Actions by the European Commission:

New developments in relation to gender equality law

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DG JUST, Unit D.2 (Gender Equality)

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1) Gender Equality & Work Life Balance (Directive)

2) Gender Pay Gap

3) Women on Boards
1) Gender Equality & Work Life Balance (Directive)

However, for instance...

What Europeans have to say about gender equality

80% of men think that gender equality is important for them personally

In the EU, on care & household activities

women spend on average 21 hours per week

men spend on average 9 hours per week

Source: Eurobarometer 2017
New Eurobarometer on WLB 2018

→ short overview in the following slides

Report, Factsheets and Infographs can be found here:
http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/flash/surveyky/2185
EUROPEAN MEN LAGGING BEHIND WHEN IT COMES TO FAMILY LEAVE...

**ONLY 41%**

OF THE EUROPEAN FATHERS AGED LESS THAN 65 YEARS OLD TOOK / ARE THINKING OF TAKING PATERNITY LEAVE

EVEN FEWER (LESS THAN A THIRD OF MEN) TOOK / ARE THINKING OF TAKING PARENTAL LEAVE, COMPARED TO MORE THAN HALF OF WOMEN

Men 32%

Women 57%

EUROPEANS PERCEIVE BARRIERS WHEN TAKING FAMILY LEAVE

MORE THAN HALF OF WOMEN (53%) AND MEN (52%) THINK THAT IT IS EASIER FOR WOMEN THAN MEN TO TAKE FAMILY LEAVES

42% OF WOMEN AND 35% OF MEN THINK THAT TAKING FAMILY LEAVE HAS A NEGATIVE IMPACT ON THEIR CAREER

Easier for women than men

Family leaves

Flexible work arrangements

Has a negative impact on their career

Women 35%

Men 28%
Supporting Fatherhood
European fathers would feel more encouraged to take more parental leave with...

- More financial compensation during the period of leave (41%)
- A choice to take the leave in blocks or into part-time working (35%)
- Better guarantees in respect of career (30%)
- Support from superiors and colleagues at work (29%)

Less than 1 in 10 companies have a female CEO

State of play 2018

- Gender gap in pensions: 37.22% (age 65-79)
- 1 in 3 women have experienced physical/sexual violence (since age of 15)
- Only 10% of women in STEM occupations
- 30% of women working part-time (only 8% of men)
- Less than 1 in 10 companies have a female CEO
Gender equality in the Treaties:

- **Article 2 TEU**: Equality between women and men as a common value of all Member States

- **Article 3 TEU**: the EU shall promote equality between women and men

- **Legal basis for legislation:**
  - Article 157 TFEU
  - Article 19 TFEU
  - Article 153 TFEU (Example: WLB Directive)

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**Article 157 TFEU**

(1) Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

(2) For the purpose of this Article, ‘pay’ means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

(3) The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.
The legal basis for EU action: WLB

- Article 153(1)(i) TFEU foresees that:

"(W)ith a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in following fields: (…) (i) equality between men and women with regard to labour market opportunities and treatment at work;"

- Article 153(2)(i) TFEU provides:

"To this end the European Parliament and the Council (…) b) may adopt (…) by means of directives, minimum requirements for gradual implementation"

Relevant Directives (so far):

- Employment-Directive 2006/54/EC
  - Access to employment etc.
  - Working conditions, including pay
  - Training
  - Membership of an organisation of workers or employers
  - Occupational social security schemes

- Access to goods and services: Directive 2004/113/EC

- Self-employment: Directive 2010/41/EU
  - Maternity leave (14 weeks)
  - Social security for spouses and partners who participate in the activities

- Parental Leave Directive: 2010/18/EU (will be repealed by the WLB Directive if adopted)
  - 4 months for each working parent
How does the EU work on gender equality?

- Strategic Engagement for gender equality
- Europe 2020:
  - Barcelona Targets
- European Equal Pay Day (this year 3/11)
- Year of focused actions to combat violence against women
- Exchanges of good practice
- PROGRESS and Daphne
- Rights, Equality and Citizenship (Ex.ERA)
- Horizon 2020 European Structural and Investment Funds
- Directives and Recommendations (Equal pay, maternity leave, parental leave, etc.)
- Women on company boards: legislative proposal
- Women on company boards: legislative proposal

Solutions to the problem:

Strategic engagement for gender equality 2016-2019:

- Increasing **female labour-market participation** and the equal economic independence of women and men
- Reducing the **gender pay gap**, earnings and pension gaps and thus fighting poverty among women
- Promoting **equality between women and men in decision-making**
- Combating **gender-based violence** and protecting and supporting victims
- Promoting gender-equality and women’s rights **across the world**
Increasing female labour-market participation and the equal economic independence of women and men

Proposal for a Work-Life Balance Directive

“We cannot expect miracles from mothers. Our aim is to create choices and remove barriers for millions of people to better combine work and family life.”

