
CEEMET position on work-life balance for working parents and carers

On 26 April 2017, the European Commission launched its initiative to support work-life balance for working parents and carers, within the framework of the European Pillar of Social Rights. The initiative, besides non-legislative actions, includes the Commission's proposal for a new Directive on work-life balance for parents and carers, repealing Council Directive 2010/18/EU, implementing the Framework Agreement on parental leave concluded by the cross-sectoral social partners at EU-level.

CEEMET's key messages

- CEEMET fully supports the general objectives of increasing the participation of women in the labour market, particularly in STEM disciplines, as well as of ensuring equality between men and women with regards to labour market opportunities and equal treatment at work.
- CEEMET regrets that the Commission decided to take legislative action in the fields of leave and flexible working arrangements, despite European employers unanimously rejecting this course of action. CEEMET regrets in particular the unprecedented repeal of the directive implementing the social partner framework agreement on parental leave, thus undermining the role of social partners at EU level.
- The EU needs to respect the principle of subsidiarity and the limitations to its competences in the field of social policy. The proposal goes beyond setting minimum requirements, with adequate EU minimum standards already in place. The unbalanced view on flexible working arrangements in the Commission's proposal gives not only the impression that companies' needs are not taken in account, but suggests that the disproportionate burden on companies the proposal would create is not understood.
- CEEMET supports, with some reservations, a focus on non-legislative measures, especially those that support Member States in improving access to and the quality of childcare and elderly care facilities. It is the shortage of such facilities that hinders female labour market participation and contributes to labour market segmentation.



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Introduction

CEEMET members support the objective of increasing the participation of women in the labour market, particularly in STEM disciplines, as well as ensuring equality between men and women with regards to labour market opportunities and equal treatment at work. Many CEEMET members already have active labour market programmes aimed at improving the gender split in manufacturing and supporting women who wish to enter the sector.

However, CEEMET cannot support the European Commission’s view that legislative action is required in this area and moreover fears the negative impact of the legal action chosen.

CEEMET favours greater support, not legislation, for the progress already made by MET sector social partners in contrast to the proposal from the European Commission to repeal Directive 2010/18/EU implementing the framework agreement on parental leave, in the face of the clear message of the social partner organisations representing employers at EU level that they do not support the revision of the current EU legislative framework on work-life balance.



Valuing social dialogue and social partner autonomy

In Europe, social dialogue is the bedrock of our social market economy, a market that has created unparalleled living standards and levels of employment and is at the heart of the European Union. Within the MET sector, the role of the social partners is paramount, a role which has demonstrated its ability to increase competitiveness whilst improving the social standards of those employed within the sector.

Over the past years, the European Commission has positioned itself as the Commission of Social Dialogue, with a call for social dialogue to return to the centre of economic development. In light of this, CEEMET finds the European Commission's choice to repeal Directive 2010/18/EU implementing the framework agreement on parental leave, signed on 18 June 2009 by the cross-sectoral social partners at EU level, difficult to understand, and undermining of the role of social partners at the EU level.

Within the framework of the social partner consultation in 2016, European employers unanimously asked for, on well-founded reasons, a moratorium on further legislative action in the field of leave arrangements. CEEMET therefore finds another proposal for further legislation counterproductive, particularly where the basis of the views of European employers have not been addressed.

The European Commission's obligation to consult social partners before submitting proposals in the field of social policy, implies that both employers' and workers' sides of social partners have to be heard and that the response of both sides is properly considered in the light of the EU's competences in social policy. The second phase social partner consultation gave an indication of the European Commission's policy preferences. A choice appeared already to have been made by the European Commission to move forward with legislative initiatives, leading to a pro-forma consultation of social partners.



A closer look at the proposal for a Directive on work-life balance for parents and carers

General observations

A matter of subsidiarity and proportionality

The principle of subsidiarity requires that action should only be taken at EU level insofar it is more effective than action taken at national, regional or local level. The fact that a legislative framework on leave arrangements improving work-life balance already exists at EU level cannot serve as a general justification for further legislative action at EU level. The EU directives in this field already provide for adequate minimum standards and there is no evidence that these standards are in need of change.

EU action can only be justified insofar as it is proportionate to its objectives and after a thorough examination of other options which could achieve the same objectives. The availability of affordable child care facilities – not leave entitlements – are the key driver for increasing female participation in the labour market and should therefore, together with elderly care, be a priority for national, not EU level, policy makers.

CEEMET believes that the legislative proposal of the European Commission does not comply with the principles of subsidiarity and proportionality: national authorities, with the support of social partners, are best placed to introduce their own tailor-made legislation and to support social measures, adjusted to the Member State's labour market, legal framework, available resources and society.

