



EUROPEAN WOMEN'S
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EUROPEEN DES FEMMES

CONSULTATION

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EWL response to the European Commission's Consultation on possible new EU measures in the area of paternity leave

Organisation: European Women's Lobby

Type of organisation : NGO

Activity field of the organization: women's rights and gender equality

Preliminary remarks

The European Women's Lobby¹ (EWL), the largest umbrella organisation of women's associations in the European Union (EU), working to promote women's rights and equality between women and men, welcomes the opportunity to contribute to the debate on possible new EU measures in the area of paternity leave, given the importance of good reconciliation policies, including paternity leave for the achievement of equality between women and men in the European Union.

We hereby recall that according to the Treaties, the Union is founded on the value of equality between women and men (art.2 TEU), which is also one objective of the Union (art.3 TEU). Under the European Charter of Fundamental Rights, equality between men and women is a fundamental right which must be ensured in all areas, including employment, work and pay. Gender mainstreaming is also a horizontal principle, given that "In all its activities, the Union shall aim to eliminate inequalities, and promote equality, between men and women" (art.8 TFEU).

As a preliminary remark, the European Women's Lobby regrets that the present **consultation on paternity leave is being carried out in parallel with an ongoing ordinary legislative procedure amending Council Directive 92/85/EEC on maternity leave**, in which the European Parliament adopted a provision of 2 weeks of paternity leave at the same conditions of maternity leave. The EWL therefore considers that the European Commission should back the European Parliament's position or at least, not ignore this position, including the provisions regarding paternity leave.

The European Women's Lobby expresses its renewed support to the position of the European Parliament on the revision of Council Directive 92/85/EEC as a whole, paternity leave provisions included.

The EWL wishes to make the following overarching remarks which should guide any future policy with regards to the scope of and the language used in paternity leave legislation:

Paternity leave should not infringe on the **rights of women to pregnancy/maternity/breastfeeding protection**. Payments in respect of maternity protection should not be downscaled to fund paid paternity leave.

¹ The European Women's Lobby (EWL) is the largest umbrella organisation of women's associations in the European Union (EU), working to promote women's rights and equality between women and men. EWL membership extends to organisations in all 27 EU member states and the three candidate countries, as well as to 21 European-wide bodies, representing a total of more than 2500 organisations.



Paternity leave should be also available in case of adoption, as already proposed by the European Parliament, and specific measures regarding adoption should be introduced, in line with the specific needs of adopting second-parents².

It is important to acknowledge the different forms of families existing in EU societies and to ensure that any new proposal does not directly or indirectly discriminate against any second-parent. **It must be ensured that entitlement to this form of leave is available at the birth or adoption of a child to the wife, husband, or partner of the mother including same-sex partners regardless of their marital status**,

The term paternity leave should change to an inclusive term such as **paternity and second-parent/co-parenting leave/partner's leave**, as not to discriminate against second parents and carers other than the father of the child. Paternity leave should be a leave for **the life-partner of the mother**.

1. Overall assessment and general EWL comments on possible new EU measures in the area of paternity leave.

The EWL welcomes potential EU measures in the area of paternity leave **as an important contribution to moving towards the equal share of care work between parents, to an equal share of paid and unpaid work between women and men, and to the promotion of gender equality**. While paternity leave legislation is only one of the measures needed to achieve an equal share of paid and unpaid work between women and men, such legal entitlement is a precondition to any other policy action to reach this goal.

Furthermore, giving men the legal entitlement to paternity leave enshrines **an important new labour right for fathers**, namely, the right for the father to participate to the care of the new-born/adopted child.

In addition, such measure will put an end to a **situation of inequality** where within the European Union some fathers are entitled to such right and others are not.

Women have historically been assigned to carry the main responsibilities for unpaid care and domestic work while men have been working outside the home and defined as the “breadwinners” for the family. While the reality has started to dramatically change in relation to women’s involvement in paid employment in the last decades, this distinction still exists in particular regarding the share of unpaid care work done by men. As the **Strategy for Equality between women and men 2010-2015** points out, the impact of parenthood on labour market participation is still very different for women and men in the EU today because **women continue to shoulder a disproportionate part of the responsibilities involved in running a family**³. The inequalities between women and men at home and at work have been underpinned not only by persistent gender stereotypes, religious beliefs, and traditions, but most importantly by public policies or rather the lack thereof, directly contributing to entrenched gender inequalities in paid and non paid work.

