BACKGROUND AND ACTION KIT ON THE MATERNITY LEAVE DIRECTIVE

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THIS DOCUMENT IS INTENDED FOR THE BOARD OF THE EWL
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BACKGROUND INFORMATION AND ACTION KIT
ON THE MATERNITY DIRECTIVE

INTRODUCTION

This briefing is intended to provide information to the new Board (and Executive) on the work carried out to date in relation to the Maternity Leave Directive for which a proposal to revise the 1992 Directive has been on the political agenda at EU level since 2008. This Directive is a co-decision procedure: the European Parliament (EP) and the Council of Ministers need to negotiate and agree. In the first instance, it is the EP that provides the “first reading” which the Council subsequently examines before giving its opinion. Failure to adopt the initial report at the last plenary session of the EP (May 2009) has substantially delayed the debate, process and adoption of a revised Directive (it never reached the Council). Since the election of the new EP (2009), the FEMM Committee adopted its position in February 2010. The FEMM committee proposal has been assessed through a cost-analysis study to ascertain whether the proposals contained therein are financially viable, before it goes for vote before the plenary. The study relates to the following proposals:

- The costs of full paid maternity leave of 20 weeks, six of which are compulsory, after birth;
- The cost of two week paternity leave, which are not compulsory in the FEMM proposal but Member States, particularly those that do not have paternity provisions, are strongly encouraged to adopt this measure.

It should be noted that the Maternity Directive is a ‘minimum standard’ Directive and therefore Member States that have different and/or more favourable conditions will not be required to change their existing laws. They cannot ‘downgrade’ to a lower threshold if their own provisions are above those in the new Directive and, in countries where maternity is combined with parental provisions, they will need to ensure that the maternity provisions are conform with the (new) Directive, particularly with regards to the mandatory six-week leave after birth. The original 1994 Directive is based on health and safety at work i.e. pregnant workers. In order to expand the scope to paternity, the FEMM report calls for a broader scope to include equality between women and men.

Overall, the current proposal meets the EWL’s position. Initially, members were in favour of 24 weeks with full pay, six of which would be compulsory after birth and up to one year legal protection on return to work. Members were also in favour of a stand-alone (separate) Directive on paternity leave. Further consultation took place when it became very apparent that the Rapporteur, Edit Estrela (Portuguese Socialist) was determinant to keep the paternity clause. Following the consultation, the majority of members stated their support for the paternity clause on the condition that it would not infringe upon women’s right to fully paid maternity protection. In the current FEMM proposal, this appears to be the case.

The results of the cost-analysis were presented in September 2010. In the context of the current financial crisis/recession, it is very likely that the FEMM proposal will be rejected on the
basis that it will be too costly and that Member States cannot afford it. Regarding the impact assessment, it has so far contributed little added value, neither for the parliamentarian groups nor other interested parties (Eurochambers, ETUC, Social Platform).

Still, we need to challenge why women should pay the price of a crisis they did not initiate and the contradictions in political discourse between low fertility rates, demographic decline and measures to reconcile professional and private life. ‘Anecdotal’ evidence – because there is no official data yet – is showing that in the current economic climate, pregnant workers, women on or returning from maternity leave are experiencing discrimination on the labour market: they are being made redundant during maternity leave and/or experiencing a downgrade in their working conditions on their return to work, in the form of changes in their contracts (from open-ended to fixed term) and/or put under pressure to locate to other posts/geographical areas, making their lives very difficult and in total contradiction to the stated policy aims of ‘facilitating reconciliation between professional and private life’. Another long term consequence of these practises is that many women will not meet the eligibility criteria for maternity leave in the future.

These are the challenges we face in the next phase of the political debate on the Maternity Leave Directive.

**HISTORY OF THE “RECONCILIATION DEBATE: 2007-2010”**

**Different expectations...**

- **2007**: European Commission launches a consultation on different forms of leave: giving the impression that “everything is possible”
- **January 2008**: EWL consults Board members on the following proposals:
  - **Improvement of existing legislation** (Maternity and Parental) + **new legislation** (Paternity, Adoption, Filial, Educational (life-long-learning))
- **2008**: EWL finalises proposal – distributes to Members, Commission, Social Partners, other NGOs and stakeholders
- **2008**: EWL: member of Advisory Committee Working Group – Opinion adopted on:
  - “New forms of Leave: Paternity, Adoption, and Filial”

**Different processes...**

1. **Co-decision procedure**: meaning the European Parliament and the council of Ministers on the same ground: European Parliament (Women’s Rights Committee) + Council of Ministers (national governments)

This procedure has been applied for both:
- **Maternity leave amending Directive 92/85**

  "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"

  Based on professional status as employee (salaried)
  Rapporteur: Edith Estrela (PS, Portugal)

- **Self-employed/assisting partners repeal Directive 86/613**


  Based on professional status as self-employed/assisting partner
  Rapporteur: Astrid Lulling (PPE, Luxembourg)
  Approved by the European Parliament (May 2010), to be approved by the Council of Ministers (possibly June 2010)

  Another procedure has been adopted for the revision of parental leave:

  **2. Social Partners agreement:**

  The social partners may request jointly that agreements concluded by them at Union level in matters covered by Article 153 of the TFEU be implemented by a Council decision on a proposal from the Commission.

- **Parental Leave Directive (amending the directive of 1996)**

  “COUNCIL DIRECTIVE 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (Text with EEA relevance)”

  (Addresses employees)
What was on the table in January 2009:

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<tbody>
<tr>
<td>Based on prof status as employee (salaried)</td>
<td>Co-decision procedure: European Parliament + Council of Ministers (national governments)</td>
<td>Social Partners Agreement: Trade Unions + Employers</td>
</tr>
<tr>
<td>Rapporteur: Maternity: Edith Estrela (PS, Portugal)</td>
<td>EP: Women’s Rights Committee responsible</td>
<td></td>
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<tr>
<td>Rapporteur: Self Employed/AP = Astrid Lulling (PPE, Luxembourg)</td>
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EWL Responses- Based on agreed proposals adopted by the (former) Board in 2008:

<table>
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<tr>
<th>Maternity Leave:</th>
<th>Self Employed/Assisting Partners:</th>
<th>Parental Leave:</th>
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<tbody>
<tr>
<td>24 weeks duration 100% paid – on basis of full salary 6 weeks compulsory leave – extend to all women regardless of professional status – problems of eligibility Additional leave/fully paid in situations of premature, multiple births, hospitalised at birth, disabilities Right to avail of sick leave provisions without reducing duration of ML 1 year protection from dismissal on return to work</td>
<td>Right of an equal status– joint ownership (article 5) Mandatory social protection cover of assisting spouses/life partners, voluntary opt-out (article 6) Right to 6 weeks mandatory period (article 7.1) Right to income (allowance) most recent declared earnings or reference to average national wage (article 7.2) Right to temporary replacement services in addition to allowance (article 7.3)</td>
<td>Available to all parents, inc. same sex, de facto parents Non-transferable periods (lost if not taken) Up to 18 years (age of child) 120 days/year (+/- 6 months) Fully paid Eligibility criteria not conditional to number of days previously worked Protection on return to work Inclusion of a clause for Paternity leave: 1 month/full pay/available to all parents, same sex, de facto</td>
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EWL Position on maternity from the beginning...

- **Maternity leave**
  - 24 weeks /6 weeks compulsory without eligibility criteria
  - Full pay throughout leave
  - Legal protection on return to work

- **Self-employed/assisting partners**
  - Ensure social protection rights especially of assisting partners compulsory registration with possibility of their opt-out
  - Equal rights for **ALL** women re: maternity provisions

- **Parental Leave Directive**
  - Inclusion of Paternity Leave
  - Leave up to the age of 18 (dependent children)
  - Full pay
  - Measures aiming at men

EWL adapted its position on maternity...