- Věra Jourová, Commissioner for Justice, Consumers and Gender Equality

Work-Life Balance package of the Commission

• proposal for a work-life balance Directive
• and a Communication with non-legislative measures

➤ sets new or higher minimum standards to create more convergence between EU Member States
The proposal is good for:

- **CITIZENS**
  - The proposal will improve working parents and carer’s conditions, and lead to women’s higher employment rate, earnings and better career progression.
  - Gender pay and pension gaps as well as women’s exposure to poverty will be reduced.
  - Fathers will have more opportunities and incentives to participate in family life.
  - Caregivers looking after an elderly, ill or disabled relative will be able to take time off from work.

- **BUSINESS**
  - More women on the labour market will increase the available talent pool.
  - Skills shortages will be addressed.
  - Businesses will better attract and retain workers.

- **MEMBER STATES**
  - Public finances will be more sustainable by reducing unemployment and increasing tax incomes.

- **ECONOMY**
  - Increasing labour supply will boost competitiveness.
  - Demographic challenges will be addressed by making full use of our human capital.

- **One main objective:**
  encouragement of a better sharing or caring responsibilities between women and men

What will the Commission’s proposal improve?

<table>
<thead>
<tr>
<th>CURRENT EU LAW</th>
<th>IMPACT OF THE PROPOSAL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Paternity Leave</strong></td>
<td>All working fathers will be able to take at least 10 working days of paternity leave around the time of birth of the child. Paternity leave will be compensated at least at the level of sick pay.</td>
</tr>
<tr>
<td>At least 4 months per parent, out of which one month is non-transferable between parents.</td>
<td>At least 4 months per parent that cannot be transferred between parents. Parents can take leave in flexible forms (full-time, part-time, in a piecemeal way). Parents can take leave until their child is 12 years old.</td>
</tr>
<tr>
<td>Parents can take leave until their child is 8 years old.</td>
<td>Parental leave will be compensated at least at the level of sick pay.</td>
</tr>
<tr>
<td>No minimum rules on allowance/payment.</td>
<td></td>
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</tbody>
</table>
What will the Commission’s proposal improve?

<table>
<thead>
<tr>
<th>Carers’ Leave</th>
<th>All workers will have the right to 5 days of carers’ leave per year to take care of seriously ill or dependent relatives.</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Carers’ leave will be compensated at least at the level of sick pay.</td>
</tr>
<tr>
<td>Flexible Working Arrangements</td>
<td>All working parents of children up to 12 and carers with dependent relatives will have the right to request the following flexible working arrangements:</td>
</tr>
</tbody>
</table>
|               | 1. Reduced working hours  
|               | 2. Flexible working hours  
|               | 3. Flexibility on the place of work |

Status of procedure:

- **European Parliament**
  - official statement by JURI on 23 May 2018 and by FEMM committee on 20 May 2018 / vote in EMPL committee in July 2018
  - **12 September 2018**: decision to enter into interinstitutional negotiations confirmed by plenary (= negotiating mandate for EP)

- **Council of EU**:
  - **21 June 2018**: agreement on a general approach (= negotiating mandate for Council)
**Status of procedure:**

**Interinstitutional Trilogues**

- informal procedure (not provided for by Treaties)
- goal: completion of the legislative procedure
- participants (AUT chair):

<table>
<thead>
<tr>
<th>Parliament</th>
<th>Council</th>
<th>Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rapporteur / shadow rapporteur</td>
<td>Chair of working party and/or Chair of COREPER</td>
<td>Director / Head of division / Rapporteur</td>
</tr>
<tr>
<td>Committee chair / rapporteur</td>
<td>Ministers / Chair of COREPER</td>
<td>Commissioner/ Director-General / Director</td>
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</tbody>
</table>

- The participants present their positions on the basis of their negotiating mandates

- Working basis is the so-called „Four Columns Document“

- The Commission is moderator (and can also withdraw its proposal, which would lead to the termination of the legislative procedure)
Status of procedure:

• 27 September 2018: first technical Trilogue
• 8 October 2018: Trilogue
• 5 November 2018: Trilogue
• 19 November 2018: next Trilogues scheduled

→ possible adoption of Directive soon?

