

Commission's statement accompanying the
Commission Proposal for a Directive of the European Parliament and of the Council on
work-life balance for parents and carers and repealing Council Directive 2010/18/EU

The Commission has today adopted a proposal for a new Directive on work-life balance for parents and carers. The proposal also provides for, once the new proposal would be adopted by the co-legislators, the repeal of Council Directive 2010/18/EU, which implemented the Framework Agreement on parental leave concluded by the Social Partners BUSINESSEUROPE, UEAPME, CEEP and ETUC.

Before the Commission may submit proposals in the field of social policy, it is required, pursuant to Article 154(2) and (3) TFEU, to follow a two stage consultation process. Accordingly, the Commission first consulted the Social Partners on 11th November 2015 on the advisability and possible direction of Union action. Subsequently, the Commission consulted the Social Partners on 12th July 2016 on the content of the envisaged proposal. On those occasions and in many other formal and informal contacts¹, the Social Partners were given ample opportunity to inform the Commission of their wish to enter into a dialogue and conclude agreements addressing the subject matter of the proposal. According to Article 155 TFEU, Social Partners may request such agreements to be made binding by a Council decision based on a proposal from the Commission.

Regarding Union action for work-life balance for parents and carers, Social Partners did not agree to enter into negotiations and no agreement was concluded to amend the Framework Agreement made binding by Council Directive 2010/18/EU. They expressed diverging views as to the need for and the aim of legislative action. Whilst trade unions advocated a revision of the parental leave directive, employers, in particular BusinessEurope and UEAPME, did not see the need to negotiate while CEEP were finally willing to enter into negotiations.

Where there is no consensus among Social Partners to conclude an agreement at Union level, the Commission is not deprived of its power of initiative laid down in the Treaty. It may itself submit proposals for legislation in the field of social policy. Similarly, where Social Partners have in the past concluded an agreement that was implemented through Union legislation but cannot agree whether or how it should be amended, the Commission may exercise its prerogative to submit proposals. In such a case, the Council and the Parliament, acting as co-legislators, may repeal and replace legislation formerly giving Union law effects to the Social Partners' agreement.

The Commission did all efforts to encourage the social partners to negotiate, including after the formal period of consultation was ended.

¹ 22/09/2015 Commission inform the social partners of its intention to launch a first stage consultation on reconciliation of work and private life at the Social Dialogue Committee meeting; 23/02/2016 dedicated meeting with social partners to discuss work-life-balance on their request; 27/09/2016 social partners present their preliminary views on the second stage consultation in the Social Dialogue Committee; 25/01/2017 Small Business Act meeting with SME stakeholders to discuss the work life balance initiative; 21/02/2017 discussion between Commission and social partners on the 2017 Work Programme at the Social Dialogue Committee, 02/03/2017 meeting between social partners and cabinets Timmermans, Dombrovskis, Thyssen and Jourova on work-life-balance; 24/04/2017 meeting between VP Dombrovskis and Commissioner Thyssen with leaders of EU social partners on the Social Pillar of Social Rights and accompanying initiatives.

By the Proposal, the Commission advocates repealing Council Directive 2010/18/EU and replacing it with a new Directive that follows a broader and more ambitious approach in terms of ensuring equality between men and women with regard to labour market opportunities and treatment at work. Moreover the proposed Directive should not be interpreted as diminishing previously existing rights under the Parental leave Directive.

This new proposal builds on those rights and strengthens them, it introduces new rights to paternity and carers' leave, to receive pay during leave, and to flexible working arrangements for parents and carers. Adopting a single piece of new legislation is also considered appropriate for reasons of simplification and transparency.

If Directive 2010/18/EU, which implements the Framework Agreement, is repealed, the Framework Agreement will no longer form part of Union law. As a result, there will no longer be a Union law obligation on Member States to implement or transpose it. In contrast, the Framework Agreement as such remains unaffected. It can still have effects for BUSINESSEUROPE, UEAPME, CEEP and ETUC provided that such effects are in conformity with Union law.

The fact that Social Partners did not take the opportunity to shape the Proposal does not mean that there is no scope for them to play an important role after the new Directive has been adopted. Pursuant to Article 153(3) TFEU they can jointly request that Member States entrust them with the implementation of the Directive, provided that Member States ensure a sufficient degree of oversight. This has been highlighted in recital 31 and in Article 20(3) of the Proposal.

The Commission is fully committed to keeping the social partners at European level informed on the progress of the negotiations on the new proposal through the social dialogue and other formal and informal occasions.

26.April.2017

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