



## Assessment of the European Commission Work-Life Balance package

June 2017

### I. Introduction

On 26 April 2017, the European Commission launched a Work-Life Balance Package, composed of a [Communication](#) and a proposal for a [Directive](#) to “support work-life balance for parents and carers”. These were part of the broader framework of the [European Pillar of Social Rights](#), as the first concrete initiative.

COFACE Families Europe has been advocating for specific measures on Work-Life Balance for years and campaigned, since 2012, to bring on the top of the EU agenda the challenges that families face daily in reconciling their work, family, care and personal life. We, therefore, welcome this comprehensive package that tries not only to deliver concrete responses to the challenges of many families across Europe, but does so embracing the approach we have been advocating for: the R-S-T (Resources - Services - Time) policy mix and the life-cycle approach. R-S-T means understanding that what families need, regardless of the family form, is a mix of Resources (income, fair and equal tax systems..), Services (childcare, elderly care, care and support for persons with disabilities...) and Time (leaves schemes, flexible working arrangements..).

Delivering only on one of these three aspects will help but it will not bring systemic change. On the contrary building policy and legislation based on all three of them is a bold and ambitious move that will impact positively millions of families.

Work-Life Balance has been seen for long time merely as a benefit for young mothers, in a stereotypical vision of roles and old-fashioned distribution of competences where men are the breadwinners and women the caregivers. Society has changed, families have different forms and needs, more and more families are dual earners and more men want to have a more important caring role for their children and family members. However, policies and the labour market structure have not followed the changes in society: women still suffer from a number of forms of discrimination, direct and indirect, to enter and stay in the labour market; and men are stigmatised if and when they want to increase their caring role. The gender pay gap is at 16% ([European Commission, 2017](#)), higher tax rates on second earners (generally women) reduce women's participation to the labour market ([OECD, 2012](#)), care services are largely insufficient and not diversified enough to respond to families' needs, the average take-up rate of parental leave by fathers is 10% in the EU ([European Parliament, 2015](#)).

This Work-Life Balance package is a first important step in the good direction and the beginning of the process to achieve a reconciliation economy and society. COFACE acknowledges the comprehensiveness of the package but, apart from the proposed Directive, all other areas will need to be operationalised through a number of *ad hoc* initiatives. In this paper, we will analyse the different proposals presented in the package published on 26 April 2017 and put forward our ideas for further developing this work.

## **II. Two processes launched: Non-Legislative and Legislative**

### **Non-Legislative**

The non-legislative measures in the Work-Life Balance package include 10 broad EU policy actions (as outlined in the Commission Communication), including maternity leave measures to ensure enforcement of existing legislation to protect women from discrimination and dismissal (through reinforced cooperation of national equality bodies); the need for strengthened policy guidance and sharing of best practices at different levels; the use of the EU semester (Europe's economic policy process) to monitor Member States' performance on Work-Life Balance measures such as development of childcare and long-term care, promoting women's employment, reducing the gender pay gap, and more) through the development of more benchmarks; and using the full potential of EU financial instruments like the European Social Fund and the European Regional Development Fund to fund support services (both training of professionals and service infrastructure).

COFACE Families Europe has already started contributing to the operationalisation of some of these policy actions, namely through its work with European Structural and Investment Fund authorities and the organisation of a recent workshop on the contribution of the European Social Fund to work-life balance (1-2 June in Brussels with the ESF Transnational Platform). This resulted in a call for a European Commission mapping of the current use of the European Social Fund in the field of work-life balance. Through our network of National member, we are also working closely with national governments to promote cross-country exchanges and transfer of knowledge on effective reconciliation policies. We have the ambition to consolidate this cooperation and further promote family policy innovation through structured exchanges around the 10 policy actions recommended in the Commission Communication.

## **Legislative**

In parallel to the operationalisation of the Communication policy actions, the proposal for a Work-Life Balance Directive will trigger the co-decision process. EU legislation in this field is legitimate and very much needed, it has been proven to be the best instrument to guarantee rights and enhance people's lives. Nevertheless, it would be necessary to put forward a system that would be strong enough to provide protection and support to parents, carers and their families, but also be flexible enough to allow national differences to temporarily exist while moving toward an upward welfare convergence. The Co-legislators, the European Parliament and the Council of the EU, the first elected directly by the European citizens and the second gathering national elected Governments, have to demonstrate that they care about their citizens.