A matter of competitiveness

European companies in the MET industries operate in global markets. Both social standards and the competitiveness of businesses must therefore be seen in this context. EU policies, including social policies, should focus on increasing competitiveness whilst maintaining the high level of social investment in EU citizens made by EU employers. CEEMET, however, believes that the European Commission's proposal will have an adverse effect on competitiveness for the following reasons:

- The proposal of the European Commission will inevitably lead to substantial additional costs for companies, both direct and indirect which are not understood. The impact assessment does not fully take into consideration the administrative costs and burdens, notably those related to the partial and part-time take-up of parental leave.
- Many MET sector employers already offer flexible working to all employees at a company level. These arrangements risk being withdrawn in favour of a new legislative regime, with some workers then losing out on pay, hours of work or their chosen jobs entirely.
- Employers, especially SMEs, who deal with flexible working informally with their workers risk being burdened with the cost of managing both rigid leave and flexible working arrangements; this impact has not been assessed by the Commission.
- The flexible working arrangements envisaged in the proposal are one-sided and take no account of all workers and employers. MET sector employers are already turning down requests for flexible



working where there are disputes within the workforce as to who should be entitled to work flexibly and who should not. Then social partners are best placed to deal with this.

Detailed comments on the Commission's proposal

Paternity leave

At the EU level, the current parental leave framework agreement provides appropriate minimum standards guaranteeing both fathers and mothers access to leave to care of their children. The absence at an EU level of a minimum period of paternity leave entitlement for all fathers should not lead to the conclusion that the imposition of such a measure is necessary or would be effective. In many of these Member States the presence or absence of a legal right to paternity leave does not affect the periods of time that fathers take to care for their children.

Member States are best placed to decide whether any legislative action is desirable at the national level, taking into account the delicate blend of social policy objectives at national level, the measures already taken at national level to ensure equal labour market opportunities for men and women, the social support provided to families and the variety of leave arrangements already available to workers.

Parental leave

While the duration of the parental leave remains unchanged, the proposal reforms the minimum entitlements to parental leave at EU level in a non-transferable parental leave: each parent would be entitled to (minimum) 4 months of parental leave, which cannot be transferred from one parent to the other. Also, the age of the child which the leaves attaches to is increased from 8 years to 12 years. Workers would be given the right to request parental leave on part-time basis, in blocks separated by periods of work or in other flexible forms. Employers have to respond and justify a refusal of such request in writing.

At EU level, only minimum requirements are set in the field of social policy, complementing and supporting the Member States' activities, and taking into account the conditions and technical rules applicable within in each Member State.

With this proposal, the Commission largely oversteps the EU's competences, going beyond the introduction of minimum requirements in the following ways:

- Adequate minimum requirements have been agreed between social partners. The proposal goes beyond minimum requirements and does not take into account the specificities of the varieties of leave currently existing at national, sectoral and company level.
- Both the non-transferable period of parental leave of one month as set in the current framework agreement and the right to parental leave until the child has reached the age of 8 are adequate minimum requirements. There is no clear evidence that these changes would lead to an increase of equality between men and women with regards to labour market opportunities.



- Granting a right to workers to request any flexible form of parental leave fails to qualify as a minimum requirement in the sense of Article 153(2)(b) TFEU. Minimum requirements at EU level entail that Member States cannot put restrictions to rights determined in a directive on social policy. Whilst in the current framework agreement on parental leave, it was left to Member States and social partners to decide whether parental leave is granted on a full-time or part-time basis, in a piecemeal way or in the form of a time-credit system, the proposal transforms this into a workers' right.

No limits are set to what workers can request, or when they can make a request, which makes it impossible for Member States and social partners to define which types of part-time leave can be requested under which conditions or how to limit flexible forms of leave which can be requested by the worker. This then means that employers would be unable to achieve any level of equality between workers, manage the requests or grant leave requests for workers in an orderly way. This is even more so in the event of paid leave (cf. infra), in which case the administration of such payments would become overly complex. CEEMET is aware that where this exists at Member State level, such systems have been found to be extremely difficult to administer for employers, for workers and Member States.

Carers' leave

Similarly, the absence of a specific carers' leave entitlement for all workers in all Member States should not lead to the conclusion that an EU level entitlement is required. No evidence has been presented to support the argument that a wide-ranging and homogenous legal right is either needed at the EU level or would have any impact. Where carers already have an entitlement to leave, either as a result of agreement or regulation, the take up of the leave does not suggest that there is a need for further entitlements. It also appeared from the second phase social partner consultation that not all existing national forms of leave were taken into account.

Member States are best placed to decide whether any further legislative action is needed at national level, taking into account their own social policy constraints and the leave arrangements already available to workers. Member States must have the freedom to decide how they prioritise aspects of their own labour markets and how they incentivise different measures, and may e.g. opt for investment in child and elderly care facilities.