The European Union must take a lead in developing a culture where both men and women are equally considered as carers AND as actors in the paid economy, and to propose consistent legislation and policy measures to achieve this. Paternity leave provisions are part of such measures. **Tackling inequalities at home**

² The term second-parent refers to gay and lesbian parents who adopt and/or help to raise their partner's biological or adopted children.

³ European Commission, “*Strategy for equality between women and men 2010-2015*”, p. 4.



and at work and reinforcing men's responsibility for care requires proactive and consistent public policies, a coherent legal framework for work-life balance including different forms of statutory leave available to both men and women. Only such a consistent strategy will allow for the fulfilment of the EU 2020 employment participation target, while at the same time, ensuring quality work and aiming to diminish gender inequalities in the labour market.

2. EWL responses to relevant sections of the questionnaire

A. Existing paternity leave measures

1) *What are, in your view, the main benefits and costs of providing paternity leave, covering all possible aspect (e.g. costs: direct costs to the government and/or employers, costs from productivity loss, administrative costs, costs for SMEs; benefits: increases in female employment rates, less labour market discrimination and segregation, improved child health, higher fertility rates)? Please provide any data or evidence to support your view where possible.*

Costs of care leave. Who pays? At which cost?

The EWL stresses that having children entails inevitable human and financial costs; **the question is by whom these costs should legitimately be borne.** Until now, the costs of child-care have fallen to a great extent on women, materialising in largely gender segregated employment patterns as well as gender pay and pension gaps. This imbalance in the labour market has also imposed heavy costs on our economies and society as a whole, exacerbated today by falling birth-rates and higher pension and health-care costs. Rectifying this situation to ensure a more equitable distribution of the costs of child-rearing among society as a whole would contribute substantially to overall prosperity. It is estimated that there could be a gain in GDP of almost 30% for the EU as a whole if gender gaps in the labour market were eliminated.⁴

Throughout the EU, parenthood continues to have a significant long-term impact on women's participation in the labour market. Women's employment rate drops by 11.5 percentage points when they have children under 12; men in the same category have an employment rate 6.8 percentage points higher than other men of working age.⁵ This differential highlights how **parenthood entails different effects on men and women and the current labour market is not adapted to an equal share of social rights and responsibilities** between genders and flexible enough to ensure the smart sustainable and inclusive growth with high levels of employment, productivity and social cohesion foreseen by the Europe 2020 Strategy.

Therefore **any initiative to support reconciliation of work and private life for women and men does not increase costs but spreads costs across society, which are currently disproportionately shouldered by families.**

⁴ A. Löfgren, *Gender equality, economic growth and employment*, 2009. This report was presented at the conference held under the Swedish Presidency 'What does gender equality mean for growth and employment?', Stockholm, 15-16 October 2009, and is available at: <http://ec.europa.eu/social/BlobServlet?docId=3988&langId=en>.

⁵ Commission Staff working document accompanying document to the Report from the Commission on Equality between women and men - 2010 {COM(2009) 694 final}.



Benefits

The benefits of paternity leave are benefits for men, women, children, and for the society as a whole. Giving fathers the legal right to paternal leave - combined with other work-life balance policies and affordable, sufficient and high-quality care services - will contribute to promoting gender equality, to a more equal share of paid and unpaid work between women and men, to tackling gender inequalities in the labour market and to increase women's employment. In the long run, the paternity leave initiative is a step toward higher birth rates and economic sustainability and growth and normalising male figures as caregivers. Children who have the opportunity to be cared for by men as well as women, may in the long term have a more positive idea about care being both a male and female task.