We urge the co-legislators to deliver a final text that still contains ambition and not to block it under the pressure of those stakeholders calling for soft-law only. The European Commission, i.e. the institution that represents the European interest has delivered its share, it is now up to those elected in Member States to do theirs, by approving the Work-Life Balance Directive (from here onwards referred to as WLB Directive) swiftly and without watering it down.

The European Parliament has already shown its commitment to proceed by voting the resolution [Creating labour market conditions favourable for work-life balance](#) (2016/2017 (INI)) in September 2016. With this Resolution the voice of the elected MEPs has resonated loud and clear in favour of a legislation supporting work-life balance for families. In a few months we will need the support of each and every MEP to re-state their commitment by voting in favour of this proposed text, amending it where necessary but without emptying it of its meaning and strength.

Although Member States, through the Council of the EU, have shown some resistance in the last years to legislative texts in the area of leaves from employment and gender equality, it is important to underline that recently, on 3 March 2017, there has been

Council Conclusions on "[Enhancing the Skills of Women and Men in the EU Labour Market](#)" where Member States clearly stated the need for Work-Life Balance measures. We sincerely hope that this proposed Directive will not become victim of a debate that goes beyond its content and we look forward to closely work with Member States, Presidencies and Council to clear any possible doubt on the necessity of this text and on its added value for Europe and its citizens.

Quality of life, quality of employment and welfare systems are an incredibly strong pull factor for talents beyond the EU. We need to allow all talents and skills in the EU to flourish, including the underused competences of women and young people, but at the same time attract the best talents across the world. Europe has much to offer to attract workers and businesses across the globe but cannot (and should most definitely not) compete by lowering salaries and guarantees for its workers. Europe is an excellence for research, innovation and its welfare, including quality of life and quality employment. Decent salaries, strong protection of all workers, welfare systems are Europe's key to success, internally and internationally.

This is particularly true in times where citizens are getting disengaged from the European dream and project, feeling they have lost in the race of globalisation and seek responses to anti-european sentiments. This is, we believe, also a consequence of the fact the European Union has forgotten, in these last years, its human face, its ambition to go beyond finance and economic integration and build a real Social Europe.

We welcomed the European Pillar of Social Rights and we think that this Work-Life Balance initiative is a first concrete example on how good intentions can become reality. Because there is no more time for words, it is time for actions. COFACE would like to read the Work-Life Balance initiative as the first of many concrete actions that will make the European Pillar of Social Rights a reality for all in Europe. We believe this could become the starting point where per each principle of the Pillar, a package could be proposed, filling the principle structure with concrete initiatives.

### **III. Resources-Services-Time assessment**

In this section, we analyse the Work-Life Balance Communication and proposal for a Directive, following the R-S-T approach. A broader presentation of our demands and vision is presented in our recent paper "[Families on the Edge: building a comprehensive European work-life balance reality](#)". COFACE has also presented a first analysis of the "[European Pillar of Social Rights](#)" where we look more in depth into a number of the principles presented.

## 1. Resources

Being able to reconcile work and family life allows parents and carers to stay in the labour market and also contribute to the family income. COFACE Families Europe has stressed for many years the role of a reconciliation policy mix for the prevention and reduction of the risk of poverty for families. Reconciling work, family and care is a means for families to have incomes on which they can base their lives on. However, in the current fiscal systems there are still a number of factors that disincentivise women to work and penalise dual earners families.

COFACE Families Europe has highlighted four areas that could support families in terms of economic resources and we welcome the proposal of the European Commission to assist Member States in reducing disincentives that are negatively impacting families. As detailed in our recent paper "[Families on the Edge](#)", the four areas where intervention is needed to ensure families have access to economic resources:

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### RESOURCES ensuring decent living standards

- Labour related income: access to decent wages and tackling the gender pay gap
  - Fairer and more equitable tax systems
  - Removing implicit bias also from indirect taxation (e.g. VAT)
  - Income Support: benefits and allowances
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Within the current initiative on Work-Life Balance the European Commission announced that there will be non-legislative measures to support Member States to remove economic disincentives that hinder women's participation in the labour market, in particular:

- providing guidance within the European Semester process to remove country specific obstacles;
- share best practices through an ad hoc seminar with Member States and Social Partners;
- improve data collection and develop and use benchmarks.

COFACE Families Europe believes that the European Semester is a powerful tool in the area of fiscal policy and it could be very helpful in reducing economic disincentives for second earners. For this reason we welcome this initiative and we will closely monitor and recall the European Commission to its commitment in the next cycle of Country Specific Recommendations (CSRs). An ad hoc seminar with Member States and Social Partners could be a good preparatory exercise but it is important that this initiative is framed within a concrete output-related process, where the transfer of knowledge and best practices is not a goal in itself but a tool for advancement.