Moreover, the proposal on carers' leave appears problematic to implement in certain Member States as carers' leave is organised in an entirely different way to that which is proposed by the European Commission.

The proposal for carers' leave seems to be inspired by the right to time off work on grounds of force majeure, which is creating confusion.¹ In any case, the right to time off for urgent family reasons in case of sickness or accident making the immediate presence of the worker indispensable, as defined in the framework agreement on parental leave and in the European Commission's proposal, largely suffices as an EU level minimum requirement to ensure that workers with urgent carers' responsibilities can meet these responsibilities.

¹ In this respect, it appears that in the February 2017 study on the costs and benefits of possible EU measures to facilitate work-life balances for parents and care givers, measures of Member States implementing the right to time off for work on grounds of force majeure are confusingly referred to as carers' leave.

Adequate income: payment or allowance equivalent to sick leave pay

The proposal introduces an entitlement to paid leave and sets as minimum level a payment or allowance equivalent to sick leave pay. CEEMET strongly opposes to this proposal for the following reasons.

The right of workers to such payment or allowance is inevitably linked to the national social security scheme. Hence, the legal basis as suggested by the European Commission, notably Article 153 (1) (i) TFEU does not suffice as a legal base of the proposal. In addition, Article 153 (1) (c) TFEU should be referred to as well, requiring the Council to act unanimously in such matters.

Also, while a similar provision exists at EU level within the framework of maternity leave, the difference with maternity leave renders it an inappropriate comparator. Maternity leave is a mandatory period of leave based on health and safety considerations; carers' leave is therefore wholly different in its nature and cannot justify the mere copying of the minimum payment or allowance from maternity to carers' leave.

The entitlement to paid leave would be likely to add significant additional financial burdens to Member States and companies, and are currently entirely unquantifiable as it is unclear what the applicable minimum level of payment would be or who would be responsible for meeting it. It is also unclear why carers leave would be compensated at the same level as maternity leave.

The matter of pay is clearly an issue of subsidiarity that this should be decided on by Member States and social partners, taking into account other competing social priorities and the ability of a Member State to pay.

Flexible working arrangements

When introducing flexible working arrangements, it is of the utmost importance to take into account the particularities and the necessities of each company and each of their individual workers. Also, working arrangements primarily have to reflect what companies need for their businesses to stay competitive and their working patterns.

The European Commission's proposal does not take into account the needs of businesses or the needs of workers. It creates an unbalanced right to request flexible working arrangements and does not recognise the need to prioritise some workers over others, for example those with disabilities. While no limits – except with regard to the duration of the right – can be set to the right of parents and carers to request flexible working arrangement, employers have to justify in writing a refusal of such request. Also, a worker requesting flexible working arrangements shall be protected against dismissal, irrespective of the reasonableness of the request or requests. In the case of changed circumstances, the worker may request a return to the original working pattern. Again, a refusal by the employer has to be justified in writing, and again, the worker will be protected against dismissal.

Not only does the European Commission omit to set clear minimum requirements in order to make such requests and rather opts for a maximum right to request for workers, it also creates a disproportionate burden on smaller employers and ignores the need for the requirements of workers to be prioritised and



balanced. As to the implementation of this proposal, the Member States can only limit this right in terms of the duration flexible working arrangements can be requested.

The right granted to parents and carers may lead – unintentionally – to a disproportionate advantage for parents and carers in comparison to other workers who may be equally deserving of flexible working.

Protection against dismissal and burden of proof

The protection against dismissal as suggested in the proposal reads as a maximum protection for workers, rather than a minimum standard set at EU level.

The proposal is unbalanced and does not take into account the burden created for companies, especially SMEs, and the disproportionate protection workers with carers responsibilities are given in comparison to workers with no protection against dismissal. In essence, it created a playing field which for some workers is not level.

Also, Member States, together with social partners, are best placed – as acknowledged in the current Directive 2010/18/EU implementing the framework agreement on parental leave – to decide on the protection against dismissal fitting into their national legal framework on the termination of employment contracts. Hence, the correct application of the principle of subsidiarity can only lead to the conclusion that – as provided in the Directive 2010/18/EU implementing the framework agreement on parental leave – Member States, together with social partners, should define the necessary measures to protect workers against less favourable treatment or dismissal, in accordance with national law, collective agreements and/or practice.

Penalties

While in the field of social policy, often, a compensation for damages actually suffered, is often accepted as a sufficient compensation for workers, the proposal focusses on penalisation rather than prevention and repair.

Penalties should – if considered appropriate by the Member State - only be a last resort, and reserved for serious, intentional breaches of social law.

The approach taken in the proposal, forcing Member States not only to introduce penalties, but also to apply these penalties, is objectionable.

