policy across the EU. The Commission's proposal is taking the highest levels of national regulations as the benchmark for the EU regulation. This flawed approach introduces a de-facto harmonisation through EU law because the standards it defines for the EU level are maximum standards, not minimum standards. Trying to impose maximum standards of the most advanced European

¹ European Commission, Reflection paper on the social dimension of Europe, April 2017; World Economic Forum

² European Commission, 2017 report on equality between women and men in the EU



economies will create divisions and conflicts in the Council and the European Parliament, at a point when unity is of essence. In addition, the Commission's proposal would interfere with Member State's well-established arrangements resulting from compromises, often negotiated by social partners and based on national realities, and therefore disrespect the principle of subsidiarity.

12. The leave arrangements acquis has proven adequate in terms of establishing minimum requirements, which respect subsidiarity and leave room to national adaptations, and assuring reasonable costs for public budgets and/or employers. They consist of two directives which have been established since 1992. The first one is the 92/85/EEC directive on pregnant workers which aims to protect the health and safety of women in the workplace when pregnant or after they have recently given birth and women who are breastfeeding. The second one is the 2010/18/EU directive on parental leave. These directives form a comprehensive legislation setting an adequate level of protection and leave arrangements for workers in the EU.
13. The Commission's proposal that would repeal the parental leave directive originating from an agreement between ETUC, BusinessEurope, CEEP and UEAPME, disregards the autonomy of social partners and is against the spirit of the Treaty whereby the Commission and Council cannot change the content of social partners' agreements. In addition to questionable political legitimacy, the approach taken creates a precedent that needs to be rejected. Contrary to this Commission's goal to promote and defend the social dialogue in the context of the re-launch of the European social dialogue initiated by President Juncker in 2015, this proposal makes it difficult for BusinessEurope to believe that the need for social partners' autonomy is understood and respected.
14. The costs involved in the catalogue of leaves and flexible working arrangements proposed by the European Commission are simply not bearable for many European companies. In most cases the leaves will be paid for by companies or financed by companies via social contributions. This way companies will be asked to pay upfront the short term costs of the Commission's proposals, whereas the benefits are intended to meet workers' demands. This is the wrong approach. The EU should avoid proposing legislation that increases the costs of hiring people in Europe, as this would necessarily undermine enterprises' capacity to create jobs. In addition, more leaves will lead to more public social spending and put public finances at further risks of unsustainable deficits.

D. On flexible working arrangements supporting competitiveness and work-life balance

15. The growing competition between companies on expanding global markets combined with the move from primary and manufacturing industries towards services have led to technological and organisational changes that have a big impact on companies' human resources policies. Companies' adaptability to change is a key factor of their competitiveness. Successful companies are those that restructure their activities quickly in response to market conditions. Flexible contracts and flexible working time arrangements play an important role in this respect. They allow companies to deal with peaks and troughs in demand for their goods and services, facilitate moving into other profitable activities and are a vital tool for efficient work organisation (e.g. by filling in for absent employees).
16. From the workers' point of view too, working under a flexible employment contract can suit individual preferences, including changing family circumstances. Flexible



contracts benefit in particular disadvantaged and low-skilled workers who would otherwise find it hard to get a job due to their low initial employability. It provides a stepping stone for new entrants, in particular young people, who can gain the work experience they need to integrate in the labour market durably. It allows older workers to gradually end their career before retiring.