Data collection and the development of benchmarks is key and COFACE endorses this idea with, however, the suggestion to link this work with the other mapping and data collection exercises mentioned in the Work-Life balance Communication (COM(2017)252 ), namely on leaves and flexible working arrangements, Early Childhood Education and Care (ECEC) service provision, Long Term Care services and create a Work-Life Balance Index, on the model of the Gender Equality Index by EIGE or the OECD Better Life Index, where each of the above mentioned area will be a domain of the index that could provide a broader and more complete appreciation of the full Work-Life balance policy and legislative framework in Member States and the EU. (for more detailed information on our recommendation for a Work-Life Balance Index, see last page).

## 2. Services

Services, in particular Early Childhood Education and Care (ECEC), Long Term Care (LTC) and other care and support services for persons with disabilities, children and elderly people are crucial for families. ECEC has been seen as a tool to improve work-life balance for working parents for a long time. On the contrary, services for long-term care and support for older people and persons with disabilities have just recently started to enter the work-life balance debate, with the understanding that the demographic changes are having a strong impact on families and on workers possibilities to stay in employment. With most of care and support still provided within the family due to a lack of services and ad hoc leaves and flexible working arrangements, women aged 50+ are increasingly having to take care of (grand)children and older parents at the same time, with consequences on their physical and mental health, but also on their work and ultimately their pension. (COFACE, 2015).

It is not, however, just a matter of provision and availability (which is currently insufficient) of such services, but also about their quality, affordability and accessibility. A service that is too expensive, of a poor quality or too far from the place of residence or work is a service that families will not use. Care and support services, however, should not be seen primarily as an instrument to keep parents and carers into paid employment, but as systems that support their users in their development (childcare), social & active inclusion and independent living.

Our “Families on the Edge” paper calls for adequate provision of care services:

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| <b>SERVICES</b><br>adequate<br>provision of<br>care services | <ul style="list-style-type: none"><li>■ Affordable, accessible and quality childcare services for children below 3 years, and between 3 and mandatory school age</li><li>■ Affordable, accessible and quality community-based long-term care services based on person-centered support packages</li></ul> |
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In its Communication, the European Commission foresees three areas of non-legislative actions for ECEC and Long Term Care:

- Guidance to Member States on service provision and monitoring on the delivery;
- Revise targets (ECEC) and improve data collection (LTC and out-of school services);
- Provide funding for a better use of EU funds such as the European Fund for Strategic Investment (EFSI) and the Structural funds (mainly the ESF - European Social Fund, and the ERDF - European Regional Development Fund).

COFACE Families Europe appreciates that the scope of services for work-life balance has been enlarged to take the life-cycle perspective and include needs beyond childcare, to reaffirm that work-life balance should not only be achieved for young mothers (parents) but a right that must be guaranteed to all.

In this regard, two-generation childcare services are proven to have a good impact on social inclusion but they are too often only a service offered to families in vulnerable situations and more vulnerable groups (e.g. risk of poverty, migrant or minority background..). COFACE would suggest to expand two-generation services beyond this group and mainstream this approach in the broader development of childcare policies and services.

The actions to be taken, as described in the Communication, are however vague and only an indication of the path to follow, and need to be further developed and scheduled to be implemented already in the 2018 work programme of the European Commission. This WLB Communication must be used as a compass for the actions to be implemented in the coming years, as a starting point, not as the end of the process.

Reflecting the above-mentioned actions on monitoring economic and fiscal disincentives, we believe that the European Semester can be used to monitor and guide Member States on care services. Moreover, COFACE believes that the Structural Funds could be a powerful instrument to improve service provision and, in the preparation of the post-2020 funding regulations, we call on the European Commission to:

- make ECEC for all children a key funding priority;
- undertake a mapping of the current use of ESIF for childcare;
- keep and strengthen the [ex-ante conditionality 9.1 and 9.2](#) on the use of ERDF funds only for community-based services that would provide a person-centred support (for more information on the transition from institutional to community based care, please refer to these [Guidelines](#), developed by the [European Expert Group on De-Institutionalisation](#)).

While a better use of Structural Funds for Work-Life Balance will have a direct positive impact, COFACE would be more cautious on the use of EFSI for the same scope.

