



EUROPEAN WOMEN'S  
**LOBBY**  
EUROPEEN DES FEMMES

## WORK-LIFE BALANCE DIRECTIVE

### The EWL Assessment of the recently adopted Directive on work-life balance for parents and carers

June 2019

#### BACKGROUND

The Council of the EU adopted the new Directive on work-life balance for parents and carers on the 13 of June 2019.

In April 2017, the European Commission launched its proposal for a Directive on family-related leave covering parental leave, paternity leave, carer's leave and the right to request flexible working arrangements for parents and carers. The Directive would replace the previous EU Directive on Parental leave (2010/18/EU), negotiated and adopted by the Social Partners in 2010. The initiative was announced after the Commission withdrew the proposal for a Maternity Leave Directive in 2015, which failed after almost seven years of negotiations.<sup>1</sup>

The Work-Life Balance (WLB) Directive is part of the European Commission broader initiative for a European Pillar of Social Rights ("Social Pillar"). The Work-Life Balance Directive is the most concrete proposal of the Social Pillar, and comprises both legislative and non-legislative proposals.

The WLB Directive is part of the **co-decision procedure** (trilogies), which means that both the European Parliament and the European Council (representing Member State governments) negotiated to reach a final text.

On 21 June 2018, the Council agreed its general position that formed the basis for the negotiations with the European Parliament. The presidency of the Council and the Parliament reached an agreement on 24 January 2019, followed by a vote by the European Parliament on 4 April 2019.

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<sup>1</sup> Legislative Train Schedule: Maternity Leave Directive, European Parliament. Available at: <http://www.europarl.europa.eu/legislative-train/theme-deeper-and-fairer-internal-market-with-a-strengthened-industrial-base-labour/file-maternity-leave-directive>



After months of trilogues, the co-legislators reached a provisional agreement, which was endorsed on 6 February 2019 by the Council of the EU. Following that, the provisional agreement resulting from institutional negotiations was adopted on the 26 February 2019 at the European Parliament Committee on Employment and Social Affairs with 31 votes in favour, 3 against and 3 abstentions.

Finally, on 13 June 2019 the Council adopted the Directive with a clear majority. Denmark, Hungary, the Netherlands and Slovenia voted against. Austria and Poland abstained.<sup>2</sup>

Following the adoption, the text of the Directive will be published in the Official Journal of the EU and it will enter into force on the twentieth day following the publication.



Member States will then have three years to adopt laws, regulations and administrative provisions necessary to comply with the directive.

Briefly, the agreement entailed a set of European minimum standards of:

- **10 days paternity leave** around the birth of the child (paid at sick-leave level).
- **4 months of parental leave** (with minimum 2 months non-transferable and paid, with payment to be determined by national governments); and
- **5 days/year of carers leave per worker** (conditions and payment to be decided by national governments).

It must be stressed that the directive will bring little change in the best-performing countries, whose generous leave systems already allow them to meet the minimum standards. In addition, for parental leave and carers leave, no European thresholds on payment have been established, leading to a lack of homogeneity in the levels of welfare. Finally, Members State can decide if access to parental and paternity leave is subject respectively to one year and six months of service with the employer.

<sup>2</sup> Work-life balance for parents and carers, Timeline, European Council. Available at: <https://www.consilium.europa.eu/en/policies/work-life-balance/>

## THE DIRECTIVE

### Legislative measures

The new Directive on family related leave covers parental leave, paternity leave, carers' leave (first time such a form of leave is introduced into European law) and the right to request flexible working arrangements for reasons related to care responsibilities. It should be noted that the Directive proposes **minimum standards**, which means that countries that have higher standard than those proposed cannot lower these.