- 24 weeks /6 weeks compulsory without eligibility criteria
- Full pay throughout leave
- Legal protection on return to work
- Support paternity clause on condition:
  - Should not infringe on the rights of women to pregnancy/maternity/breastfeeding protection.
  - Paternity leave should also include leave for same sex couples. Therefore, the term “co-parenting” is proposed to the term paternity. Paternity/co-parenting leave should be mandatory, failing which men in particular will continue to be reluctant to take this form of leave
  - The current financial crisis context should not impact on paid leave and in particular when considering paid paternity/co-parenting leave; in order words, payments in respect of maternity protection, should not be downscaled to fund paid paternity/co-parenting leave
  - Paternity/co-parenting leave is one area where society can show support particularly for men (as well as same sex couples) as parents which in turn will help to change attitudes towards the roles of women and men with regards to parenting and normalise the participation of men in the upbringing of their children
OUTCOME OF PROPOSALS IN 2009 – CURRENT STATE OF PLAY

- **Maternity leave**

  ✓ Sent back to the (new) Parliament – discussed in September 2009 and adopted by FEMM Committee in February 2010 includes:
  ✓ 20 weeks/6 weeks compulsory leave after birth
  ✓ Full pay throughout leave
  ✓ Legal protection on return to work (6 months)
  ✓ 2 weeks paternity clause – not mandatory
  ✓ EPP called for a cost analysis of paternity clause, but this had little added value
  ✓ Report scheduled to be put to the plenary at the end of October

- **Parental leave**

  ✓ Endorsed by Council December 2009
  ✓ Individual right – also fixed term contracts and temporary workers
  ✓ One month addition non transferable month
  ✓ No pay mentioned
  ✓ No change in the age of the child – 8 years old

EWL analysis of the outcome of the revised Parental Leave Directive:

✓ Non transparent process
✓ Piecemeal approach to reconciliation - missed opportunity
✓ Eligibility criteria (one year service prior to entitlement)
✓ One month non transferable – fundamental change questionable
✓ No pay – impact of take-up rate of men?
✓ No change in the age of the child – falls short of Convention Rights of Child
✓ Missing – other forms of leave: paternity, educational, care (elderly/dependants)

**Self-employed/Assisting Partners:**

✓ Report voted in second reading by the Parliament
✓ Waiting for the Council’s second reading

MATERNITY 2010

03/10/2008 Commission/Council: initial legislative document
13/05/2009 Economic and Social Committee: opinion, report
12/11/2009 EP: draft report by the committee responsible
23/02/2010 EP: decision of the committee responsible, 1st reading/single reading
Challenges and Missing Links – Some tough Questions:

- Remains controversial: issues relating to paternity clause, mandatory period, full pay, too specific focus on women
- Full pay – use of financial crisis context?
- Legal protection on return to work – very important
- No forthcoming proposal from Commission on paternity leave directive
- Difficult for plenary - parties divided

Challenges – EWL current position

- Support the FEMM Committee adopted report – closest to EWL position
- Put pressure on Commission for stand-alone proposal Paternity Leave (2011)
- Full pay – actions: “Myths of the costs of maternity leave”, other actions before plenary
- Link pay issue to gender pay gap, collective costs of maternity leave
- Legal protection on return to work : EWL/Oxfam report evidence of discrimination against pregnant workers and women on or returning to work after maternity leave
- Lobbying letters to all MEPs prior to plenary – input from members
- Insist on minimum standards approach – no MS to change existing legislation if above the standards
- Future – call for other forms of leave – to ensure reconciliation

Lobbying efforts on the new maternity leave directive.

- Working closely with members of the FEMM and EMPL committee to ensure a new directive reflects our interests
- Prepared model lobbying letter and statements for members to send to their national parliamentarians in English, French, Spanish and German
- Will continue to work on this as final committee and plenary deliberations approach
Seven Common Myths about the Costs of Maternity Leave
EWL invites policy makers to join European mothers in the real world

**MYTH ONE:** “We cannot afford full-paid maternity leave, which would disproportionately affect small businesses and drive up wage costs, leading to more jobs being outsourced.”

- **FACT:** Only in three European countries—the UK, Germany and Malta— is maternity leave financed directly through employers rather than tax or social welfare systems, and two of these countries—Germany and the UK—have a recuperation scheme, which applies to both SMEs and large corporations. Incidentally, these are also countries notorious for their high gender pay gaps and low female employment rates compared to their European peers.

- **FACT:** In all other EU member states, employers do not pay wages during maternity leave—social security systems do. While a worker is on maternity leave, employers save the cost of her salary, and can use that money to hire a replacement. **This is as it should be: just as we collectively pay for caring for our seniors or building our schools, we should share the costs of maternity leave.**

- **FACT:** When women are excluded from the job market, economies take a downturn; when women are further included, economies rise. 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.**

**MYTH TWO:** “Implementing this directive, particularly the full-pay provision, in the current economic crisis is irresponsible and will worsen the current recession.”

- **FACT:** The tendency to put profit over people and short-term cost-cutting over long-term growth is what got us into the current economic crisis in the first place. Women have contributed more to economic growth than the emerging economies of China and India and will continue to be invaluable as male-dominated sectors like the automobile industry and construction take hits and the importance of services and care increases. **Ensuring women are included in and protected on the job market will reinvigorate the European economy and reap long-term benefits for economies and birth rates.**

- **FACT:** European governments spent trillions of euros in the last two years rescuing bank, car and construction companies— **the rescue scheme for UK banks alone cost taxpayers up to £850 billion.** This is exactly the right time to invest a comparably low amount of money to empower half of the current population— not to mention the next generation of citizens.

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1 See the European Commission Report on the Equality of Women and Men, 2010
2 See above
✓ FACT: Pervading glass ceilings in corporate Europe are a real problem, and nowhere more than in the financial sector. EWL joins many experts in the conviction that a greater presence of women in financial decision making might have prevented the spin towards reckless, short-term profit-oriented banking that ultimately led to the current crisis.

MYTH THREE: “The costs of this directive would be a detrimental further 2bn £ to British businesses!”

✓ FACT: According to the British Equality and Human Rights commission, the cost estimate of 20 weeks of full paid maternity leave would, in fact, be only 1.3billion£ of extra cost. Additionally, this cost estimate is for the British government, not employers, as the employer in the UK is reimbursed by the state for the benefits paid to workers on maternity leave.

✓ FACT: Maternity leave in the UK currently is drastically underfinanced: mothers receive a laughable, 123£/month which puts them below the relative poverty line, but comparatively long (up to a year). This is not cost-effective for employers and frustrating for employees: the longer an employee is absent from her work, the more it will cost employers to replace her during her absence and re-train her once she returns. A German study shows that prolonged absence from work can cost employers between 2,000 and 12,000€ per employee.

✓ FACT: The additional cost of 1.3bn£ the implementation of this directive would cost the UK would by no means be a large budget item. In fact, the UK currently spends six times that amount on the aftermaths of both smoking and obesity every year and three times that amount on the effects of domestic violence- not to mention the trillions of pounds spent in the aftermath of the financial crisis to stabilize London banks.

MYTH FOUR: “Long, mandatory maternity leave keeps women out of the job market and does more harm than good.”

✓ FACT: A Canadian study shows that high maternity leave payments in the 20 weeks after birth are a strong incentive for women to return to their previous jobs after maternity leave. Employers would actually benefit from this new directive, because the female employees in whose training they have invested time and money would return from their maternity leave more quickly, ready to resume their old positions.

✓ FACT: The provisions in this directive would certainly not force women to stay at home should they want to return to work before the six weeks of mandatory leave have passed. The mandatory leave time simply assures that all European women have a chance to recuperate from the emotional upheaval and physical stress of giving birth before reentering the labour market.

✓ FACT: The current draft of the directive reform does not only provide for full pay, but also for strong legal protections, exactly to combat the kind of discrimination that still marginalizes some women for having children.

MYTH FIVE: “Parental leave is just as good as maternity leave. Countries that provide some remunerated parental leave scheme are doing more than enough for mothers, fathers and families.”

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7 Statistics Canada: “Maternity Leave Pays for Employers, Too”. February 2010 (see also http://www.montrealgazette.com/life/Maternity+benefits+pays+employers+Study/2608269/story.html#ixzz0gZCfop0k)
✓ **FACT:** Parental leave is an important tool for reconciliation, but it **does not address the basic reality that women are biologically responsible for giving birth.** While both generous parental leave provisions and the paternity leave clause in the current draft of this directive are welcome measures, we insist that the two schemes are fundamentally different and should not be confused.

✓ **FACT:** The reason many support parental leave is not just that it is an effective policy, but also that it is cheaper. **Parental leave payments in Europe average at around 500€ a month,** much less than full pay for most workers, and some countries do not have any formal paid parental leave schemes.

**MYTH SIX:** “Being on maternity or paternity leave is like being on extended sick leave or a long vacation—and nobody expects employers to finance that.”

✓ **FACT:** As the Commission points out in its 2020 Strategy, Europe’s working population is shrinking while the share of retired people is growing twice as fast as it did before 2007. **Europe will not have a sustainable workforce for long unless someone is giving birth to the next generation of scientists, teachers, voters and taxpayers,** and claiming that women on maternity leave are essentially “inactive” or “not contributing” to societies undermines the fundamental sustainability of our workforce and of Europe as a whole.

✓ **FACT:** Giving birth puts most women under serious hormonal, physical and emotional strain, and the first few weeks of newborns’ lives are invaluable in their development of trust, sensory-cognitive skills and a bond with both their parents. **Policy makers should take care not to minimize or ridicule the strain and the rewards a new infant brings.**

**MYTH SEVEN:** “China, India and other economic powerhouses don’t provide full paid maternity leave- this will harm our competitiveness.”

✓ **FACT:** Chinese manufacturing workers earn between $100 and $400 a month, and in India, 42% of the population lives on less than $1.25 a day. **Europe will never meet these standards, and should stop trying to do so:** the European welfare system and measures like this directive that empower workers are a value, not a vice, in the global market.