COFACE would suggest to keep grants as the mainstream financial tools to support interventions in childcare and long-term care, making use of other financial instruments (e.g. loans) only when it can be demonstrated that financial instruments have a better added value than grants.

On target development and data collection, COFACE welcomes the idea of possible development of EU benchmarks on care services beyond childcare and the revision of childcare indicators. COFACE was, however, surprised that the most relevant (and still not achieved) targets, the Barcelona objectives, are not mentioned in this WLB Communication.

The [Barcelona objectives](#) were set in 2002 by the European Council to provide childcare by 2010 to at least 90% of children between 3 years old and the mandatory school age, and at least 33% of children under 3 years of age. These objectives, seven years after the expected date of achievement, are still not reached in most EU countries.

In the Communication, however, there is no mention of these objectives and their re-launch. Instead, the European Commission has preferred to refer and call for a revision of the less known "[Education and Training 2020 targets](#)" which comprise a number of education targets, from ECEC to university. The only ECEC target in the Education and Training 2020 targets aims to have "at least 95% of children (from 4 to compulsory school age) participating in early childhood education". The choice of referring to the education and training targets instead of the Barcelona targets poses, therefore, two main challenges: 1. They focus only on children from 4+ and do not consider younger children, 2. They do not include a care dimension but only refer to educational targets.

This is particularly problematic because childcare for younger children is lacking the most, is the most needed for parents trying to re-enter the labour market after the birth of a child and finally is where Member States are lagging behind in the achievement of the Barcelona objectives. Choosing to revise a target which is almost achieved and leave out the most difficult part (0 to 3 years) is a measure that will have very little impact and will not solve families' problems. Therefore, we call on the European Commission and the Member States to:

- revise upward the Education and Training 2020 targets on ECEC by aligning them with the Barcelona objectives: extending the scope to younger children, include the care dimension and set targets higher than the current Barcelona objectives;
- link these revised targets with the [European Quality Framework on ECEC](#);
- consider the possibility for a Council Recommendation, preceded by Council Conclusions like the ones that launched the Barcelona objectives, for the revised ECEC targets, setting an ambitious agenda "ECEC 2030";
- mainstream, promote and provide funding support for the creation and expansion of two-generation services for all.



On long-term care, considering the lack of EU framework, we urge the Commission to start the process of developing possible indicators for data collection and benchmarks, in collaboration with the EU Social Protection Committee (SPC). In particular, we call on the Commission to consider different types of services that are offered and needed, including home-based support. COFACE calls on the European Commission and SPC to use the approach outlined in the Guidelines of the European Expert Group on De-institutionalisation (see above) and in the European Pillar of Social Rights principle on Long-term Care, and welcomes the notion of the “right to affordable long-term care services” expressed in the Pillar.

COFACE considers it appropriate to monitor progress on making this right a reality through the European Semester process, and invites the European Commission to promote Country Specific Recommendations (CSRs) on Long-term Care, also in view of the revision of the funding regulations for the future programming period.

ECEC and LTC should be other domains of a Work-Life Balance Index, which are measured not only the availability of services, but also the accessibility, affordability and quality.

### 3. Time

The third section of the R-S-T approach outlined in our “Families on the Edge” paper is “time”, both in terms of flexible working arrangements and leave schemes. Leave schemes refer to periods of time off from work for employed parents and other relatives and flexible working arrangements can take different forms like reduced working hours to remote working and flexible working schedules. Having access to generous, flexible and paid leaves, plus flexible working arrangements can be very beneficial for allowing workers to better reconcile their work, family and personal life.

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#### TIME support for organising working time

- Adequate family leave schemes (maternity, paternity, parental and carers’ leaves)
  - Flexible work arrangements (job sharing, telework, smart work)
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In this area, the EU has a mandate to propose legislation and the European Commission proposed both non-legislative actions and a proposal for a Directive that, once the co-decision process is over, would repeal Directive 2010/18/EU on parental leave.

The proposal that led to this Directive, based on [art 154 of the TFEU](#), has followed a two-stage-consultation of the European Social Partners. Trade Unions and Business representatives replied in very different ways to the [consultation](#): while Trade Unions were willing to sit at the negotiating table, representatives of the employers did not want to start a negotiating process for EU legislation. Therefore, the European

Commission came forward, in line with the Treaty, with the text of a proposal for a Work-Life Balance Directive.

In the following paragraphs, we will present COFACE's view on the non-legislative actions presented in the Communication, followed by our view on the elements of the Directive.