In terms of the different forms of leave, the WLB Directive regulates:

- **Paternity leave:** fathers or second parents (as recognised by national law) will be able to take at least 10 working days of leave around the time of birth of a child paid at a level equal to that currently set at EU level for maternity leave (in line with article 11 of Council Directive 92/85/EEC). The right to paternity leave will not be subject to a prior service requirement. However, the payment of paternity leave can be subject to a six-month prior service requirement. Member states with more generous parental leave systems will be able to keep their current national arrangements.
- **Parental leave:** an individual right to 4 months of parental leave, from which two months are non-transferable between the parents and are paid. Member States will set the level of payment and the age limit of the child.
- **Carers' leave:** a new concept at EU level for workers caring for relatives<sup>3</sup> in need of care or support due to serious medical reasons. Carers will be able to take five working days per year. Member states may use a different reference period, allocate leave on a case-by-case basis, and may introduce additional conditions for the exercise of this right.
- **Flexible working arrangements:** right for parents of children and carers to **request** (*not automatically granted*) adjustment of their working patterns, including the use of remote working arrangements, flexible working schedules or reduced working hours. There is no obligation for the employer to grant the requested change.

### Maternity Leave

There are no legislative proposals on maternity leave other than soft-law (see commentary below).

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<sup>3</sup> Or to a person who lives in the same household as the worker.



## THE EWL ASSESSMENT OF THE WORK-LIFE BALANCE DIRECTIVE

### Assessment of the legislative measures

The EWL has had long-standing position and call for comprehensive, all-encompassing and integrated reconciliation policies based on a **life-cycle approach** with respect to both women and men, ensuring a culture where women and men are equally considered as carers **and** as actors in the paid economy throughout their lives. The core of such an integrated approach must be the goal to eliminate gender stereotypes perpetuating the traditional division of labour and the ensuing inequalities detrimental to women in relation to paid work and unpaid care work. Alongside policies that ensure women are protected from the detrimental effects of discrimination and stereotypes, policies that promote the role of men in care and family responsibilities and encourage men to take parental and paternity leave are welcome. Therefore, the EWL has always called for **legislative measures**, particularly the introduction of an **individual right of paid four months' parental leave that is non-transferable** between partners.

Care policies and support services for older people, people with disabilities and children, and statutory leave including maternity, paternity and parental leave provisions, are fundamental elements to achieve equality between women and men. Real opportunities to reconcile work and private life are one of the most important determinants of women's and men's decisions about the number and spacing of their children and the type and length of both their paid and unpaid work. Equality between women and men in employment and in the public sphere depends very much on equality in the private sphere, especially with regards to equal sharing of care-work between women and men.

The EWL has consistently called for the revision of and new legislation to **guarantee women's and men's financial security and independence** while they care for someone else. *Guarantee*<sup>4</sup> means legal provisions protecting against any form of discrimination based on maternity/paternity/parental/carer's leave, and complementary financial policy measures that deter employers from considering women a risky and expensive employee-pool and for men to consider paternity, parental leave and other forms of care leave as a career-threatening and financially risky undertaking. *Security*<sup>5</sup> means guarantees that women/men have the right to time out without losing job/promotion /income/social security rights. *Care* means caring for child(ren), elderly relatives, persons with disabilities or any other dependant family member.

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<sup>4</sup> It is urgent to unblock the equal treatment directive that would protect persons based on their disability, religion, sexual orientation or age against discrimination in accessing goods and services, health care, education, etc. A reference can also be made to the Coleman case of the European Court of Justice that protects against discrimination by association. The case concerned a mother of child with disabilities that was discriminated against at the work place because she requested flexible working hours to be able to take care of her child (judgement ECLI:EU:C:2008:415)

<sup>5</sup> The right to time out is already a legal obligation for the EU under the 2000/78 Equal Treatment Directive and the UN CRPD which both stipulate the obligation for employers to provide reasonable accommodation, such as a right to time out or to have flexible working hours.



While welcoming the adoption of the Work-Life Balance Directive, the European Women's Lobby would like to make the following remarks and observations, in general and on specific articles:

Firstly, the current legal framework does not sufficiently take into account the situation of parents with disabilities and carers' of persons with disabilities. The package should fully comply with the obligations of the **UN Convention on the Rights of Persons with Disabilities** (CRPD), which has been ratified by the EU and all Member States and with the UN's concluding observations that the EU received from the CRPD committee in 2015, particularly with regards to Article 23<sup>6</sup> - Respect for home and the family. One of the recommendations of the UN Committee<sup>7</sup> to the EU was to ensure that people with disabilities and families of persons with disabilities were included in the announced road map, "New start to address the challenges of work-life balance faced by working families"<sup>8</sup>, i.e. the background document for the WLB legislative proposal.