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With the Social Platform

**EU MATERNITY LEAVE DRECTIVE: GET THE FACTS!**

Dear reader,

In this document you will find accurate and independent facts and figures responding to the following questions:

- Does longer maternity leave ensure better health for the mother and child?
- Would longer maternity leave allow the mother to breastfeed for the length of time recommended by the World Health Organisation and UNICEF?
- Can EU parental leave provisions act as a substitute for maternity leave?
- What is the situation in the different EU Member States regarding the length of maternity leave?
- Would the extension of maternity leave be detrimental to women’s employment opportunities?
- Is it true that women earn less after becoming mothers whereas men earn more after becoming fathers?
- Is maternity leave payment of between 80% and 100% already available in the majority of Member States?
- Would an increase in maternity leave payment put both the state and the employers financed social security schemes under unnecessary financial pressure?
- Can leave taken because of sickness be counted as part of maternity leave?

Claim: “Longer maternity leave ensure better health for the mother and child”

✔ TRUE

FACTS:
• Leading scholars in developmental sciences state that extending the total duration of childbirth related leave to 12 months and providing universal and paid coverage would yield benefits for child health and development in the first year of life\textsuperscript{10}.

• The International Journal of Public Health in 2007 found that longer maternity leaves are associated with fewer depressive symptoms, improved mental health and a longer duration of breastfeeding. As to child health, extended maternity leaves are associated with lower mortality up to the fifth year of life\textsuperscript{11}.

• In a 2005 study “Does the Length of Maternity Leave Affect Maternal Health?”, the health economist at the Harvard Medical School Pinka Chatterji found that longer maternity leave is associated with a lower probability of being a likely case of clinical depression and a lower likelihood of having frequent outpatient visits during the first six months after childbirth\textsuperscript{12}.

• According to a 2006 study from the French Ministry of Employment, 70% of women do not go back to work after their 16 week maternity leave. Due to their health status, their leave is usually is prolonged by doctors with a five week sick leave\textsuperscript{13}. According to the survey, 84% of women would like a longer maternity leave. 70% would like to be away from work for a year.

• Paid leave significantly decreases infant mortality while other leave has no significant effect. In the UK, the benefits of extending job-protected paid leave to twelve months would result in a reduction in infant mortality rates by 6.8%\textsuperscript{14}. If leave is provided without payment, or at a low flat rate, parental behavior on taking leave may vary, which could result in forgoing leave provided with no payment or low payment or an early return to work. As a result, other leave would not have a significant effect on improving infant health.

Claim: “A longer maternity leave allows mother to properly breastfeed as recommended by the World Health Organisation and UNICEF”

✓ TRUE

FACTS:

• The World Health Organisation and UNICEF\textsuperscript{*} found that breastfeeding in the first six months of life has extensive benefits for both mother and child\textsuperscript{15}.

• Going back to work within the first six months is an important reason for breastfeeding cessation according to a 2009 study of the American Academy of Pediatrics\textsuperscript{16}.

• Accommodations for breastfeeding in the workplace are ineffective. In 2009, the French Academy of Medicine states current regulations supporting breastfeeding in the workplace are

\textsuperscript{10} The Blackwell Handbook of Early Childhood Development presents a comprehensive summary of research, 2005, page 590.
\textsuperscript{13} Etudes et Resultats, October 2006, Le congé de maternité, Ministère de l’Emploi, de la cohesion sociale et du logement
\textsuperscript{14} The Economic Journal, February 2005, Parental leave and child health across OECD countries. Sakiko Tanaka, Columbia University.
\textsuperscript{15} WHO/UNICEF Innocenti Declaration, 1990
unrealistic and not implemented and therefore recommends that post natal maternity leave should be prolonged up to six months for mothers to breastfeed.\(^\text{17}\)

- **Longer maternity leave supports the exclusive breastfeeding in the first six months.** In 2007, the Canadian National Bureau of Economic research founds that the extension of maternity leave from 6 months to one year has meant that more mothers returned to work later after giving birth and that they breastfed their infants exclusively for the recommended six months.\(^\text{18}\) In Sweden were the maternity leave can last more than 18 month, 72 percent of the children born 2000 were breastfed.\(^\text{19}\)

- **Breastfeeding improves the health of the child.** In a 2009 report, the French Academy of Medicine strongly advises for an exclusive long term breast feeding for infants. It also states that it protects against digestive and respiratory infections and facilitates cognitive and intellectual development in infants. Epidemiology survey suggests that breast feeding is associated with a lower risk of obesity and diabetes type 1 in infants and cardio vascular disease in adults.\(^\text{20}\)

Claim: “The maternity leave does not need to be prolonged. Women wishing a longer leave can get in addition a parental leave.”

\[\bigstar\] **FALSE**

**FACTS:**

- According to the Council of Europe, an “abundance of international literature” suggests that unpaid leave and/or leave without social security coverage are ineffective. The consequences of unpaid leave restrict the option for both parents.\(^\text{21}\) Yet, at European level, the parental leave legislation is currently of three months - will be four with the recent revision\(^\text{22}\) - but unfortunately there is no mandatory clause to have it paid. Parental leave should always entail some economic benefit or at least certain compensation.

Claim: “Extending maternity leave would actually be of detriment to women’s employment opportunities”.

\[\bigstar\] **FALSE**

**FACTS:**

\(^\text{19}\) The Swedish National Board of Health and Welfare Centre for Epidemiology, 2002, Breast-feeding, children born 2000
\(^\text{21}\) Council of Europe, 2004, Parental Leave in Council of Europe member States
\(^\text{22}\) Euractiv, May 2009, Bosses and unions mull longer leave for parents
• The OECD found in 2006 that in countries where the maternity leaves are the longest, female employment rates were highest with over 80% in Iceland and over 70% in Denmark and Sweden - well above the OECD average of 57%.

• High and moderate earnings related payments for family related leave appears to correlate positively with high maternal employment rates.

Claim: “Women will earn less when becoming mothers whereas men will earn more when becoming fathers.”

✓ TRUE

FACTS:

• A 2009 research made in 20 EU countries found that the raw wage gap between mothers and fathers varies between 6% in Hungary and 55% in Estonia. It is thus clear that parenthood causes women’s wages to drop and men’s wages to increase so that when comparing mothers and fathers we find wage gaps that are even deeper than those observed between the total populations of women and men.

• A man can become a father without taking a financial hit in terms of his salary. Women cannot. They do not have a choice. For health and safety reasons they cannot return to work in order to get 100% of their salary even if they wanted to. This is not allowed by law. Yet they very often suffer from a pay cut for having children. This different of treatment goes against the spirit of article 2 of Directive 2006/54/EC on equal treatment between men and women in matters of employment which states that discrimination includes “any less favourable treatment of a woman related to pregnancy or maternity leave.”

Claim: “Increases in payment would put both the state and the employers financed social security schemes under unnecessary financial pressure”.

✗ FALSE

FACTS:

• For an 18 weeks full pay maternity leave, the additional cost for Hungary would be 0.006% of GDP, 0.05% in Belgium, 0.01% in Denmark, 0.01% in Spain, 0.03% in France and 0.02% in the UK. On average 0.7% of GDP is spent on childcare and early education services.

• A payment of between 80% and 100% is already available in the majority of Member States and thus can be considered as a minimum standard. Less than half of Member States (eleven) will have to provide for a better payment.

23 OECD, 2007, Babies and Bosses: Reconciling Work and Family Officer
26 Directive 2006/54/EC
27 Commission impact assessment, October 2008
• Countries in favour of increasing the payment of the leave: Bulgaria, France, Italy, Slovakia, Spain\textsuperscript{29}.

• The payment of the maternity leave falls within the responsibility of the state, not the employer. Nowhere in the directive is mentioned that employers are a financing party of maternity leave. Member States remain free, as is the case now, to determine the share of the allowance which is financed by the state\textsuperscript{30}.

Claim: “What is the situation in the different Member States regarding the length of their maternity leave?”

FACTS:

• 7 out of 27 Member States have already at least 24 weeks maternity leave.

• 10 out 27 Member States have already a 20 weeks maternity leave.

• 13 out 27 Member States have already an 18 weeks maternity leave.

• Nine countries in favour of increasing the duration of maternity leave\textsuperscript{31}: Austria, Bulgaria, Estonia, Finland, Hungary, Italy, Portugal, Slovakia, Slovenia.

Claim: “Leave taken because of sickness should be counted within the period of maternity leave”

\[ \text{FALSE} \]

FACTS

• Working women as any other workers are entitled by law to the right to sick leave or any other absence permitted by labour law, collective agreements and any other agreement recognised as such in national law and practices.

\[ \text{Commission impact assessment, October 2008: } \text{AT, BE, BU, ES, IE, MT, NL, PT, RO, SK, UK. More than half of Member States already grant 100\% of the salary: 14 out 27 (Austria, Germany, Denmark, Estonia, Greece, Spain, France, Lithuania, Latvia, Malta, Netherlands, Poland, Portugal, Slovenia) } \]

\[ \text{Commission impact assessment, October 2008} \]

\[ \text{Commission impact assessment, October 2008} \]

\[ \text{Commission impact assessment, October 2008} \]
ANNEXES: EWL MAIN PROPOSALS SINCE 2008

ANNEX I: EWL contribution to the European Commission’s consultation on measures of reconciliation

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

Introduction

The European Women’s Lobby (EWL) welcomes the consultation of the Social Partners on reconciliation issues initiated by the EC in 2006. Taking note of, and supporting the contribution of the European Trade Union Confederation (ETUC) in this process, EWL hereby wishes to emphasize aspects that are specifically important for women’s organisations throughout Europe, in the hope that the consulting parties will take these aspects on board. We understand that the Commission’s stated aim for the consultation is to evaluate if legislative and/or other measures are needed in order to guarantee “a better work-life balance in order to achieve economic growth, prosperity and competitiveness”. As the launching document of the consultation process makes it clear, the Commission sees this policy area very closely linked to equality between women and men. EWL very much welcomes this approach and, as the major representative of women’s NGOs throughout Europe, believes that women’s experiences, concerns and needs must be at the core of any suggested solution to challenges posed by the apparent collision between goals related to equality between women and men (and, as such, social cohesion) and competitiveness. All the more so, since policies and laws in this field effect women in a proportionally higher number than men.