In the WLB Communication, the European Commission presents five areas of intervention through non-legislative actions:

- monitoring the transposition of EU legislation and promote compliance, pursuing and launching infringement procedures if necessary;
- monitoring the design of national legislation on leaves and flexible working arrangements through the European Semester;
- Improving the collection of EU data;
- providing funding, through the EaSI programme, but also ensuring appropriate use of the structural funds;
- Sharing best practices with Social Partners and Member States.

Some of these actions are potentially very powerful and could seriously influence policy-making in the Member States and provide useful data and knowledge that could support the shift towards an equal society. Monitoring transposition of EU law is particularly important and we welcome that the European Commission set this as its first point. It is now important to schedule the non-legislative actions (studies, tenders and call for projects, campaigns) into the work programme of the European Commission already for 2018.

Access to family-friendly flexible working arrangements and leaves should also become part of a European Work-Life Balance Index (see last page) that will help to measure the real degree of progress in Work-Life Balance policies and legislation across the EU. In this regard, we welcome the intention of improving the collection of data across the EU. We recall in particular the need for gender and age disaggregated data to obtain comparable information also on inter-sectional discrimination.

## **Maternity leave**

COFACE has expressed several times regret for the withdrawal of the proposal for a revision of the Maternity Leave Directive but, in this paper, we will limit our analysis to what is included in the current WLB package, namely protection from dismissal of women reintegrating the labour market after a period of leave.

The European Commission, in Annex 5 of its [Impact Assessment](#), explains that "all Member States meet or exceed the legal requirement to prohibit dismissals during pregnancy and maternity leave. [...] 13 countries have further legal provisions in place to also protect women against preparatory measures for dismissal during the maternity leave", following case law of the Court of Justice of the EU.

Therefore, the European Commission considers that EU legislation<sup>1</sup> contains all the necessary provisions to protect women, and identified the need for better legal enforcement and information. Subsequently, in the current WLB proposal, the European Commission only proposes non-legislative actions.

COFACE Families Europe acknowledges that there are norms that should protect women returning to employment after maternity leave but stresses that this is, nevertheless, a current challenge faced by many. Therefore, despite agreeing with the European Commission on the need for better enforcement of legal provisions, COFACE Families Europe considers that the solution proposed is necessary but not sufficient to break the existing circle of discrimination.

Our main concern lies with the fact that what is proposed is a remedy and not a universal protection. For this reason, to ensure an equal treatment for every worker, we called for the introduction in legislation of a “dismissal protection period” of 6 months, to start upon return to employment, during which a woman would be protected from dismissal.

This would have guaranteed protection for all women. On the contrary, more information and enforcement, despite its necessity, will provide remedy to solve individual cases of illegitimate dismissals, but it will require that women – who give birth and find themselves without employment – take the initiative and challenge the dismissal. Our concern is that this would have an uneven impact and benefit only those who can afford or have the capacity to start a legal proceeding.

Therefore, after implementation and assessment of the impact of the proposed WLB non-legislative measures, and in the event of a future revision of the maternity leave directive, COFACE calls to include a “dismissal protection period” of 6 months to be applied from the moment women return to employment, in consultation with social partners and in line with collective agreements. In such a revision, the European Commission should also extend the scope and create a universal right to maternity protection and leave, for all women, regardless of their employment status.

### **Paternity leave**

Paternity leave is a break from work generally available to the fathers or mother’s partner, to be taken soon after the birth of a child, intended to enable the father or mother’s partner to spend time with his/her partner, new child and older children and take up a bigger part in the household, while the mother recovers from giving birth.

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<sup>1</sup> Maternity Leave Directive (92/85/EEC), Part –Time Work Directive (97/81/EC), Gender Equality Directive (2006/54/EC), Directive on equal treatment between men and women engaged in an activity in a self-employed capacity (2010/41/EU)

The proposed WLB Directive includes (art.4 ):

- the introduction of a paternity leave;
- duration: at least 10 working days on the occasion of the birth of a child;
- eligibility: right to paternity leave to be granted irrespective of marital or family status;
- payment: at least equivalent to what the worker concerned would receive in case of sick leave (art. 8).

COFACE has been advocating for the introduction of a paternity leave at EU level, of at least 10 working days and we welcome the proposal of the European Commission that coincides with our demands of an individual and non-transferable right for each father /child. This will contribute to the creation of a bond between them but also support the mother after the delivery. COFACE welcomes as well the explicit mention that this right is to be granted irrespective of the marital or family status but we would have preferred a more inclusive scope, with a leave scheme explicitly meant for the “father or mother’s partner”, in order to take into account the needs of rainbow families and recomposed families.