### **Assessment of specific articles**

#### **Article 2:**

The EWL considers the **scope** (Article 2) of the Directive to be very narrow: i.e. applicable only to "all workers who have an employment contract or employment relationship".

The EWL defends a broader scope, in order to include domestic workers, a-typical workers, including those with precarious contracts and self-employed workers in line with [Directive 2010/41/EU](#) relating to equal treatment between men and women engaged in a self-employed capacity.

#### **Article 3:**

The EWL considered that the definitions provided in the Proposal were too narrow and needed to be expanded to **take into account the different forms of families** existing in European societies. The goal must be to remove any form of discrimination or discriminatory treatment of, for example, same-sex parents, recomposed families, single parent families, families with special needs, etc. Limiting the definitions to the nuclear-family model is not only obsolete as it does not reflect the reality of the diversity of families, it could result in the exclusion of many workers who are effectively carrying out parenting and caring responsibilities without being biologically related to the person(s) they are caring for.

The adopted Directive includes "equivalent second parents [...] where and in so far as recognised by national law" and defines relative as "a worker's son, daughter, mother, father, spouse or, where such partnerships are recognised by national law, partner in civil

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<sup>6</sup> See annex 1 for further details on Article 23

<sup>7</sup> All the observations of the UN Committee relating to Article 23 are included in annex 1

<sup>8</sup> European Commission, "New start to address the challenges of work-life balance faced by working families". Available at: [http://ec.europa.eu/smart-regulation/roadmaps/docs/2015\\_just\\_012\\_new\\_initiative\\_replacing\\_maternity\\_leave\\_directive\\_en.pdf](http://ec.europa.eu/smart-regulation/roadmaps/docs/2015_just_012_new_initiative_replacing_maternity_leave_directive_en.pdf)



partnership". Such definitions will exclude parents or carers which de fact provide care but are, for example, in partnerships not recognised under national laws.

This is why the EWL demanded that the definitions were extended to include "social parents/carers" including siblings of the person in need of support or any other person chosen by the person in need of support. This means including those who are effectively taking responsibility for rearing children and/or looking after dependent members of the extended family, including the elderly. It is short-sighted to limit access to carers' leave to first-degree relatives. Furthermore, the choice of the person being cared for is of utmost importance.

In the adopted Directive, the initial definition of dependency has been removed: "(e) "dependency" means a situation in which a person is, temporarily or permanently, in need of care due to disability or a serious medical condition other than serious illness". In previous analysis, the EWL understood that this definition of dependency and care stems from a medical perspective with a focus on illness and impairment.

EWL would have opted for adopting a similar approach to the UN Convention on the Rights of Persons with Disabilities (CRPD). This would entail starting from a social instead of a medical view with a focus on the barriers that hinder full and effective participation of people in society and consequently cause unnecessary dependency. The UN CRPD is now mentioned only in the preliminary considerations (4), calling for consistency when interpreting this Directive.

As previously mentioned, the UN CRPD is already ratified by the EU and all the Member States. Therefore, making sure the WLB Directive and the CRPD have a similar approach would ensure consistency in EU law.

#### **Article 4**

Article 4 on paternity leave stipulates the right to leave of 10 working days to be taken on the occasion of the birth of the child. EWL has called for a right to leave of two weeks with similar conditions to maternity and parental regarding protection from dismissal.

#### **Article 5**

Article 5 on parental leave stipulates the right to leave of four months, to be taken before the child reaches a specified age, up to the age of eight. This article establishes that two months of parental leave cannot be transferred. EWL has called for an individual right to leave of four months where whole period is non-transferable and fully paid.

Member States may make the right to parental leave subject to a period of work qualification or to a length of service qualification, which shall not exceed one year.

#### **Article 6:**

Carers' leave is defined in Article 3 as "leave from work for workers in order to provide care or support to a relative, or to a person who lives in the same household as the worker, and

who is in need of significant care or support for a serious medical reason”. Defining “significant care” or “serious medical reason” is at the discretion of Member States.