Based on these considerations, EWL supports both the improvement of the existing European legislation and the creation of new legal tools to ensure both a better provision to reconcile work and private life for women and men, and an enhanced participation of men in the private sphere. We also call for consistency and coherence both between different pieces of legislation and between legal and policy tools, to ensure that, instead of contradicting and weakening each other, the different measures
taken in different fields\textsuperscript{32} enhance the goal of promoting equality between women and men. This coherence is the only way to reach the Commission’s stated aim to tackle reconciliation in a way that takes into account and furthers equality between women and men.

\textit{Background}

As EWL has stated in many previous documents, care policies and services for older people, dependents and children, including maternity, paternity and parental leave provisions, are fundamental elements to achieve equality between women and men. Alongside aspirations for a decent work-perspective, opportunities to reconcile work and private life are the single 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. Analysis clearly shows that equality between women and men in employment and in the public sphere depends very much on equality in the private sphere, especially on the equal sharing of care-work between women and men.

There is now evidence that \textit{good reconciliation policies targeting both women and men result in a rise of both the birth rates and the number of women in employment}. Yet, in most countries and at EU level, policies to reconcile work and private life are either non-existent, or are still usually directed only towards women. This perpetuates inequalities on the labour market and the gender stereotypes that relegate women to the private sphere. Strong policies and legislation are therefore necessary to create obligations, incentives and encouragement for giving women and men a real choice and for men’s equal participation in care-work and in other non-paid work.

It has also become clear in the recent years that an integrated approach to reconciliation issues is needed, adapting working and learning conditions to the \textit{life-course approach} with respect to both women and men, promoting 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 resulting inequality detrimental to women in relation to work and care work. Thus, besides guarantees that women are protected from the detrimental effects of discrimination and stereotypes, policies to promote the role of men in care and family responsibilities and encouraging men to take parental and paternity leave are also needed.

The revision of existing directives and/or any proposal of new legislation should take into account the ETUC recommendations\textsuperscript{33} expressed during the Social Partners’ consultation

\textsuperscript{32} The legal tools and policies that are most strongly related to the issue of reconciliation of work and private life are those in the fields of care, flexicurity and working time in general, taxation, insurance, labour, poverty, demography and services of general interest.

\textsuperscript{33} See at: http://www.etuc.org/IMG/pdf_ETUC_position_second_stage_-_reconc_work_family_life-2.pdf
process as well as incorporate developments as expressed in the 2000 ILO Convention C183 on Maternity Protection. Besides these, EWL sees the following guiding principles as priorities to be taken into account in relation to revised/new European legislation:

1. The revision and new 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 deter employers from considering women a risky and expensive employee-pool and for men to consider parental leave as a career-threatening and financially risky undertaking. Security means guarantees for women’s/men’s right to time out without loosing job/promotion possibilities/income. Care means caring for child(ren), elderly relatives, or any other dependant family member.

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. 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.

4. Based on actual needs of women and men in the EU, types of leave other than maternal and parental leave must be recognized. Thus, care for other dependants, or sick family members, education-leave, paternity leave, adoption-leave, and leave during artificial insemination processes must be acknowledged.

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34 In particular the recommendations regarding policy coherence, care services as services of general public interest, the promotion by legal measures of a general life-course approach for both women and men, the recognition of the diverse forms of families, and the concrete recommendations regarding the relevant directives and the recognition of new types of leave.

35 Notably: atypical forms of work, length of maternity leave with guarantees against reduction in case of unforeseen delay of birth, provisions related to complications during pregnancy or birth, the safeguarding of the job position during the leave, and provisions regarding the arrangements for breast-feeding.

36 Paternity leave at the moment is not acknowledged on the EU level, in some cases it is provided for under parental leave legislation which makes men’s participation in care mandatory (see, for example the Swedish legislation).

37 The ETUC paper argues that adoption has its own specific circumstances, requiring more time of the adoptive parents before the adoption itself. These are, e.g. getting to know the child, visits, courses, administrative burdens,
5. Legislation and policies regulating maternity, parental, or 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 partner-violence in her lifetime, laws and policies must make sure that violent family members can not be obliged to stay at home under any type of care-related leave if mandatory leaves are introduced.

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

7. Member States must ensure the provision of accessible, affordable and good quality care services for all dependants.

8. Taking into account the growing number of migrant women employed in the care sector, legislation must make sure that migrant women’s rights are protected and care work needs are not covered through the exploitation of migrant female labour.

9. Coherence between laws/policies in different fields is a pre-condition for the revision process 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.

Based on the above outlined guiding principles, EWL would like to propose the following specific recommendations:

A. Review and improve the Pregnant Workers Directive\(^\text{38}\): (1) guarantee an income equivalent to full salary during maternity leave as opposed to either only a percentage of the salary or a fixed amount\(^\text{39}\); (2) extension of the duration of the maternity leave from 14 to 24 weeks, and the compulsory period of the leave from 2 to 6 weeks\(^\text{40}\); (3) strengthen the right to breastfeeding breaks and facilities; (4) guarantee the right of the woman to return to the same position or an equivalent position paid at the same

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\(^{38}\) Council Directive 92/85/EEC of 19 October 1992 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

\(^{39}\) In approximately half of the Member States it is a percentage of the salary, in the rest it’s 100%. A fixed amount solution could lead to a “stay-at-home salary” trap; therefore it should be made clear in the directive that this solution is not a possibility. On the other hand, if the woman was unemployed, or a student, or underage before/at the time of the birth, the maternity leave income should be the equivalent to the minimal wage.

\(^{40}\) The legal obligation is both on the mother and the employer, but there seem to be no sanctions in case the woman does not want to take the leave.
rate at the end of her maternity leave; 5) guarantee that the prenatal portion of maternity leave be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory or otherwise provided portion of postnatal leave; (6) guarantee that upon production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth without shortening the period of maternity leave; (7) extend the protection to all workers in atypical forms of employment including domestic workers.41

B. Improve the Parental Leave Directive42: 1) guarantee a decent income during parental leave which is at least equivalent to the average national wage, or introduce such other measure that eliminates the currently unequal uptake of leave between women and men, and especially encourages men to take up parental leave (such measure should take account of the pay gap between women and men, and should pay special attention to not perpetuate or reinforce it), (2) make a certain period43 of the parental leave non-transferable between parents with the stated aim of improving men’s participation in caring for children44; (3) improve employment rights and the prohibition of discrimination based on maternity/paternity status; (4) extend the duration of the paid parental leave to 24 weeks; (5) extend the age of the child in respect of which parental leave can be taken45 and (6) the Parental Leave directive should contain specific measures regarding adoption leave taking account of the specific time-needs of adoptive parents; (7) guarantee equal rights based on the above to partners in same sex families, and to partners in non-married relationships.

C. A directive on paternity leave should be introduced into the EU legislation ensuring (1) a mandatory fully paid leave of at least 18 days46 for fathers to be taken around the time of the birth/adoption47; (2) strong protection of men against discrimination

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41 Most of the recommendations in point A. are in line with the 2000 ILO Convention C183 on Maternity Protection.
43 There are examples of 2 weeks (Denmark) to 2 months (Sweden) paternity leave reserved (i.e. non-transferable) for the father in different legislations. (See at http://www2.ilo.org/public/english/protection/condtrav/family/reconcilwtf/specialleave.htm). In Sweden, parents that have joint custody are entitled to share the total parental leave available to parents.
44 Except in cases of domestic violence as defined in CoE and UN instruments, including, *inter alia*, physical, emotional, verbal and sexual violence against women.
45 It is important to cover the full span of childhood/adolescence; in general parental responsibility is up to age 18 years of age. With reference to children with special needs/disabilities these may not be detected in the early phases of childhood and can also require long term ongoing care throughout childhood/adolescence.
46 Currently, paternity leave on the birth/adoption of a child is not guaranteed in all Member States. On the basis that Finland provides for 18 days fully paid paternity leave, the Directive should not go below this standard.
47 Again, except in cases of domestic violence as defined in CoE and UN instruments, including, *inter alia*, physical, emotional, verbal and sexual violence against women.
in employment based on their taking the leave; (3) these rights to same-sex partners regardless of their marital status.