Member States should decide on their own policies on enforcement of social policy provisions. Member States should have the choice to focus on prevention and repair, and should under no circumstances be encouraged to impose penalties.



Observations regarding the proposed non-legislative actions

While CEEMET in general encourages non-legislative actions to increase women participation in the labour market and to ensure equality between men and women with regards to labour market opportunities and treatment at work, two observations should be made in this respect:

- Any non-legislative action should be transparent, notably when EU funding is made use of to support Member States to increase women participation in national labour markets.
- Non-legislative action should not be used as a tool to push for convergence of national labour market policies.



Zooming in on MET employers' strong support for increasing women participation in the MET industries

To illustrate the MET industries' strong demand for increasing the participation of women in the MET industries, we have set out a few of the numerous initiatives at national and regional level to make MET industries more attractive to women and to support women in the MET industries.

Technology Industries of Finland: Women in Tech

Women in Tech is an organisational network for promoting technology careers for women. Activities of the network are organised by Technology Industries of Finland together with tech companies and other partners. Women in Tech activities include monthly Breakfast Dates, that have become super popular both in Helsinki and other cities. Main event of the network is the bi-annual Women in Tech Forum that has been organised in Finland since 2013. The forum in October 2017 is held under the theme of "Women matter in tech: Success stories". It is expected to bring altogether 1000 women and men with a keen interest in the future of business and technology to Helsinki. <http://womenintech.fi/>

EEF – UK's manufacturers' organisation: campaigning for women in the manufacturing industries

EEF have a dedicated page on their website which highlights the fact that only 15% of the manufacturing workforce is female, the need to increase it and how, and also showcases successful women within the company through a series of blogs. <https://www.eef.org.uk/campaigning/campaigns-and-issues/current-campaigns/women-in-manufacturing>

In March 2015, EEF published a third report its in '[Women in Manufacturing](#)' series, sponsored by Lloyds Bank, which provided an update on female board representation in FTSE 100 manufacturers.

Some further recent examples of the ongoing campaigning of EEF for women in the manufacturing industries are the following:

- On 6 March 2017, during National Apprenticeship Week, EEF had a dedicated [twitter campaign](#) using #NAW2017, where a day in the life of a female apprentice was showcased.
- On 8 March 2017, it was [International Women's Day](#), and again EEF had a twitter campaign #beboldforchange where we shared inspiring women in manufacturing profiles, the success of award winning female apprentices and why more women in manufacturing are needed.
- On 23 June 2017, it was International Women in Engineering Day (#womeninmfg). Therefore EEF's Chief Operating Officer wrote a [blog](#) focusing on how the next generation of women in generation can be mentored.



Gesamtmetall – German employers in the MET industries: enhancing female labour market participation and tackling gender roles

“Girlspower in the MET industries”

The information brochure “Girlspower in the MET industries” and the matching [website](#) provide young females with a detailed overview about job opportunities in the metal and electrical engineering industries, listing various job profiles and information about the respective skills needed. Girls get tips for a successful application, finding a spot for the “Girlsday” (a one day internship in a company for girls only) and can inform themselves about issues such as reconciliation of work and private life in our sector. The site also matches potential applicants with companies helping them to find a vacancy for an apprenticeship.

Online brochure: Family and work in the heart of the economy

The [online brochure](#) gathers extensive information on how employees can successfully reconcile their work and family life. It offers many different best practice examples from German companies in the MET sector and shows that only flexible working arrangements on the company level do meet employees' demands as there is no standard family model.

Combating stereotypes: Pixi children's book “My friend, she's an engineer”

In collaboration with the MET employers the Think ING. Network developed a [children's book](#) which was published in the famous Pixi book series. The cartoon portrays a female engineer, creating a role model for young girls interested in technology and science. The publication thus serves to overcome traditional gender roles even among the youngest in society.

Collection of company examples within the “Heart of the economy campaign”

Many good company examples are gathered on the website of Gesamtmetall's image campaign “Herz der Wirtschaft” to show that companies are proactively trying to attract women to the sector.

<http://www.herz-der-wirtschaft.de/vorbilder/vertrauen-auf-frauen.html>

<http://www.herz-der-wirtschaft.de/vorbilder/weiblich-wichtig-wertvoll.html>

<http://www.herz-der-wirtschaft.de/vorbilder/kinder-und-karriere.html>

<http://www.herz-der-wirtschaft.de/vorbilder/mut-zu-maschinen.html>

<http://www.herz-der-wirtschaft.de/vorbilder/traumjob-ingenieurin.html>

<http://www.herz-der-wirtschaft.de/vorbilder/mami-an-der-maschine.html>

<http://www.herz-der-wirtschaft.de/vorbilder/mehr-maedchen-an-die-werkbank.html>