17. To be helpful, organised flexibility in working arrangements must respect the needs of companies and workers. The Commission's proposals to regulate flexible working arrangements goes too far and ignores companies' needs. There is no universal approach on how flexible working arrangements are shaped and to be practical and realistic, they should be defined at company level.
18. It is widely recognised that the way caring responsibilities are currently shared between women and men is one important driver of the employment gap. Yet, this does not show the full picture of how groups, notably women as parents, behave and decide to return or not to the labour markets. Firstly, men and women employment gaps encompass parents and non-parents; for example for non-parents, the proportion of part-time workers is much higher among women than for their male counterpart³, with no child care responsibilities. Therefore, parenthood plays a role but not as much as the Commission seems to believe. Secondly, the intensity of caring for a child varies according to the child's age. The years 0 to 3 can be the most care-intensive period. Even after the age of 3 it is important to ensure sufficient services and facilities after school hours and during school holidays. In both urban and rural areas and after a long period of leave, a high proportion of women tend to choose not to come back to the labour market, hence perpetuating the gender employment gap.
19. Digitalisation of the workplace is reshaping traditional working patterns. In that respect, further reflection is needed to assess how new forms of work may help providing for some new employment opportunities that can support the goal of increasing women's participation in employment.

E. On care infrastructures

20. The availability of childcare facilities is an essential precondition to progress on work-life balance. Rather than coming up with new EU legislative proposals aiming to achieve longer leave entitlements, the most important area for the EU to focus on is to encourage the Member States, where this is needed, to strengthen childcare provision. Extending opening hours, while taking into account distance from home and work as well as transportation networks, is an important consideration to improve childcare provision.
21. Over a long term period, it is proven that the earlier a child goes to nursery, the better his or her education attainments will be, hence facilitating the child's future integration in society and the labour market.
22. An important challenge for policy makers at EU and national levels is to make public and private investments on childcare infrastructures work better in Europe. A large majority of families currently do not have access to the care infrastructures they need, which leads many people out of employment. Public policies supporting the private sector to develop and manage the functioning of new facilities under stable

³ Rand Europe, Parents at work: Men and women participating in the labour force, Short Statistical Report No.2, Prepared for the European Commission, Directorate-General of Justice and Fundamental Rights, May 2014



framework financial conditions is a key factor to keep up pace with increasing parents needs for more childcare places. Part of this is to favour at EU level public investments in growth-enhancing areas, such as network infrastructures and social infrastructures in terms of childcare to contribute to employment and economic growth.

23. The European semester is the right vehicle for policy changes at national level supporting the development of care infrastructures, while ensuring that Member States respect their commitments to strengthen their public finances. The Commission has an important role to organise a process of mutual learning between Member States, in cooperation with the relevant bodies of the Council, and involving the social partners, and public and private care providers.

III. SPECIFIC REMARKS

Legislative proposal

➤ *Approach taken by the European Commission*

24. BusinessEurope believes that the two-stage consultation process was flawed. During the first stage consultation of the European social partners the Commission identified different legislative avenues (parental leave directive, pregnant workers directive, other forms of leave for example paternity and carer's leave). The second consultation was not clear on the costs and benefits of the various options of EU action. This gives the impression that rather than engaging in a meaningful consultation with social partners, the Commission already wanted to move forward with a comprehensive package on work-life balance.
25. The EU directive on parental leave stems from a European social partner agreement that was concluded in 1998 and revised already once in 2009. It should only be up to the social partners, not the Commission, to propose changes to this agreement. During the second-stage consultation of the European social partners on reconciliation back in 2007, the Commission made clear that "the social partners can play a fundamental role in considering whether the parental leave legislation is still up to date". BusinessEurope is now very surprised that it has changed its views. Clause 8 (final provisions), article 7 of the Framework Agreement on Parental Leave annexed to the 2010/18/EU directive states the following: "*The signatory parties shall review the application of this agreement five years after the date of the Council decision if requested by one of the parties to this agreement*". It is therefore not appropriate for the Commission to act, disrespecting the signatories' role.
26. BusinessEurope stresses that there is no official implementation report of the parental leave directive. The only document available from the European Commission is a report drafted by the European network of legal experts in the field of gender equality. This report highlights the high diversity of situations in 33 European countries. In most cases the implementation has been done appropriately, namely national legislation has been adapted. Before reopening the directive, the Commission should have consulted social partners on its own implementation report.