D. **Other types of leave** should be introduced by European legislation, such as: (1) leave for care for an elderly parent, and/or **other dependants** such as a family member with a disability or terminal illness for example should be recognized; (2) **education leave** should be recognized; (3) **specific measures regarding adoption** should be introduced into the Parental Leave directive in line with the specificities of adoption; (4) the specific time-needs of parents undergoing **artificial insemination** should be incorporated in the Parental Leave Directive\(^{48}\).

E. The **Working Time Directive\(^{49}\)** and **Part Time Work Directive\(^{50}\)** should also be **updated** to ensure the introduction of the right for workers to request adaptation of hours and patterns of work and the right to request a – reversible – reduction or extension of working hours in order to eliminate gender segregation resulting from traditional working/care-time patterns\(^{51}\).

F. **The revised and/or new legislation must contain guarantees for raising the value (both economically and socially) and the security of care work both within the labour market and as unpaid work**, with a special attention on acknowledging the contribution of migrant domestic workers in this area, and the protection of migrant domestic workers from exploitation. Legislation must also take account of the diverse forms of families, including same-sex, non-married, single parent families, and underage mothers.

G. **Taxation policies ensuring that women are not considered more risky and expensive employees than men** must be developed.

H. **The individualisation of rights in the field of social security.**

I. A **process of open method of coordination should be introduced in the field of care services for all dependants**, including setting precise targets and indicators\(^{52}\).

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\(^{48}\) See European Court of Justice decision of 28 February 2008 on protection from dismissal for in vitro fertilisation: Sabine Mayr v. Bäckerei und Konditorei Gerhard Flöckner OHG


\(^{50}\) Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC

\(^{51}\) ETUC Recommendations Section 5.b). p. 25.

\(^{52}\) In line with the ETUC recommendation regarding the availability of care services (ETUC’s Position on the Second Stage Consultation of the Social Partners at Community level on the Reconciliation of Professional, Private and Family Life. July 2007. p. 5.)
J. In order for the measures to be effective and successful, financial resources should be allocated for these goals and for the sharing of good practices among Member States, along with the setting up of monitoring mechanisms in general to ensure consistency between different pieces of legislation and policy, and ways to monitor the allocation of budgets by Member States in particular. The financial resources should be viewed upon as investment instead of as cost.

The above recommendations serve to direct the Commission’s and the consulting parties’ attention to insofar unsolved shortcomings of the legislation in force, hindering the realisation of equality between women and men in the field of reconciling work, private and personal life, and men’s participation in the area of care for dependants. EWL very much hopes that the Commission and the Social Partners will take these considerations into account.

ANNEX II: EWL’s press release in response to the European Commission’s proposal on revision of the Maternity Leave Directive

06.10.08 for immediate release

New Maternity Leave Directive: European Women’s Lobby Calls for 24 Weeks Paid Maternity Leave for All Women in the European Union

The European Women’s Lobby (EWL) welcomes the Commission’s proposal released last Friday to amend the current European Directive\(^53\) 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.

Commenting on the proposed 18 weeks continuous leave, which adds 4 extra weeks to the current European legislation, Myria Vassiliadou, EWL Secretary General, stressed that ‘currently 15 Member States provide maternity leave from between 16-25 weeks and of these, 6 countries provide for 25 weeks or more\(^54\). This means that more than half of Member States have provisions that are above the Commission’s new proposal. Therefore, the EWL is calling for up to 24 weeks paid maternity leave which would reflect a more accurate average of practices currently in place.” Together with its member organisations, the EWL will seek to extend the number of weeks up to 24 in the process starting today, that will lead to the adoption of the amended Directive.

“The other provisions of the revised directive will enable women to enjoy their pregnancy and the early months with their newborn child knowing that their position is secure for up to six months on returning to work and that their financial security during

\(^{53}\) 92/85/ECC

\(^{54}\) See table
maternity leave is guaranteed based on their monthly salary, this is a huge improvement”, stated Kirsti Kolthoff, EWL President. ‘The extension of the mandatory leave of six weeks - currently two weeks - to be taken after child birth, means that women will be able to, recuperate, breastfeed, and spend time with their newborn child without having to juggle with work demands. It also means that women will be able to chose if they wish to take pre-natal leave and not have it imposed upon them as is the case in some countries”, she added.

While welcoming the Commission’s proposal to enable self-employed and assisting spouses/life partners to avail of maternity leave protection, the EWL regrets the ‘voluntary’ nature of the proposal and calls for equal provisions in maternity for all women in Europe, including those in atypical forms of employment, regardless of their professional status and that the reference to income should be based on national average wage.

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The European Women’s Lobby is the largest non-governmental women’s organisation in the European Union, representing 2000 direct member organisations in 28 European countries. Working with its members at national and European level, the EWL’s main objective is to fight for equality between women and men, ensuring the integration of a gender equality perspective in all EU policies. Contact: Mary Collins collins@womenlobby.org - Tel+32 (0)2 217 90 20

ANNEX III: EWL’s position on the European Commission’s proposal to amend Directive 92 on Maternity – position used to lobby the European Parliament

January 2009
Revised April 2009

1) General Introduction

The European Women’s Lobby (EWL) welcomes the European Commission’s set of proposals to guarantee “a better work-life balance in order to achieve economic growth, prosperity and competitiveness”\(^55\) of which the proposal to amend the Directive 92/85/EEC on maternity leave is based. Policies relating to a work-life balance are very closely linked to equality between women and men as 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. EWL very much welcomes this approach and, as the major representative of women’s NGOs throughout Europe, believes that women’s experiences, concerns and needs must be at the core of any suggested solution to challenges posed by the apparent collision between goals related to equality between women and men and, as such, competitiveness and social cohesion. All the more so, since policies and laws in this field affect women in a proportionally higher number than men.

Based on these considerations, the **EWL supports both the improvement of the existing European legislation** including the current improvements in relation to pregnancy, maternity and breastfeeding **alongside the creation of new legal tools** to ensure both a better provision to reconcile work and private life for women and men, and an enhanced participation of men in the private sphere particularly in relation to parental leave provisions and paid paternity leave. The EWL also calls for **consistency and coherence both between different pieces of existing and proposed legislation and between legal and policy tools**, to ensure that, instead of contradicting and weakening each other, the different measures taken in different fields\(^56\) enhance the goal of

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\(^{55}\) As announced in its consultation of 2007-2008 on measures to reconcile private, professional and family life, in preparation of a set of policy proposals to ensure a work-life balance and equality thereof for women and men.

\(^{56}\) The legal tools and policies that are most strongly related to the issue of reconciliation of work and private life are those in the fields of care, flexicurity and working time in general, taxation, insurance, labour, poverty, demography and services of general interest.
promoting equality between women and men. This coherence is the only way to reach the Commission’s stated aim to address reconciliation in a way that takes into account and furthers equality between women and men.

Proposals to improve maternity provisions for pregnant women, for women who have recently given birth or are breastfeeding have sparked broader considerations for facilitating men’s share in care, which the EWL welcomes. However, the EWL believes that strengthening legislation on parental leave with a view to targeting men along with legislative measures to introduce paid paternity leave are the most appropriate tools to respond to this. The EWL will work in this direction in relation to the current revision of the parental leave directive. However, maternity provisions are specific to women. The physicality of giving birth and the subsequent afterbirth and breastfeeding processes need to be recognised and supported by policy makers, labour market stakeholders and society as a whole. Women’s increasing participation in the labour market must not occult the reality of many women’s lives; any attempt to undermine women’s right to maternity provisions in situations of pregnancy, afterbirth and/or breastfeeding would reinforce the already prevailing image that the structural dimensions of the labour market are entrenched in the male life-cycle, disregarding the fact that women as workers have a role in shaping the structural dimensions which take into consideration the reality, aspirations and needs of both women and men.

However, further consultation with member organisations in April 2009 concerning the paternity leave provision led to the revision of EWL’s position. The majority of members decided to support the extension to include paternity leave as proposed in the Estrela report on the following conditions:

- The proposal to include a provision on paternity/co-parenting leave should not infringe on the rights of women to pregnancy/maternity/breastfeeding protection.
- Paternity leave should also include leave for same sex couples. Therefore, the term “co-parenting” is proposed to the term paternity. Paternity/co-parenting leave should be mandatory, failing which men in particular will continue to be reluctant to take this form of leave.
- The current financial crisis context should not impact on paid leave and in particular when considering paid paternity/co-parenting leave; in order words, payments in respect of maternity protection, should not be downscaled to fund paid paternity/co-parenting leave.
- Paternity/co-parenting leave is one area where society can show support particularly for men (as well as same sex couples) as parents which in turn will help to change attitudes towards the roles of women and men with regards to parenting and normalise the participation of men in the upbringing of their children.

2) Gaps in the current maternity proposal
The legal base of the directive is based on article 137 of the EU Treaty, which refers to the improvement of working conditions for the protection of health and safety, and on article 141 on equal treatment of women and men in matters of employment. Therefore, the scope of the proposal only covers women in an occupational capacity either through employment and/or vocational training. Within this context, only those women workers/trainees who have previously accumulated a number of days work, i.e. calculated as contributions to the social security systems in Member States, prior to their pregnancy are eligible to benefit from the provisions of the proposed Directive.