- Paternity leave allows a better understanding of fathers of caring of children from the early stage, which can lead to more **involvement of fathers** in the care later on during the whole life of the child.
- The **well being of the children** would increase when both parents are involved in care, in the short and long term.
- Paternity leave reduces the burden for mothers who have just given birth or are breastfeeding, and allows for more **support from her life-partner during recovery** from the emotional upheaval and physical stress of giving birth, it can therefore have a positive effect on **women's health** at a challenging moment of women's lives.
- Care and reconciliation policies including paternity leave provisions, are fundamental elements to achieve **equality between women and men** at home, in the labour market and in the society in general.
- Given the increase of women in the labour-market, working structures and culture cannot remain male dominated; reflecting women's labour-market participation necessitates a shift in the way paid and non paid work is distributed. Paternity leave legislation has a role to play in shifting traditional models of labour-market structures, which will bring benefits to the whole of society in the future.
- Paternity leave contributes to the aim of an **equal share of care responsibilities between parents**. It is probable that fathers who have taken paternity leave will also take a larger share of parental leave.
- The **mobility of workers** might increase knowing that a harmonized legal framework with high standards is available throughout the EU.
- Paternity leave and more balanced take-up of parental leave change **have an impact on labour market structures and work culture** to reflect both women and men's needs. It contributes to help women, if they wish, to return faster to the labour market after giving birth.
- A fully paid, long and legally protected paternity leave **will decrease direct and indirect labour market discrimination against women**, when women are not seen by employers as the only potential carers. This directly relates to the fact that according to the European Commission, **all EU member states could achieve**



double-digit economic growth as high as 35% in the UK, 40% in the Netherlands and 45% in Malta, by eliminating gender inequalities in the labour market.⁶

- The lack of public responsibility towards care has among its effect to strengthen **irregular labour market of care services provision**, which is often linked to poor working conditions and low pays for care workers, who are often migrant women.
- In countries, where family policies reflect work-life-balance for both women and men and promote fathers involvement into parenting, **birth rates are higher than in countries that do not promote work-life-balance.** (For example birth rate Czech Republic and Malta vs. Sweden and Denmark or Finland).⁷

These expected benefits will be maximized when the introduction of **mandatory paid paternity leave** provision is combined with and other reconciliation measures and gender equality policies.

2) What is, in your view, the added value of paternity leave, compared to other forms of family-related leave (parental-leave, maternity leave)?

The purpose role of paternity leave is different from maternity leave and from parental leave, and these three forms of statutory leave are complementary. Paternity leave is the legal recognition of the partner of the mother/father to take part in the care of children when they are born or newly adopted, to support the mother and help her recovering, and to be entitled to social and employment rights in this respect.

- Paternity leave creates a bond between the father and the children which helps starting a caring relationship which is beneficial for all. Fathers get use to care of children just after their birth, so they can more easily be more involved in a care-relationship with the child also later on.
- The presence of both parents right after the birth is beneficial for children.
- The presence of her life-partner just after delivering a child is beneficial for mothers.

3) Which measures have been the most successful in encouraging fathers to take up parental or paternity leave? Why?

Please provide any data or evidence to support your views where possible.

Creating legal rights and obligations is the only way to allow fathers/second partners the possibility to take up paternity leave. It is also the most effective measure to increase men's take-up rate of paternal leave, as well as parental leave. Legal obligations are also essential in helping change mentalities.

Awareness-raising campaigns that on the one hand frame paternal leave and paternity leave as rights and that on the other hand emphasize the need for an equal sharing of care responsibilities between women and men may encourage fathers to use the leave options already available to them. Example set by men in

⁶ See European Commission, *Report on the Equality of Women and Men*, 2010.

⁷ European Commission, *"Strategy for equality between women and men 2010-2015"*, p. 4.



important positions in society, in particular within the field of politics, has in many countries positively contributed to public discussion about paternity leave and men's role as carers. However, although such „soft“ measures contribute to breaking stereotypes about care work, they are not alone sufficient to make an impact. It is also difficult to measure their success.

- Measures to deconstruct gender roles and to fight detrimental gender stereotypes will eventually make it easier and more socially acceptable for men to take up paternal leave and take responsibility for the care of (young) children. Tackling gender stereotypes is an on-going long-term process that must start from early childhood and be integrated in many policy areas (education, media etc).
- Concerning parental leave, financial aspects play a significant role in the decisions about who within the family takes the leave. To encourage men to take up parental leave, it is necessary to remunerate properly parental leave for women and men and to address the issue of women as “second earners” by reducing the gender pay gap and increasing the quality and level of pay of women's employment.

B. Possible EU initiative on paternity leave

4) *Do you see a need for an EU initiative on paternity leave and, if yes, what kind of initiative (legislative, non legislative)? What would be the advantages and disadvantages of such an initiative?*

The EWL sees a need for an EU initiative on paternity leave as proposed by the European Parliament in its resolution on the revision of the Maternity Leave Directive. In our view there is a need for a **legislative initiative**. New legislative measure should be accompanied by EU-wide and national awareness raising campaigns and other non legislative measures focusing on more engagement of men in child care and motivating them to take paternity leave.