➤ *Proposed directive on improving work life balance of parents and carers*
27. The underrepresentation of women in the labour market and the costs involved in terms of missed economic growth only relates to a limited extent to a lack of leave arrangements. In fact, the female employment rates react to paid leave policies as



much as they do to individual⁴ and demographic characteristics, tax incentives, educational attainments⁵ and provision of formal childcare⁶ services to working parents, including incentives for employers who finance such services for their employees. These important facts and drivers for raising women's employment rates seem to have been neglected by the Commission when considering legislative proposals on leaves. Introducing new and various types of leaves will lead to longer absence from the labour market and therefore decreases the employment participation of women and men.

28. The impact assessment of the combination of preferred options indicates a positive impact on governments' and social spending of about EUR 343 billion for the period 2015-2055, well exceeding the cost for employers estimated at around 171 EUR billion. BusinessEurope believes that the figures are unrealistic and do not give a clear picture of the real cost of the combined initiatives, especially as it is very hard to predict trends 40 years from now.
29. In 2009 the social partners agreed to exclude from the agreement any provisions on the level of allowance and the duration of payment, to leave room for Member States to take into account their national circumstances. The same applies for the maximum age of the child up to which parental leave can be taken, which was unchanged at 8. Now there is a proposal of payment. This proposal is not only unclear, but the financial impact and production losses are largely underestimated. In fact, sickness leave payments vary markedly from one country to another and are very hard to predict. Whether there is a right to pay or full pay also depends on the collective agreement or an individual agreement between the employer and the employee. Moreover, a paternity leave and a carers' leave will impact the companies' production depending on the take-up rates and whether the person absent from work can be replaced or not.
30. The protection of dismissals, especially on people applying for and making use of carers' leave as well as flexible working arrangements, is touching upon the national employment systems in all EU countries. We do not believe that the Commission has a mandate to interfere in such a way with the functioning of labour markets nationally. Widening the group of people protected would create another obstacle to recruit more people, especially women. In addition, this provision would entail highly bureaucratic and unnecessary processes.
31. More leaves and more rights to request especially flexible working time arrangements will lead to a further decrease of working time. According to the 6th Eurofound European Working Conditions Survey "*the trend towards a decline in the average usual weekly working hours continues*". A further acceleration of this trend through the extension of leave and other working arrangements can hardly be afforded by our societies and companies and puts Europe at a further disadvantage compared with global competitors, like the USA where working time trends are going upwards. Moreover, the European social partners have already signed agreements

⁴ IMF Working Paper, European Department, Individual Choice or Policies? Drivers of Female Employment in Europe, March 2016

⁵ IZA, World of Labor, 2014: 87; Thévenon, O. (2013), Drivers of Female Labour Force Participation in the OECD, OECD Social, Employment and Migration Working Papers, No. 145, OECD Publishing; Gender equality in the workforce: Reconciling work, private and family life in Europe, Rand Europe, 2014

⁶ Thévenon, O. (2013), Drivers of Female Labour Force Participation in the OECD, OECD Social, Employment and Migration Working Papers, No. 145, OECD Publishing



on part-time and telework. These agreements leave sufficient space for Member States and companies to find suitable solutions for their respective situations.