With regards to carer’s leave (Article 6), the EWL proposed that positive actions addressed to men should have been introduced in order to avoid the reinforcement of gender roles on caring and the subsequent negative impact on gender equality.

The adopted Directive stipulates in article 6 the right to carers’ leave of five working days per year. The EWL has a long-standing demand of 12 working days for carers’ leave to be taken full-time, part-time or needs-based. The EWL is of the opinion that this would particularly support carers who need to cater for persons with regular medical or other support needs, allowing them to have at least one day per month to support persons with these needs.

On the other hand, it should be noted that some disabilities may not be detected in the early phases of childhood and may demand long-term care and therefore the term “serious illness” may de facto pose a barrier to avail of the right to carer’s leave.

EWL recommended the following conditions of access to parental and carers’ leave to respond to the needs of parents having a disability and parents with children with a disability or long-term illness (Article 5.8):

- i) Introduce a specific provision on children with disabilities in accordance with Art. 7 of the CRPD.
- ii) Raise the age of the child with a disability beyond the limit of 8 years as stipulated in the Directive, to entitle working parents (both women and men) of children with disabilities to an individual right to parental leave.

In the adopted Directive, the conditions of access are left to Member States for definition.

#### Article 8:

Article 8 guarantees that workers who exercises their right to **paternity leave** will receive a payment or allowance equivalent to the sick leave (to remain coherent with the standard regarding maternity leave payment). In relation to **parental leave**, such payment or allowance will be fixed by Member States, although the directive encourage that this is set in such a way that will facility the take-up of parental level by both parents. The EWL, in light of the persistent gender pay gap, considers that every effort should be made to ensure a gender equal “adequate income” relating to different forms of statutory leave.

On the other hand, EWL wishes to highlight that workers with disabilities and carers’ of persons with disabilities face high disability-associated expenses related to parenthood and caring of other persons with high support-needs which contributes, among other reasons, to an increased risk of poverty. Persons with disabilities and carers’ of persons with disabilities should have these disability-related expenses covered to support families of persons with disabilities and to ensure the right of children with disabilities to live and integrate in their communities. This demand was not included in the adopted Directive.



## Article 9 and 10:

With regards to flexible working arrangements (Article 9), the EWL notes that the right to request this measure can be refused by the employer and have previously advocated for the reasons for refusal or postponement to always be provided in writing (as it is the case for parental leave). For consistency, this should have been included in paragraph 2 (refusal of a request) and in paragraph 3 when an employee returning to their original working pattern at the end of/change of circumstances relating to flexible working arrangements.

On a broader scope, while the EWL welcomes the introduction of flexible working arrangements, it does however **question how flexibility will be implemented in practice**. It is crucial that there are clear guidelines regarding working time outside of “traditional” working hours. If flexibility is to be understood as working remotely with expectations to “stay in touch” during leave (article 10: “ensuring that the employment relationship is maintained during that period”) and flexibility on return from leave, without a clear framework, this could be counter-productive to the essence of the Work-Life Balance Directive.

The right to a “switch-off” time is an integral part of the concept of work-life balance and should have been taken into consideration when defining what “flexible working arrangements” mean. The EWL invites the Member States and the Social Partners, in the context of collective bargaining, to address this issue carefully during transposition. For instance, the “**right to disconnect**” introduced into labour law, effective since 1 January 2017, in France<sup>9</sup> could be a model for inspiration regarding flexible working arrangements.

The EWL welcomes Article 10 relating to **employment rights** which clearly stipulates that Member States should clarify the status of the employment contract and social security rights during the duration of the leave period and ensure that the employment relation is maintained during that period.

However, the EWL believe the adopted Directive is a missed opportunity to address the gender pension gap. There is currently a **40% gender pension gap** primarily due to the accumulation of gender inequalities through women’s lives for reasons of unpaid care. Because of this, the EWL advocated for a specific reference to **care credits for pension rights** in article 10 as an integral part of employment rights for women and men during the period of leave and under flexible working arrangements.