5) *What would be the added value of an EU initiative on paternity leave, compared to existing measures or possible future initiatives at Member State level?*

- Legislative EU initiative on paternity leave is needed in order to set a **homogeneous level of protection of working fathers in the EU**. The majority of Member States already have paternity leave provisions, but with different lengths, level of payment, eligibility criteria and level of protection, while other Member States don't have any provision at this regards. The lack of EU wide minimum standards creates unacceptable **differences in the provision of rights inside the EU**. These different policies als impact on the mobility of workers
- Countless studies and EU documents have highlighted that reconciliation measures for both women and men and the **equal share of care responsibilities contribute both to achieving gender equality and to increasing female employment and therefore, growth**. However, this has not yet been fully reflected in EU legislation.
- Legislative initiative on compulsory paternity leave enables the EU to give Member States a **clear message that work-life balance concerns both women and men, and show that EU is living up to its commitments regarding gender equality**. Gender equality has been presented at EU level and by Member States as



concerning both women and men and therefore it is time for the EU to take a lead in introducing such new right to paternity leave.

- Employment, social policies and gender equality legislation are **strong EU competences**. Reconciliation of work and private life and the equal share of care responsibilities would be in line with the implementation of Treaty provisions, the EU 2020 strategy, and the new Strategy for Equality between Women and Men 2010-2015.
- In conformity with the Lisbon treaty, the promotion of the **rights of the child** in the European Union is amongst the objectives of the Union; this is an additional reason for an EU-level initiative on paternity leave.

6) What could a non-legislative initiative look like and what would be its impact? Would it achieve the same or similar objectives as a legislative initiative?

Non-legislative measures should be introduced in addition to legislative initiatives but they should not be seen as a substitute for a strong legislative initiative that can have a real impact. Such measures can include

- Awareness-raising and education campaigns that encourage men to take up paternity and other types of leave
- Campaigns against gender-stereotypes concerning care and domestic work
- Incentives, including economic incentives to fathers who take up their paternity leave

Challenging gender stereotypes and changing the attitude of both the society and individual men to care requires a long-term commitment both at legal and policy level. Non-legislative initiatives related to awareness-raising contribute to eliminating stereotypes about gender roles at home and about care. However, without legislative measures their impact will be limited.

Non legislative initiatives cannot have significant impact because paternity leave is not provided in all Member States its scope varies. Non-legislative initiatives such as awareness raising campaigns may encourage fathers in Member States where leave is voluntary and paid for, have a weaker impact in Member States where no financial compensation exists or where it is low, and have no impact in Member States where no leave provisions exist.

Non-legislative measures are not enough to reach the objectives in introducing legislation on paternity leave: to progress toward equality between women and men in particular in relation to paid and unpaid work at home and on the labour market, and to encourage men to assume a more complex societal role that includes care.

Both legislative and non-legislative initiatives on paternity leave must be seen in the broader context of work-life balance policies other than leave arrangement that aim at equal share of care work between men and women, such as increasing affordable, quality, and sufficient child care facilities.

7) What would be, in your view, the likely impact of a legislative initiative introducing an entitlement for working fathers to paternity leave at EU level, both in terms of benefits and costs?



In order to have a real impact and to reach its objectives, a legislative initiative must make paternity leave compulsory paid at the level of 100% of previous salary. Given the existing strong stereotypes about gender roles, voluntary leave is not enough to encourage men to use their right to the leave.

In addition to that; leave provisions must be mandatory in order to **protect men who take paternal leave against discrimination in employment.**

Legislative initiative on compulsory fully-paid paternity leave would immediately increase the number of men taking up paternity leave across Europe, leading men eventually to assume a more complex social role that includes care.

Legislative initiative on compulsory paternity leave will be a concrete step toward gender equality in relation to equal share to paid and unpaid work between women and men, as well as contribute in increasing women's employment and achieving the Europe 2020 target of 75% employment for women and men.

8) Among the legislative options suggested in section 2, which combination of measures do you think would achieve the best balance between costs and benefits, and why?