On payment, COFACE called for this leave scheme to be paid from a minimum of the equivalent of maternity leave to 100% of previous income. Considering the current situation in Member States, where paternity leave is up to 7 working days, it is paid 100% of previous income ([European Parliament](#), 2015), we believe that it would have been possible to raise the income replacement level to 100%.

Finally, COFACE would like to stress the situation of single parent families, in large majority women, who would not be able to benefit from this leave (paternity, parental).

In a large number of countries, when the second parent is not present, there is an exception to transferability and the single mother is allowed to cumulate all leave periods. However, especially for longer periods such as parental leave, this has the effect of keeping women out of the labour market for longer periods, often with low-level income replacements.

COFACE would urge the co-legislators to include provisions for single parents and mothers in recomposed families, who are often in more vulnerable situations, and grant mothers the possibility to choose a person in their entourage to whom the paternity leave could be transferred, allowing them to share care responsibilities.

## **Parental Leave**

Parental leave is a break from work, that can be taken altogether or in fractions, for parents with children under a certain age. Parental Leave is currently regulated in the EU by Directive 2010/18/EU, that repealed Directive 96/34/ EC and implemented the revised Framework Agreement on parental leave concluded by BUSINESS EUROPE,

UEAPME, CEEP and ETUC. This Directive states that all workers, irrespective of their employment contract, are entitled to parental leave of at least four months for the birth or adoption of a child. The Directive, however, does not set a minimum amount of pay for the leave period.

The newly proposed WLB Directive (art.5) would amend, and ultimately repeal, the current Parental Leave Directive (2010/18/EU) by:

- extending from 8 to 12 years of age of the child;
- recognising parental leave as an individual and non-transferable right of 4 months per parent per child;
- introducing a minimum standard of payment (art.8) at sick leave level;
- providing clear indications that parents have the right to take parental leave also "on a part-time basis, in blocks separated by periods of work or in other flexible forms";
- introducing the obligation for a written justification if employers want to postpone the leave take-up or refuse flexible take-up.

COFACE regrets that there was no extension in the length of the period of leave but acknowledges that the new proposal has moved in the right direction, by extending the age of the child and responding to the major challenges and needs parents are facing in relation to parental leave: income replacement and being an individual and fully non-transferable right.

The introduction of adequate minimum standards of income replacement and non-transferability are essential measures to promote men's uptake of leaves. The number of fathers taking a leave period is very low, with an EU average at around 10%, and two key reasons for this low involvement of fathers are social and economic.

On the one hand, the culture of presence/availability at the workplace for men and stereotypical division of roles, where men are breadwinners and women carers, are elements that work as disincentives for men's involvement in family and care responsibilities. On the other hand, with a gender pay gap at 17% and a labour market where women are still suffering horizontal and vertical segregation, it is cheaper for a family to renounce a woman's income instead of the man's.

The decision of the European Commission to introduce a decent income replacement rate (sick leave level) and full non-transferability is a clear choice to promote a gender equal legislation. Moreover, it will not only support men's uptake, but also genuinely allow families with lower incomes to use their right to parental leave (which is currently not the case where parental leave is unpaid or paid at very low rates).

COFACE considers the sick level pay an adequate benchmark but, since sick pay level varies greatly across Member States for short leaves and long leaves (from 100% to 0%), special attention should be paid in transposition into national legislations, to avoid that the levels applied are too low.

As mentioned above in the paternity leave section, COFACE urges the European co-legislators to introduce an exception to non-transferability, giving the possibility to single parents and recomposed families to transfer (parts of) the parental leave to a person of choice. Families are a living entity and since this leave can be taken until the child is 12, a number of changes can happen to family structures along these years. Children are educated and cared for by more than their biological parents, especially in many recomposed, multi-generational families, where the so-called social parents, grandparents, other relatives and friends are involved in the daily life of children. Therefore, we urge the co-legislators to reflect in this text the modernity and diversity of families existing in Europe and include among those entitled to receive the right to parental leave the so-called social parents and other persons chosen by the single parent or biological parent with full custody.

This would be particularly beneficial for single parents because they are, in many countries, allowed to cumulate periods of leave allocated to both parents or, otherwise, they will lose the part of leave not taken. This inevitably keeps single parents out of the labour market longer, sometimes longer than intended, especially in a context of lack of quality affordable and accessible childcare. If they could transfer the part of the leave allocated to the second parent to someone else of their choice, it would allow single parents to return to the labour market earlier, if they wish so.