Finally, the EWL regrets that the adopted Directive has no legislative measures to strengthen **maternity leave**. The choice was to opt instead for “soft measures” including a specific study on enforcement of dismissal protection treatment, monitor the transposition and enforcement of EU legislation, raise awareness of the dismissal of pregnant women and provide policy guidelines on transitions between maternity leave and employment.

It should be noted that in the public consultation on work-life balance, which took place prior to the proposal of the European Commission on the table, many actors, including the

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<sup>9</sup> Article 55 of the French “*loi de travail*” (Labour Law) of 8 August 2016, introduces the ‘right to disconnect’ (*un droit à la déconnexion*) see: <https://www.service-public.fr/particuliers/actualites/A11297>



European Parliament called for strengthened maternity protection for women. Therefore, there is a persistent need to give a strong signal to society about the EU's willingness to address gender stereotypes based on traditional social roles of women and men. This was acknowledged by the Commission in its Proposal for a Work-Life Balance Directive as well as by the Resolution of the Council of Ministers for Employment and Social Policy at its meeting on the balanced participation of women and men in family and working life (29 June 2000).

Considering this, the EWL invites the Commission:

- a) To undertake the measures foreseen in the Work-Life Balance package and in light of the findings, to propose legislative measures to strengthen maternity leave provision for women in Europe, recalling two of the EWL's main recommendations:
  - Full pay for women on maternity leave, by means of a continuation of work contracts during maternity leave;
  - Six-month protection from dismissal on the basis of maternity and child-birth on return to work at the end of duration of maternity leave; and
- b) Propose a **revision** of the 1992 maternity directive in the near future. Furthermore, the **1992 Maternity Directive** does not include the perspective of mothers with disabilities and therefore, future amendments should address this.

### **Assessment of non-legislative measures in the Work-Life Balance Directive**

The EWL welcomes the effort to ensure that work-life balance becomes a reality for all women and men in Europe. It considers the non-legislative "soft-law" measures as a means of reaching this objective and expects careful monitoring and subsequent legislative proposals if these fail to deliver.

Concerning the non-legislative proposals outlined in the Work-Life Balance Package, the EWL wishes to make the following comments and observations.

**Firstly**, the WLB Package fails to make a concerted effort to **boost the care economy**. Yet, the absence of care services across the life cycle is one of the major obstacles to achieving gender equality in paid and unpaid work. While the Directive acknowledges women's disproportionate share of unpaid care work, it falls short of initiatives to boost care as a viable quality job-creation sector whilst responding to real needs on the ground. The EWL is concerned that public-private-partnerships (PPP), via the European Structural and Investment Funds, could be promoted as a means of social investment particularly, in relation to child- and long-term care and cautions against the replacement of public investment over profit-making private investments. The EWL understands that care is an investment both for the present and future generations (not as a cost). To this end, EWL expects robust measures, including the recognition of care as a social investment to be exempt from public deficits.

The EWL calls for support for carers by providing services for the active inclusion and right to live in the community for persons with disabilities and persons in need of care and support. The package fails to mention the develop of more quality, accessible, affordable, community-



based support services at different times throughout the life-cycle, as a crucial element in the transition from institutional to community based support. These include child-care services and care and support services for persons with disabilities, older persons and other persons with high support needs in line with article 19 of the CRPD. Relevant social services should develop suitable measures to support mothers with disabilities and mothers of children with disabilities in their search for employment and efforts to retain employment. These services should also be funded through the European Structural and Investment Funds.

Furthermore, the introduction of Personal Assistance (PA) systems based on direct payments to the person in need of support should be promoted across the EU. PA systems would ensure that users have more control over how and by whom their support is provided. At the same time, it could give informal (family) carers the opportunity to enter the labour market and pursue their own career path.<sup>10</sup>

Indicators should be developed for data collection and benchmarks on services to support the right of all persons with disabilities to live in the community.

The Commission's communication remains silent on the **Barcelona Targets** in relation to childcare infrastructure. These targets, adopted 17 years ago (in 2002) albeit not yet achieved, remain a milestone in EU policy since then and are part of the current European Pact on Gender Equality (2011-2020). Rather than disregarding them, the EWL would have expected the Directive to build on them by introducing new targets beyond Barcelona, including accessible, good quality and publicly funded childcare for families working other hours than day shifts as well as other care needs.