While Member States maintain competence of their social security systems, Regulation (EC) No 883/2004 on the coordination of social security systems (April 2004) aims to ensure that workers can maintain access to social security provisions when and if they change countries for the purpose of work to facilitate the free movement of workers. However, in relation to the text being proposed, given that the eligibility conditions\textsuperscript{57} to avail of maternity provisions vary from one Member State to another (e.g. 120 days work/social security contributions in Belgium, 26 weeks in Cyprus, at least 270 days in the previous two years in the Czech Republic\textsuperscript{58}), this could pose a barrier for some women to benefit from the provisions of the maternity directive if they change countries for the purpose of work, particularly as some Member States impose a residency condition (see annex 1). In addition, while women’s participation in the labour market has increased, women continue to experience short-term contracts – particularly young women at the beginning of their professional career, a-typical patterns of work, including part-time, all of which introduce a break of continuous employment records for which they are sanctioned when faced with the eligibility criteria to benefit from maternity provisions. Women who are not directly registered on the labour market such as students – other than those in vocational training schemes, domestic workers and assisting spouses (for whom another directive is being proposed), are excluded from maternity provisions, hence creating inequality among women on the basis of their professional status in situations of a shared experience, namely pregnancy, birth or breastfeeding.

However, the EWL is aware that extending maternity coverage to all women might be problematic with regard to the legal base but points out that pregnancy, birth and breastfeeding are also issues of health, well-being and gender equality which should not be limited solely to the labour-market. Nevertheless, for reasons of discrepancy in relation to the eligibility criteria as highlighted above and to take into account the patterns of women’s employment, the EWL strongly supports that, at least (as a minimum) the six compulsory weeks of leave proposed in the directive be available

\textsuperscript{57} The original Council Directive 92/85/EEC states in article 11.4 that “under no circumstances (.) periods of previous employment (should be imposed) in excess of 12 months prior to the presumed date of confinement.”

and paid to all women who have recently given birth or are breastfeeding, regardless of their professional status.

This is further justified in relation to flexicurity, a policy framework introduced since the original maternity Directive 92/85/EEC, which enhances a life-cycle approach to work and life-long learning, hence breaking with the traditional three-tier life cycle of study, work and retirement. In this context, the linear eligibility criteria to avail of social security benefits, including maternity provisions must be reviewed, as they are out of step with a life-cycle approach in which continuous employability - as opposed to employment - is one of the core factors of flexicurity.

3. Proposed amendments to the draft Directive by the European Women’s Lobby with justifications

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<tr>
<th>Original text</th>
<th>EWL amendments</th>
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<tbody>
<tr>
<td>Article 1</td>
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<td>Directive 92/85/EEC is amended as follows:</td>
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<td>1. Article 8 is replaced by the following:</td>
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<table>
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<th>Article 8</th>
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<tr>
<td>Maternity leave</td>
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<tr>
<td>1. Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to a continuous period of maternity leave of at least 18 weeks allocated before and/or after confinement.</td>
<td>1. Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to a continuous period of maternity leave of at least 24 weeks allocated before and/or after confinement.</td>
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**Justification:** There are many reasons why the paid period of maternity leave should be increased to 24 weeks. Currently the length of maternity leave varies between 8-45 weeks in the 27 EU Member States, some of which is paid leave and some unpaid. In some countries, additional leave must be requested in order to continue breastfeeding over and above the paid maternity leave period and in these situations it is usually the professional sector that determines whether this additional leave will be granted on the basis of a risk assessment, for example, exposure to chemical and/or toxic substances. Within this context, not all women who have recently given birth are equal in terms of their choice to continue breastfeeding over and above the period of paid maternity leave. Increasing maternity leave from the current 14 weeks to 24 weeks would enable women who have recently given birth to breastfeed if they decide to do so for a continuous period of six months without having to juggle with other options, for example recourse to medical certificates. In addition, both
UNICEF and the World Health Organisation (WHO) recommend breastfeeding in the first six months of infancy.59 There are also economic reasons which would favour extending paid maternity leave to 24 weeks. Firstly, employers are more likely to invest in replacement workers over a longer period hence reducing their risk of a loss in competitiveness during the absence due to maternity leave of a worker who has recently given birth. They are in a better position to plan their human capital needs over a set period of six months. Secondly, on return to work following a period of 24 weeks paid leave, women will have had a time to recuperate from the physicality of giving birth, to spend some time with her new born child and to breastfeed if she desires; therefore, the likelihood of her returning to work in a positive framework will result in greater employee productivity which will also directly benefit her employer. The likelihood of taking time off for sickness (mother/child related) is also reduced. Finally, it is crucial that society as a whole accepts that women have a right to paid maternity leave. Women’s increased participation on the labour market requires the recognition on the one hand that giving birth is part of the life of most women for which paid leave of absence for 24 weeks is a legitimate right of all women and, on the other hand, the sharing of caring responsibilities requires the strengthening of parental leave provisions in which the barriers that prevent men to take paid leave of absence to share in the caring of children and dependent family are firmly removed.

2. The maternity leave stipulated in paragraph 1 shall include compulsory leave of at least six weeks after childbirth. The Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to choose freely the time at which the non-compulsory portion of the maternity leave is taken, before or after childbirth.

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<tr>
<th>2. The maternity leave stipulated in paragraph 1 shall include compulsory leave of at least six weeks after childbirth. The Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to choose freely the time at which the non-compulsory portion of the maternity leave is taken, before or after childbirth.</th>
<th>2. The maternity leave stipulated in paragraph 1 shall include compulsory paid leave of at least six weeks after childbirth. The compulsory leave of six weeks shall be applied to all workers whether employees, self-employed, assisting spouses, unemployed women regardless of the number of days worked previously.60</th>
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**Justification:** equality among women with different professional status and/or women who are registered as unemployed or without an employment status but nevertheless are recognised as partners in economic activities namely assisting spouses. While the latter, along with self-employed women, are the subjects of another proposed amended Directive61 it is crucial that all women in the EU directly engaged in an economic activity are provided with an equal compulsory paid maternity leave. Such an approach would narrow the gap in discrimination amongst

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women in situations of giving birth. The six month compulsory paid leave should also be extended to women who are not yet on the labour-market but are in full-time or part-time education and who are compelled to temporarily interrupt their education to give birth. This would ensure equality and non discrimination among women who are in vocational training where there is a direct link with the labour-market and those in other types of formal education who will become employable but for whom the education curricula is not directly labour-market orientated.

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<th>3. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date and the actual date of childbirth, without the remaining portion of leave being reduced.</th>
<th>No amendments; EWL supports this</th>
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<tr>
<td>4. Member States shall take the necessary measures to ensure that additional leave is granted in the case of premature childbirth, children hospitalised at birth, children with disabilities and multiple births. The duration of the additional leave should be proportionate and allow the special needs of the mother and the child/children to be accommodated.</td>
<td>4. Member States shall take the necessary measures to ensure that additional leave is granted and fully paid in the case of premature childbirth, children hospitalised at birth, children with disabilities and multiple births. The duration of the additional leave should be proportionate and allow the special needs of the mother and the child/children to be accommodated.</td>
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<td>5. Member States shall ensure that any period of sick leave due to illness or complications arising out of pregnancy occurring four weeks or more before confinement does not impact on the duration of maternity leave.&quot;</td>
<td>5. Member States shall ensure that any period of sick leave due to illness or complications arising out of pregnancy or not occurring four weeks or more before confinement does not impact on the duration of maternity leave.</td>
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**Justification:** Only pregnancy related illness and/or complications are recognised as not impinging on the duration of maternity leave. However, it is important that no discriminatory measure is imposed on workers due to their pregnancy and that pregnant workers preserve the same rights as other workers who are entitled to leave for illness or any other absence permitted by labour law, collective agreements and any other agreement recognised as such in national law and practices.