Finally, COFACE welcomes the introduction of the need for a written justification for employers when they wish to postpone the granting of parental leave and recalls that postponement must be used only for extremely serious circumstances and for a reasonable period of time. We understand difficulties that SMEs and in particular micro enterprises may have if a consistent percentage of staff would request to take a leave simultaneously, but locally and in accordance with laws, collective agreement and practices, employers and employees can work towards a solution that could work for both parties because access to leave schemes is primarily to be considered as a right and as such it should be granted to every worker.

### **Carers' leave**

Carers' leave is a period of leave to be used to care for a person with care or support needs. As highlighted by the recent study of national policies "Work-life balance measures for persons of working age with dependent relatives in Europe", ([European Social Policy Network](#), 2016) across the EU there are different approaches to this leave, from very short and regular leaves (few days every month/year) to longer periods throughout the working life. This is also a consequence of the fact that the scope of this leave varies greatly across the EU (e.g. leave for medical reasons of a relative, relatives with disabilities or support needs, ageing parents, providing palliative care to a family member..).

It is, however, undeniable that with the ageing population in Europe and an increasing number of women belonging to the so-called “sandwich generation” (caring for both grandchildren and older parents), a concrete response to the need of carers and families can no longer wait. Introducing a carers’ leave is a key part of the answer, together with the provision of quality accessible and affordable services for older people and persons with disabilities in the community. Leaves are fundamental but they should not be designed to provide an alibi for not creating a service infrastructure.

For carers, such leave schemes would enable a better compatibility between their paid work and care responsibilities, to prevent long-term unemployment, isolation, and therefore it would improve their well-being and reduce stress.

In its current proposal, the European Commission recognised the difficult situation of carers and started by a proposal to set minimum standards for a EU Carers’ Leave (art.6), in particular in the WLB Directive proposal, it has:

- introduced a carers’ leave of 5 days per year;
- the leave is to be considered per worker, not per person cared for;
- the leave will be paid at sick leave level (art.8).

COFACE welcomes the initiative of the European Commission to introduce a Carers’ Leave at EU level. COFACE has been advocating to introduce two types of carers’ leave, one for short-term needs and another one for long-term needs, to be able to cater for all needs of carers and support them in their daily life. Moreover, COFACE stresses once again that the introduction of leave schemes must go hand-in-hand with the creation, expansion and monitoring of quality accessible and affordable services for persons with disabilities and elderly within the community.

Therefore, we suggest to divide the process for the introduction of leave schemes into two parts. In a first phase adopt a short-term carers leave as put forward in the current WLB directive proposal, invest in LTC services (including through the Structural Funds) and start the process to develop targets for care services provision beyond childcare (for more info on long-term care services, see previous section). Once the service provision process has been triggered, map the needs for long-term carers’ leave and develop a scheme to respond to these needs.

Concerning the carers’ leave element of the proposed WLB Directive, COFACE welcomes the proposal of the European Commission to introduce a paid carers’ leave, and would call on the co-legislators to approve it swiftly. COFACE would, however, suggest to extend the number of days per year, from 5 to 12 to be taken full-time, part-time or needs based. This would support especially carers who need to cater for persons with regular medical or other support needs (mobility, personal care..) being able to have at least one day per month to be taken to cater for these needs.

The level of payment for the carers' leave corresponds to the level COFACE advocated for and we therefore urge the co-legislators not to reduce it. Payment of leave, regardless of the type of leave, is a key element to ensure non-discrimination of workers based on economic conditions of the family and also to rebalance the gender uptake. If leaves are not paid, only those who can afford it will take them or, in a family economy, the person who earns less will take up the leave to minimise income loss. Due to structural problems of the labour market, like gender segregation and the gender pay gap, and a traditional separation of roles between men and women, the latter are those who earn less and therefore those who take the leave in most cases.

Finally, a remark on the choice of carer and who is entitled to take carers' leave. The Directive defines "relatives" (art. 3) entitled to apply for carers' leave as "a worker's son, daughter, mother, father, spouse or partner in civil partnership". COFACE would underline the need to enlarge this definition to include siblings of the person in need of care or support but also any other person chosen by the person in need of care and support. With increasing mobility of workers across Europe, and with a clear EU will to support mobility, it would be short-sighted to limit access to carers' leave to first-degree relatives who are, in increasing numbers, living in different cities or countries.