**Secondly**, the EWL original proposal stated that more coherence will be crafted with other processes notably the **European Semester**. However, in the context of the European Semester, the EWL is not convinced that social/equality concerns take precedence over economic governance, as both remain disconnected from each other. For example, in 2017, the EWL noted that only four countries (Austria, Spain, Ireland, Slovakia) received country-specific recommendations on childcare provision and nine countries (Austria, Bulgaria, Cyprus, Lithuania, Latvia, Poland, Portugal, Slovenia, Slovakia) on long-term care. The same trend is observed in 2018 and 2019. In 2018, only Estonia received the recommendation of revising their parental leave system to allow more take-up and flexibility. Similarly, in 2019, only timid recommendations to improve childcare and/or long-term services can be found. The EWL questions how these will be monitored and up scaled to include all countries in light of the Work-Life Balance Directive.

Thirdly, there is no reference to the **users of care** provision, namely children and other dependents, as well as persons with disabilities and their family members in order to ascertain their own needs with regards to the development of different care services throughout the life cycle. This could be done through user surveys and other means of assessing the care needs and quality thereof by the users and subsequently the way in which these could be

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<sup>10</sup> For more information on Personal Assistance, see: European Network on Independent Living Personal (2015) *Assistance Services in Europe*. Available at: <https://www.enil.eu/wp-content/uploads/2012/06/Personal-Assistance-Service-in-Europe-Report-2015.pdf>



adapted to meet real needs on the ground. The CRPD (Art., 3) also obliges Member States to closely involve persons with disabilities and their representative organisations in the development of all policies and decision-making relevant to them.

Fourthly, reference to the **Sustainable Development Goals (SDGs)** is missing particularly with regards to achieving **Goal 5** – i.e. Gender Equality and Women’s Empowerment and **Goal 8** – i.e. Decent Work (as well as the other goals which have targets specifically recognising women’s equality and empowerment as both the objective and as part of the solution). The EU and its Member States have signed up to the SDGs and in order to achieve gender equality by 2030 action is required now. Reference to target and indicators such as 5.4<sup>11</sup> and 5.4.1<sup>12</sup>, and 8.5<sup>13</sup> and 8.5.1<sup>14</sup> would have given gravitas to the arguments for improvements in the package. The need to measure and redistribute women’s unpaid care work is fully recognised in Goal 8, as is the need to take action so women and men can more readily combine care with paid employment.

The Women's Empowerment Principles introduced by UN Women to engage the private sector to create equal opportunities for women at work, in the labour market and in the boardrooms testify the willingness of the business sector to play its part in achieving gender equality of which work-life balance is paramount.

**Fifthly**, given that all EU Member States have ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), particular focus should also be given to this as well as General Recommendation 17 (1991) on the *Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product*.

**Finally**, the Directive does not refer to the European Institute on Gender Equality or the **Gender Equality Index** developed by EIGE. Therefore, the EWL firstly recommends that take-up of the different leave provisions in the directive (parental, paternity, carer’s leave), especially by men, is integrated into the Index in the future as a way to monitor the situation in Member States. Secondly, the EWL recommends that future legislative and non-legislative developments consider the evidence provided by EIGE, for example, in the recent research note on *Tackling the gender pay gap: not without a better work-life balance*.<sup>15</sup>

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<sup>11</sup> 5.4. Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.

<sup>12</sup> 5.4.1. Proportion of time spent on unpaid domestic and care work, by sex, age and location.

<sup>13</sup> 8.5. By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value

<sup>14</sup> 8.5.1. Average hourly earnings of female and male employees, by occupation, age and persons with disabilities

<sup>15</sup> European Institute for Gender Equality (2019) *Tackling the gender pay gap: not without a better work-life balance*. Available at: <https://eige.europa.eu/publications/tackling-gender-pay-gap-not-without-better-work-life-balance>



## **NEXT STEPS**

Overall, as the first legislative proposal to follow the proclamation of the European Pillar of Social Rights in November 2017, the Work-Life Balance Directive is an important stepping stone in the consolidation of existing rights and the establishment of new ones for millions of citizens, and as such, it must now be followed up with enforcement and monitoring.