The EWL has been calling for **paternity leave** to be introduced into EU legislation as part of a broader work-life balance framework. In particular, paternity leave should ensure **(1) a mandatory fully paid (100%)** leave of at least **18 working days** for the life partner of the mother/fathers⁸; **(2) strong protection** of men against discrimination in employment based on their taking the leave; **(3) these rights** should apply also to same-sex partners and regardless of marital status.⁹ The EWL also considers that the situation of **single mothers** should be taken into account to ensure that their needs after childbirth are duly considered.

In the annex you will find further requirements that we consider should be present in any proposal regarding paternity leave.

⁸Except in cases of domestic violence as defined in CoE and UN instruments, including, *inter alia*, physical, emotional, verbal and sexual violence against women.

⁹European Women's Lobby's contribution on measures relating to reconciliation of work, private and family life in light of the current consultation process between the Commission and the Social Partners with regards to future legislative proposals (year: 2008)



Annex: EWL guiding principles for any proposal regarding paternity leave

The EWL has expressed its views regarding paternity leave in previous documents, as on the occasion of the European Commission's consultation on measures relating to reconciliation of work, private and family life¹⁰ and the Proposals from the European Women's Lobby in relation to the European Commission's proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/85/EEC by January 2009, revised in April 2009¹¹:

1. **Payments in respect of maternity protection should not be downscaled** to fund paid paternity/co-parenting leave, and paternity provisions should not infringe on the rights of women to protection during pregnancy, maternity and breastfeeding.
2. Changes must aim to **radically increase men's participation in care-work and to make their equal participation socially accepted**, with the goal of achieving equal sharing of care-work and other non-paid work between women and men. Legal provisions must **protect men against discrimination** if they take leave by introducing **mandatory leave provisions**. Those measures must be accompanied by other policy measures such as education and awareness raising, so that men are encouraged to take up paternity and parental leave
3. Any legislation must **guarantee women's and men's financial security and independence** while they care for someone else. *Guarantee* means legal provisions protecting against any form of discrimination based on maternity/paternity, and complementary financial policy measures that remove the disincentives for employers to consider women a risky and expensive employee-pool and for men to consider parental/paternity leave a career-threatening and financially risky undertaking. *Security* means guarantees for women's/men's right to time out without losing job/promotion possibilities/income. *Care* means caring for child, elderly relative, or any other dependant family member.
4. New regulations must **take account of the different forms of families** existing in European societies, with the clear goal to remove any form of discrimination or discriminatory treatment of, for example, same-sex, non-married or single parent families, or underage mothers. **Anti-discrimination measures** in these cases must include the removal of any obstacle faced by partners, or other appointed family members to care for the dependants in the family and to take the necessary leave for such care-work.
5. Legislation and policies regulating paternity leave must be in line with the **absolute requirement of protection against violence in the family**. Taking into account that on average every 5th woman in the EU faces

¹⁰ 14 March 2008, **European Women's Lobby's contribution on measures relating to reconciliation of work, private and family life in light of the current consultation process between the Commission and the Social Partners with regards to future legislative proposals** available at http://www.womenlobby.org/IMG/pdf/ewl_contribution_reconciliation_measures_enmarch08.pdf (English) and http://www.womenlobby.org/IMG/pdf/contribution_du_lef_sur_les_mesures_de_reconciliation_fmars08.pdf (French).

¹¹ Proposals from the European Women's Lobby in relation to the European Commission's proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding



partner-violence in her lifetime, laws and policies must ensure that priority is given to the safety of the woman and her child/children in case of any type of care-related leave applying to violent life-partner.

6. The **protection and rights** in relation to reconciling work and private life **must be extended to** all workers, under all kinds of contract, including **workers in atypical forms of employment**.

7. **Coherence between laws/policies in different fields** is a pre-condition for reconciliation policies to be effective and successful. Thus, for example, policies on flexicurity must make sure that the concept of flexicurity does not get translated into exploitative working conditions (e.g. part time, non-secure, under-paid, short-contract work primarily offered to women) undermining any potentially positive development in the field of reconciliation. We underline moreover that the fact that the Parental leave directive has been agreed by the Social partners only, and that the EPSCO council is not willing to adopt the Maternity (and paternity) leave directive leads to the risk of a inconsistent framework with very low effects on the improvement of men's and women's lives, and to a lost opportunity for the EU as a whole.

8. **Paternity leave should be available in case of adoption**. This is moreover the case for the position of the European parliament.

9. **Protection from dismissal and discrimination must be provided** equally to the same provisions for maternity leave.