32. The absence of paternity leave provisions in Austria, Croatia, Cyprus, Czech Republic, Germany, Malta and Slovakia does not imply that fathers do not have the opportunity to make use of appropriate leave entitlements to participate in family responsibilities. It should remain for the Member States to consider the need for a paternity leave having regard to the way in which other leave arrangements are designed. Many Member States have a historically-evolved system in this area, with definitions which reflect national realities. Sometimes parental leaves combine leaves for different groups. The Commission's proposal does not allow for any room for adaptation and creates new rights on top of existing ones.
33. We strongly oppose to the idea to introduce an EU wide carers' leave. This will create new hurdles for employment and have counterproductive effect on women's employment. If Member States deem it necessary to introduce a carers' leave they should be free to decide upon this issue. Since women are factually the ones who are taking care of sick relatives in most cases, that means that yet another leave is attached to women – which certainly does not help women's position in the labour market. In addition, cost estimates in this area are unreliable due to the effect of demographic ageing on the carers' leaves take up.
34. Not all companies can afford to grant more leaves. Some pioneering companies may find relevant to offer comprehensive leave packages. This is a way to attract highly-qualified candidates and make the workforce more gender-diverse and more competitive. This is natural in a market where companies compete for talents. But most of the SMEs and micro enterprises will simply not be able to follow the trend in terms of employee incentives, perks and leave packages. Instead, new regulatory demands will further undermine their resources to attract and retain talents.
35. The internal management and human resources constraints of companies are simply ignored. Team leaders, managers, human resource managers, and micro- and SMEs owners will have to spend a disproportionate amount of additional time to manage individual requests with different purposes. Managing maternity, paternity and carers' leaves will de facto generate time consuming internal processes and administrative complications and burdens to face immediate employee demands.
36. Many Member States are at, or approaching the point where tax levels are harmful for growth by weakening incentives for workers to enter the labour market. If social spending levels remain unchanged, with a greater number of people tapping into it, commensurate with the expected rising numbers of paternity and carers' leaves, this would actually make individual compensations smaller for individuals who are entitled to e.g. sickness pay. On the other hand, increase in social spending require financing through higher taxes and/or social contributions, potentially leaving employees with less net income. This should be assessed and taken into account by policy-makers.

Non-legislative proposals and aspects

37. The results of the public consultation on "Working cares in the EU"⁷ clearly show that improved EU-level legislation is not a priority. Organisations and individuals rather opted for more exchanges of good practice, clearer guidance, strengthened financial support and further awareness-raising activities.

⁷ European Commission, October 2016



38. A key area of progress is to build on the existing Barcelona targets, and new mutual learning activities between the Commission, Member States and social partners to achieve better outcomes in terms of the functioning of care infrastructures. According to the latest data available, in 2014 only ten Member States met the Barcelona targets of 33 % of children below three years old in formal care structures and only nine met the target of 90 % of children between three and school-age in formal care⁸. European benchmarks on childcare should be designed in a way that stimulates more forceful policy actions, in the countries where this is necessary, as part of the European semester process.
39. The pros and cons and feasibility of the Commission's idea to install "facilities to allow for breastfeeding" to "ease women's transitions back into work" need to be further considered, including possibly space limitation – in particular in smaller enterprises. Further, there would first need to be facts provided as to typical breastfeeding periods and whether it is likely for mothers to return to work while still breastfeeding.
40. Having a clear idea of how parents use existing leave arrangements and also why parents do not use them is an essential work to be carried out by the European Commission on an annual basis. The annual report on gender equality serves this purpose. BusinessEurope believes that the reasons behind the low take up rates of fathers linked to individual choices and stereotypes are underestimated. More efforts should be made to better understand at national level the interplay between existing leave arrangements and cultural differences which may play a greater role in maintaining women in traditional carers' activities.

IV. CONCLUSION

41. Work-life balance is an important labour market challenge that needs to be addressed in a way that promotes employment participation, adequately responds to families' expectations and realities, and takes into account the impact on the competitive position of European enterprises.
42. BusinessEurope is against the Commission's legislative proposal introducing new leaves and rights at EU level. The proposal gives the wrong impression that leave arrangements, such as parental leave, paternity leave and carers' leave compensated at sickness pay level, will solve the problem of the underrepresentation of women in the labour markets. This will have the reverse effect and keep women out of the workplace while encouraging more men to take up leaves. It is unfair to finance such a badly targeted policy at the cost of business competitiveness.
43. National policy-makers, social partners, and care providers should be supported to improve the situation of working parents and people taking care of elderly at national level. Better investments on care infrastructure are the priority, including the cooperation between public and private sectors.

⁸ European Commission, 2017 report on equality between women and men in the EU