During the negotiations, the EWL has been working with a coalition of European networks of NGOs<sup>16</sup>. Together, we urge the national governments to move towards swift transposition.

The transposition phase of this Directive will be of paramount importance, as it is a chance to discuss and to review national work-life balance policies to ensure they fulfil the needs of women and men in the 21st century, based on values of gender equality, social inclusion and non-discrimination, and boost investment and development of services.

These are now the key priorities for the EWL and partners<sup>17</sup>:

- **Ensure adequate payment of all forms of leave:** Adequate payment of leaves, regardless of the type of leave (paternity, parental, carers), is a key element to ensure non-discrimination of workers based on economic conditions of the family, to rebalance the gender uptake of the leaves and care responsibilities, to address and prevent poverty in light of the persistent gender pay and pension gaps. There are clear references in the Directive about the need to provide adequate income replacement for these forms of leave, and this should guide governments in their definition of “adequate”.

- **Boost investment in public service provision as a complementary measure:** Publicly funded care services are vital for women and men’s take up of the different forms of leave. Transposition of the Directive must be an opportunity to further develop early childhood education and care (accessible, affordable and high quality, below the age of 3), and long-term care (quality, person-centred, for persons in need of support and/or care and a stream of support for carers who have to leave the labour market). These services, especially in rural areas and marginalised communities, are crucial for all to reconcile the different aspects of their lives such as family, work, health, care, leisure, or education.

- **Recognise the diversity of families and their needs:** the Directive acknowledges family diversity, with the notion of “equivalent second parent”. We strongly encourage national legislators to insert this diversity into national legislation via the transposition of the Directive, providing a mix of universal support and targeted support to different families in vulnerable or special situations, many of whom are mentioned in the Directive: single parents, parents with a disability or parents of children with a disability, mental health problems or long-term illness, adoptive parents, multiple births and premature births, persons in need of care and assistance who do not have any family member left. Family diversity also means recognising the different relatives who are family carers: not only children, parents, or

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<sup>16</sup> Led by COFACE Families Europe and including European Disability Forum (EDF), Inclusion Europe, Make Mothers Matter, EuroHealthNet, Social Platform, Eurocarers, Autism Europe, Mental Health Europe, Age Europe, ILGA Europe and International Federation for Spina Bifida and Hydrocephalus.

<sup>17</sup> Joint Letter to the EPSCO Council: Let’s move towards swift transposition of the EU Work-Life Balance Directive! Available at: <http://www.coface-eu.org/europe/joint-letter-to-the-epsco-council-lets-move-towards-swift-transposition-of-the-eu-work-life-balance-directive/>



spouse/partner or persons living in the same household (as indicated in the Directive) but also additional relatives, such as siblings, grandparents, other persons of confidence to the person being cared for.

- **Promote the use of EU funding programmes to support innovation and upward reforms:** The European Structural and Investment Funds, and the post-2020 follow-up of these funds are important to support interventions, namely in the field of disability, health and long-term care, and early childhood education and care, which are extremely complementary to the leaves and flexible working arrangements covered by the Directive.

- **Recognise the important role of civil dialogue and social dialogue:** NGOs representing civil society groups concerned by the Directive must be consulted during the transposition process, and the social partners must be encouraged to secure collective agreements on work-life balance to drive change in workplace culture.

- **Close the gender gaps in the context of new labour market realities:** To be able to respond to the needs of all, leave provisions must be a right regardless of employment status or type of employment. All workers, including self-employed, workers with atypical or temporary contracts and unemployed must be entitled to the same rights as employees with standard contracts, to avoid further discrimination.

- **Monitoring and reporting:** There is a commitment in the Directive to close monitoring by the European Commission of the Directive implementation, which requires Member States to collect data on the take-up of leaves and flexible working arrangements. This must include disaggregated data to take into account the needs of specific and vulnerable groups. The creation of a European Work-Life Balance Index in collaboration with EIGE's Gender Equality Index, and its incorporation in the European Semester process would be a powerful tool to improve the monitoring of Member States' performance over time.