<p>| 2. Article 10 is replaced as follows: |
| &quot;Article 10  Prohibition of dismissal  In order to guarantee that workers within the meaning of Article 2 can |</p>
<table>
<thead>
<tr>
<th>Exercise their health and safety protection rights as recognised under this Article:</th>
<th>1. The Member States shall take the necessary measures to prohibit the dismissal and all preparations for a dismissal of workers within the meaning of Article 2 during the period from the beginning of their pregnancy to the end of the maternity leave provided for in Article 8(1), save in exceptional cases not connected with their condition which are permitted under national legislation and/or practice and, where applicable, provided that the competent authority has given its consent.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Member States shall take the necessary measures to prohibit the dismissal and all preparations for a dismissal of workers within the meaning of Article 2 during the period from the beginning of their pregnancy to the end of the maternity leave provided for in Article 8(1), save in exceptional cases not connected with their condition duly substantiated in writing and which are permitted under national legislation and/or practice and, where applicable, provided that the competent authority has given its consent.</td>
<td>2. If a worker within the meaning of Article 2 is dismissed during the period referred to in point 1 the employer must cite duly substantiated grounds for her dismissal in writing. If the dismissal occurs within six months following the end of maternity leave as provided for in Article 8(1), the employer must cite duly substantiated grounds for her dismissal in writing at the request of the worker concerned.</td>
</tr>
<tr>
<td>2. If a worker within the meaning of Article 2 is dismissed during the period referred to in point 1 the employer must cite duly substantiated grounds for her dismissal in writing. If the dismissal occurs within [Replace ‘six months’ by ‘one year’] following the end of maternity leave as provided for in Article 8(1), the employer must cite duly substantiated grounds for her dismissal in writing [Delete: at the request of the worker concerned.]</td>
<td>Justification: returning to work is a crucial moment for women who have recently given birth and every effort must be made to ensure that her return is carried out within optimal conditions. Therefore, in order to guarantee her return to the same post, it is vital to recognise that a longer period than six months is necessary. In order to avoid potential indirect discrimination, a six month period could be used as a de-facto (re)trail period to test the newly returned worker’s ability to adapt to the (rapidly) changing working environment and/or the changes that occurred in the work place during her absence. Justifying the substantiated grounds for dismissal in writing, regardless of whether the worker concerned requests this should be (is?) a standard practice of all contracts that are terminated during the course of and before the end of the working contract period agreed initially between employer and employee.</td>
</tr>
</tbody>
</table>
| 3. The Member States shall take the necessary measures to protect workers | No amendments as the issues raised in this article are covered in the
within the meaning of Article 2 from the consequences of dismissal which is unlawful by virtue of points 1 and 2.

<table>
<thead>
<tr>
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<th>justification of article 10.2 above.</th>
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<tr>
<td>(c)</td>
<td>Point 3 is replaced by the following: &quot;3. the allowance referred to in point 2(b) shall be deemed adequate if it guarantees income equivalent to the last monthly salary or an average monthly salary, subject to any ceiling laid down under national legislation. Such a ceiling may not be lower than the allowance received by workers within the meaning of Article 2 in the event of a break in activity on grounds connected with the worker's state of health. The Member States may lay down the period over which this average monthly salary is calculated.&quot;</td>
</tr>
</tbody>
</table>

**Justification:** pregnancy, giving birth and breastfeeding must not give rise to discriminatory practices as confirmed by Directive 2006/54/EC on the principle of equal opportunities and equal treatment of women and men in matters of employment and occupation (recast). Providing a ceiling to allowance during maternity leave in reference to equivalent salary could be considered to be a form of discrimination and therefore in contraction with current EU legislation in relation to equal treatment for women and men in employment and in occupational social security schemes. Furthermore, the legislative framework provides for equal pay for work of equal value and in particular Directive 2006/54/EC stipulates in article 4 that (..) direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration shall be eliminated” and, in article 2.1 (e) relating to pay which encompasses all forms of payment “in respect of his/her employment from his/her employer”. Article 2.2 (c) specifies that discrimination includes “any less favourable treatment of a woman related to pregnancy or maternity leave.” |

<table>
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<tr>
<th></th>
<th>3. the allowance referred to in point 2(b) shall be deemed adequate if it guarantees income equivalent to the last monthly salary or an average monthly salary, [Delete: subject to any ceiling laid down under national legislation. Such a ceiling may not be lower than the allowance received by workers within the meaning of Article 2 in the event of a break in activity on grounds connected with the worker's state of health. The Member States may lay down the period over which this average monthly salary is calculated.”]</th>
</tr>
</thead>
<tbody>
<tr>
<td>(d)</td>
<td>The following point 5 is added: &quot;5. Member States shall take the measures necessary to ensure that workers, within the meaning of Article 2, may, during maternity leave or when returning from maternity leave, as provided for in Article 8, request changes to their working hours and patterns, and that employers shall be obliged to consider such requests, taking employers' and workers' needs into account to ensure greater reconciliation</td>
</tr>
</tbody>
</table>

|   | 5. Member States shall take the measures necessary to ensure that workers, within the meaning of Article 2, may, during maternity leave or when returning from maternity leave, as provided for in Article 8, request changes to their working hours and patterns, and that employers shall be obliged to consider such requests, taking employers' and workers' needs into account to ensure greater reconciliation |
**Justification:** Since the original directive 92/85/EEC was adopted new policy principles have been adopted in relation to employment particularly in the framework of the Lisbon Strategy for Growth and Jobs, namely flexicurity, for which a set of principles were adopted in December 2007 by the Council of Ministers for Employment, Social Policy, Health and Consumer Affairs. One of these principles states that flexicurity “should support gender equality” and “offer measures to reconcile work, family and private life”, therefore the current proposal on the maternity Directive should make reference to this. In addition and in parallel to the current proposal for a Directive relating to maternity provisions, the Social Partners are negotiating amendments to the 96 Parental leave Directive which aims to seek greater reconciliation of private, professional and family life for both women and men. The amendment is being proposed to ensure coherence between parental leave and the current proposal on maternity.

<table>
<thead>
<tr>
<th>Article/Paragraph</th>
<th>Text</th>
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</thead>
<tbody>
<tr>
<td>4.</td>
<td>The following Article 12a is inserted:</td>
</tr>
<tr>
<td></td>
<td>&quot;Article 12a Burden of proof 1. Member States shall take such measures as are necessary in accordance with their national judicial systems to ensure that when persons who consider that their rights under this Directive have been breached establish, before a court or other competent authority, facts from which it may be presumed that there has been such a breach, it shall be for the respondent to prove that there has been no breach of the Directive. 2. Paragraph 1 shall not prevent the Member States from introducing rules of evidence which are more favourable to plaintiffs. 3. Paragraph 1 shall not apply to criminal proceedings. 4. Member States need not apply paragraph 1 to proceedings in which the court or competent body investigates the facts of the case. 5. Paragraphs 1 to 4 shall also apply to any legal proceedings commenced according to Article 12.&quot;</td>
</tr>
<tr>
<td>5.</td>
<td>The following Article 12b is inserted:</td>
</tr>
<tr>
<td></td>
<td>&quot;Article 12b No EWL amendments</td>
</tr>
<tr>
<td>Victimisation</td>
<td></td>
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<tr>
<td>Member States shall introduce into their national legal systems such measures as are necessary to protect individuals from any adverse treatment or adverse consequence resulting from a complaint they have lodged or proceedings they have initiated with the aim of enforcing compliance with the rights granted under this Directive.</td>
<td></td>
</tr>
</tbody>
</table>

| 6. The following Article 12c is inserted: |
| "Article 12c |
| Penalties |
| Member States shall lay down the rules on penalties applicable to breaches of national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. Penalties may comprise payment of compensation, which may not be limited by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive. |

| 7. The following Article 12d is inserted: |
| "Article 12d |
| Equality body |
| Member States shall ensure that the body or bodies designated under Article 20 of Directive 2002/73/EC as recast by Directive 2006/54/EC for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex shall be competent in addition for issues falling within the scope of this Directive, where these issues pertain primarily to equal treatment and not to the worker's health and safety. |

| Article 2 |
| 1. Member States may introduce or maintain provisions which are more favourable to workers than those laid down in this Directive. |
2. Implementation of this Directive shall under no circumstances constitute grounds for reducing the level of protection in the fields covered by this Directive.

**Article 3**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by .... at the latest [two years after adoption]. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

2. The measures thus adopted by the Member States shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

**Article 4**

1. Member States and national equality bodies shall communicate to the Commission, by [five years after adoption] at the latest and every five years thereafter, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of Directive 92/85/EEC as amended by this Directive.

2. The Commission's report shall take account, as appropriate, of the viewpoints of the social partners and relevant non-governmental organisations. In accordance with the principle of gender mainstreaming, the report shall *inter alia* provide an assessment of the impact on women and men of the measures taken. In the light of the information received, the report.
4) Summary of EWL amendments

**Duration:** 24 weeks – article 1, (under: replace article 8.1)

Six weeks compulsory paid leave—extend to all women regardless of their professional status in view of the differentiated eligibility criteria throughout the Member States to avail of the full maternity provisions, - article 1, (under replace article 8.2)

Additional leave to be fully paid in the case of premature childbirth, children hospitalised at birth, children with disabilities and multiple births.– article 1, (under replace article 8.4)

No exceptions to the right to take sick leave/leave that is not related to pregnancy in the same way as other workers, - article 1, (under: replace article 8.5)

One year protection from dismissal – article 1, (under: replace Article 10.2)
Delete reference to ceiling for the purpose of pay during leave – article 1, (under replace article 10.3 c)

Add reference to reconciliation of private, professional and family life,— article 1, (under add: 3.5 d)
### Annex 1: Eligibility criteria for maternity leave and cash maternity leave benefits in EU member States