Moreover, care and support have a high social and personal relationship component and an adult with disabilities or an ageing person may prefer to choose a friend or a neighbour for the light support that can be provided for a short-term leave.

### **Flexible working arrangements**

Together with leave schemes for temporary absence from work, having flexible working arrangements are a fundamental support to workers in reconciling work and family life. Flexibility of working patterns and working hours can take many forms and in the proposed Directive the European Commission explicitly refers to the multiple forms that they can take: from reduced working hours, to remote working and flexible work schedules.

COFACE welcomes the proposed right for parents and carers to request flexible working arrangements and, in particular, that any refusal should be justified. COFACE would, however, suggest that refusals be given in writing.

COFACE would like to stress that it is extremely positive that flexible working arrangements are included in the Work-Life Balance Directive and also welcomes the different possible changes in work patterns.

Part-time work is still a very gendered practice and one of the main challenges that women part-timers face is the return to full-time. Therefore, this form of "temporary part-time" where workers will have the right to return to the original working patterns at the end of the agreed period, could positively affect a high number of families.



We particularly welcome the extension of flexible working arrangements to carers, which demonstrates the understanding and willingness of the European Commission to move towards a more comprehensive and life –cycle approach of Work-Life Balance.

COFACE also welcomes the inclusion of remote working, or smart work (see also [COFACE policy brief on Smart Work](#)) into the possible flexible working arrangements. However, we would like to point out a risk that needs to be taken into account in the transposition of the directive on this point, and more in general on smart and flexible working: avoid the shift from a culture of presence at work to a culture of full availability. Having access to devices that allow workers to be connected at all times may further blur the boundaries between work and private life. Some companies and countries are introducing measures for the “right to disconnect”<sup>2</sup> and practices to avoid 24/7 availability should be considered by Member States and in collective agreements.

Finally, both leaves schemes and flexible working arrangements should become part of a European Work-Life Balance Index.

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<sup>2</sup> See also EuroFound/ILO “[Working anytime, anywhere: The effects on the world of work](#)” (2017) and H. Chung “[Work Autonomy, Flexibility and Work-Life Balance: final report](#)” (2017)

## Proposal for a European Work-Life Balance Index

Measuring Work-Life Balance across the EU is a challenge that requires a multi-dimensional approach. COFACE has been advocating for many years to adopt the R-S-T approach that encompasses Resources (income, fair and equal tax systems..), Services (childcare, elderly care, care and support for persons with disabilities...) and Time (leaves schemes, flexible working arrangements).

The recent Work-Life Balance package shows the interest of the European Commission to move in this direction and promote actions in those three areas. Therefore, we believe that an Index reproducing the multi-dimensionality of Work-Life Balance is the way forward for a genuine assessment of advancements. A number of tools are available, for example, the EIGE Gender Equality Index or the OECD Better life Index that can be used as inspiration and on which it will be possible to capitalise.

The Work-Life Balance index would have different domains, where one domain will correspond to one policy area and where they can be measured, with indicators to be developed. This would have to be built in such a way to allow both for cross-country views of each policy area but also provide the possibility of country snapshots, where it is possible to visualise the Work-Life Balance level for all policy areas in each country. Below is a framework that could be used as a starting point for developing the domains for the Work-Life Balance Index.

### Reconciliation Policy Mix

| Reconciliation Pillar                                  | Measure   |
|--|---|
| <b>RESOURCES</b><br>ensuring decent living standards   | <ul style="list-style-type: none"><li>Labour related income: access to decent wages and tackling the gender pay gap</li><li>Fairer and more equitable tax systems</li><li>Removing implicit bias also from indirect taxation (e.g. VAT)</li><li>Income Support: benefits and allowances</li></ul>     |
| <b>SERVICES</b><br>adequate provision of care services | <ul style="list-style-type: none"><li>Affordable, accessible and quality childcare services for children below 3 years, and between 3 and mandatory school age</li><li>Affordable, accessible and quality community-based long-term care services based on person-centered support packages</li></ul> |
| <b>TIME</b><br>support for organising working time     | <ul style="list-style-type: none"><li>Adequate family leave schemes (maternity, paternity, parental and carers' leaves)</li><li>Flexible work arrangements (job sharing, telework, smart work)</li></ul>  |

COFACE calls on the Social Protection Committee, the Employment Committee and the Advisory Committee on equal opportunities for women and men, with the support of the European Commission and EIGE, in consultation with Civil Society, to develop the Index.



### Contact person

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