<table>
<thead>
<tr>
<th>Countries</th>
<th>Eligibility criteria for maternity leave</th>
<th>Eligibility criteria for cash maternity benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>No qualifying conditions</td>
<td>No qualifying conditions</td>
</tr>
<tr>
<td>Belgium</td>
<td>Payment of a minimum amount of contributions + in special cases: qualifying period of 6 months with 120 working days.</td>
<td>Contributions paid for 6 months</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>NC</td>
<td>6 months of insurance and a medical referral</td>
</tr>
<tr>
<td>Cyprus</td>
<td>Permanent residence and citizenship</td>
<td>Insured for at least 26 weeks up to the starting date of the commencement of maternity allowance or delivery in the case of maternity grant</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>No qualifying conditions</td>
<td>At least 270 days of insurance during the two years preceding confinement. Self-employed in addition at least 180 days of participation in sickness insurance during the one year preceding the birth.</td>
</tr>
<tr>
<td>Denmark</td>
<td>6 weeks of residence</td>
<td>A woman must have worked at least 120 hours in the 13 weeks prior to seeking benefits</td>
</tr>
<tr>
<td>Estonia</td>
<td>No qualifying conditions.</td>
<td>working directly prior to confinement</td>
</tr>
<tr>
<td>Finland</td>
<td>No qualifying conditions.</td>
<td>Must have been resident in Finland for at least 180 days immediately before the expected date of confinement</td>
</tr>
<tr>
<td>France</td>
<td>NC</td>
<td>A woman must have 10 months of social insurance credits prior to taking leave and at least 200 hours of work in the three months preceding the child’s due date</td>
</tr>
<tr>
<td>Germany</td>
<td>No qualifying conditions.</td>
<td>No minimum qualifying period (for health insurance) but claimants need to have worked at least 360 days over the last three years</td>
</tr>
<tr>
<td>Greece</td>
<td>50 days of insurance during the previous year or during the last 15 months, from which the last 3 are</td>
<td>200 days work resulting in contributions during the last 2 years</td>
</tr>
<tr>
<td>Country</td>
<td>Requirements</td>
<td>Notes</td>
</tr>
<tr>
<td>-----------</td>
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<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>Hungary</td>
<td>No qualifying conditions</td>
<td>At least 180 days of insurance during the last two years before delivery; and she will give birth during the insurance period or within 42 calendar days of its expiry.</td>
</tr>
<tr>
<td>Ireland</td>
<td>Residence.</td>
<td>- Employees: 39 contributions paid in the 12 months before the first day of maternity leave or 39 contributions paid since first starting work, and 39 contributions paid or credited in the relevant tax year before the benefit year, or 26 contributions paid in each of the two relevant tax years before the benefit year. -Self-employed: 52 contributions paid in either the last or second last complete tax year before the benefit year in which the claim is made</td>
</tr>
<tr>
<td>Italy</td>
<td>Registered at the National Health Service</td>
<td>No qualifying conditions</td>
</tr>
<tr>
<td>Latvia</td>
<td>No qualifying conditions</td>
<td>Maternity Benefit incapacity for work certified by doctor</td>
</tr>
<tr>
<td>Lithuania</td>
<td>No qualifying conditions</td>
<td>3 months insurance during the last 12 months or at least 6 months during the last 24 months.</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>No qualifying conditions</td>
<td>Must have been affiliated for 6 months in the year preceding the birth.</td>
</tr>
<tr>
<td>Malta</td>
<td>Insured under the social security system.</td>
<td>Payable to women who do not avail themselves of maternity leave from their employers</td>
</tr>
<tr>
<td>Poland</td>
<td>No qualifying conditions</td>
<td>No qualifying conditions</td>
</tr>
<tr>
<td>Portugal</td>
<td>Residence.</td>
<td>Months affiliation with registered remuneration</td>
</tr>
<tr>
<td>Romania</td>
<td>No conditions</td>
<td>1 month of insurance (payment of contributions) in last 12 months.</td>
</tr>
<tr>
<td>Slovenia</td>
<td>No qualifying conditions</td>
<td>Covered by the Parental Leave Insurance and be insured prior to the first day of the leave</td>
</tr>
<tr>
<td>Slovakia</td>
<td>Permanent or temporary residence.</td>
<td>270 calendar days of affiliation to the sickness insurance system during the two years before</td>
</tr>
<tr>
<td>Country</td>
<td>Requirements</td>
<td>Exceptions</td>
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<tr>
<td>Spain</td>
<td>Over 26, contributions paid for at least 180 days in the 7 years immediately preceding the delivery</td>
<td></td>
</tr>
<tr>
<td>Sweden</td>
<td>Work or residence in Sweden.</td>
<td>To women who have a physically demanding job in the last 60 days before expected birth of the child</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>No qualifying conditions</td>
<td>No qualifying conditions</td>
</tr>
<tr>
<td>UK</td>
<td>Residence</td>
<td>Statutory Maternity Pay: Continuously employed by the same employer for 26 weeks into the 15th week before the week baby due and has earnings which average at least GBP 87 (€ 117) a week</td>
</tr>
</tbody>
</table>

ANNEX IV: EWL response to the non vote in the European Parliament, at its final plenary session

For immediate release: 7 May 2009

Maternity Leave Directive - European Women’s Lobby expresses deep disappointment in the aftermath of the EP non-vote and appeals to the electorate to vote for more women in the future European Parliament

The European Women’s Lobby (EWL) expresses its deep disappointment at the way in which the Estrela report to improve provisions for pregnant women workers, those that have recently given birth and/or breast feeding was addressed at the last plenary session of the European Parliament in Strasbourg yesterday – 6 May.

“Women have joined the labour market in unprecedented numbers in the last decade and made a substantial contribution to the economic development of the European Union. The labour market is no longer the exclusive domain of men. Pregnancy, giving birth and breastfeeding are specific to women and must be mirrored in labour market regulations, laws and protection measures and policies”, stated Brigitte Triems, EWL President. “The European Parliament had the opportunity to send a strong message to
women workers of the European Union regarding their right to a decent maternity leave provision, fully paid and protection from dismissal on returning to work. Men, along with partners of women who have recently given birth, were also being given the possibility of availing of paternity/co-maternity leave, as a right and not at the discretion of employers providing a golden opportunity to pave the way towards equality between women and men in their responsibilities as parents.”

While maternity provisions currently vary within the Member States the proposed Estrela report provided the opportunity to ensure that all women workers in Europe, including those in atypical forms of employment, would be guaranteed equal provisions in terms of duration, full pay and protection from dismissal on returning to work.

“This is a missed opportunity that shows more so than ever that a critical mass of women is needed in the name of democracy for the future legislature of the new European Parliament,” stated Myria Vassiliadou, EWL Secretary General. “Issues that relate to women’s lives, such as maternity protection, have a far greater chance of becoming political priorities when more women are sitting at the decision-making table.”

By refusing to vote on the Estrela report, the current European Parliament at the end of its mandate has failed women. “We can only now look to the future, draw conclusions from the current state of play and invite the electorate to carefully think about the type of European Union we want. Europe belongs to us all and that includes women”, stated Ms Vassiliadou.

For further information, contact, Myria Vassiliadou, EWL Secretary General or Mary Collins, Policy Officer (32) 02/217.90.20

www.womenlobby.org

ANNEX V: EWL Statement prior to the vote in the FEMM Committee 2010

January 2010

EWL Statement on the Reform of the Maternity Leave Directive: Time for Europe to Take the Concerns of Mothers Seriously

In a time of growing economic uncertainty and facing demographic changes Europe cannot ignore, it is vital that the European Institutions protect and strengthen the rights of pregnant workers, those who have recently given birth or are breastfeeding. The European women’s Lobby (EWL), representing more than 2500 women’s associations from 30 countries, considers the following issues to be at the core of the reformed maternity leave Directive, under consideration by the Committee on Women’s Rights and Gender Equality in February 2010.

1. Extension of maternity leave to 24 weeks:
Maternity leave of 24 weeks gives women, and their newborns, the time to recover emotionally and physically, particularly in cases of post-natal depression or other special circumstances, such as premature or multiple births, and time to bond with their child(ren) without having to worry about their position on the labour market. Allowing women to take 24 weeks of maternity leave permits them to breastfeed for the entire period, which the World Health Organisation considers the healthiest option for both mothers and children. An extension of maternity leave would not conflict with existing parental leave legislation in member states: while some groups benefit from parental leave more than others, maternity leave gives all women, regardless of financial and personal circumstances, the time they need after giving birth.

2. Payment of maternity leave should be equivalent to 100% of the last monthly salary:

The current legislative draft envisions a sliding scale, where payments would decrease to 85% of salary after six weeks. This gives women, especially those supporting low-income families, a powerful incentive to return to work early, rendering the extension of maternity leave almost meaningless to them. The European Union’s average gender pay gap currently stands at 18%, with maternity leave as a contributing factor to this, and the growing gender pension gap. It is unacceptable that European mothers should still be sanctioned for giving birth under the new maternity leave Directive.

3. Protecting the rights of new mothers when they return to work should be at the centre of any new European legislation:

The language in the current draft proposal does this quite effectively, for instance by strengthening the rights of breastfeeding mothers, and protecting new women from working night shifts, overtime, and from dismissal. This is as a central point of any new legislation, and an important step towards creating a working environment across Europe that takes the life-cycles and needs of women seriously.

The steps taken in this Directive are essential to ensure that women across Europe become part of a labour market that takes women, their families and their life choices seriously, rather than marginalising them for having children.

It should also be noted that proposals for amendments and voting list proposals were also produced throughout the period 2009-2010 and are available upon request.