Positions of the parties:

<table>
<thead>
<tr>
<th></th>
<th>Proposal</th>
<th>General Approach</th>
<th>EP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paternity leave</td>
<td>10 working days; compensated at least at sick pay level</td>
<td>10 working days, MS may determine when and how leave can be taken and at which level of pay</td>
<td>MS may determine when and how leave can be taken, at least 80% of a worker's gross wage</td>
</tr>
<tr>
<td>Parental leave</td>
<td>At least 4 months, non-transferable; at least at sick pay level; at least until child is 12</td>
<td>Level of pay to be determined by MS; age of child to be determined by MS</td>
<td>78% of a worker's gross wage; until child is 10</td>
</tr>
</tbody>
</table>
### Positions of the parties:

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<th>General Approach</th>
<th>EP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carers’ leave</td>
<td>5 days of carer’s leave; compensation at least at sick pay level</td>
<td>To be determined by MS</td>
<td>78% of a worker’s gross wage</td>
</tr>
<tr>
<td>Flexible work arrangements</td>
<td>Right to request FWA (reduced and flexible working hours, flexibility on the place of work); until child is 12</td>
<td>Until child is 8</td>
<td>78% of worker’s gross wage; until child is 10</td>
</tr>
</tbody>
</table>

### Other non-legislative measures to increase female labour-market participation

**Mutual Learning Programme by the Commission**

- aims to reinforce mutual learning among EU countries
- encourages learning opportunities resulting in policy influence at EU and national levels

- [Peer learning events](#)
- [Public conferences](#)
• **European Expert Meetings**
  (to share knowledge and exchange ideas)
  ➢ last one on 1st and 2nd October 2018 in Berlin on “Compatibility and Gender Equality from the Commission's point of view”

Pursuant to the Commission’s communication on WLB:

• **Dismissal protection study**

• **EQUINET-seminar**

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[Table 2: Children cared for in formal childcare structures, from 5 to the mandatory schooling age, % over time]

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<tr>
<td>European Union (EU28)</td>
<td>65</td>
<td>63</td>
<td>62</td>
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<tr>
<td>Bulgaria</td>
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<td>France</td>
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<td>Portugal</td>
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<td>Austria</td>
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<td>Italy</td>
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<td>Germany</td>
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<td>Greece</td>
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<td>Malta</td>
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</tbody>
</table>

**Taking the pressure off women – reaching the Barcelona Targets**
• For the first time: target for children from 0 to 3: has been reached on average in the EU with an overall rate of 32.9% (2016)
• Target of 33% has largely been reached in 12 MS
• However, the target for children from 3 to mandatory school age has not yet been reached, since only 86.3% of the relevant target group participated in formal childcare or attended preschool
• 12 countries met the objective of a 90% coverage rate for children of the relevant age group

2) Gender Pay Gap
In Europe...

women earn on average over 16% less per hour than men.

Source: Eurostat

Gender Pay Gap

• What is the GPG?

➢ The gender pay gap is the difference between men’s and women’s pay (based on hourly earnings across the economy)
➢ The pay gap goes far beyond the single issue of equal pay for equal work or work of equal value
➢ It is a consequence of ongoing discrimination and inequalities in the labour market
Reducing gender pay, earnings and pension gaps and thus fighting poverty among women

2017-2019 EU Action Plan:
Tackling the gender pay gap

= holistic approach to address all different root causes of gender pay gap

1. Improving the application of the equal pay principle
2. Combating segregation in occupations and sectors
3. Breaking the glass ceiling: vertical segregation
4. Tackling the care penalty (WLB)
5. Better valorizing women's skills, efforts and responsibilities
6. Uncovering inequalities and stereotypes
7. Alerting and informing about the gender pay gap
8. Enhancing partnerships to tackle the gender pay gap

In total over 20 actions to be delivered until 2019

Evaluation of the provisions in the Directive 2006/54/EC implementing the Treaty principle on 'equal pay'

- Although the EU legal framework prescribes equal pay, its effective implementation and enforcement remain an important challenge.

- This evaluation will assess the extent to which the provisions of Directive 2006/54/EC implementing the principle of equal pay (Article 157 TFEU), as strengthened by the 2014 Commission Recommendation on pay transparency, can be deemed relevant, effective, efficient, coherent with other EU policies and of added value
Public consultation on EU equal pay

- to see how EU equal pay laws are working in practice, and gather more ideas on how to better reach the goals.
- The Commission has started an evaluation of Directive 2006/54/EC
- The evaluation will be based, among other input, on discussions with stakeholders, in particular the social partners, and Member States.
- An online public consultation will be launched in November.

Reducing gender pay, earnings and pension gaps and thus fighting poverty among women

2017-2019 EU Action Plan: Tackling the gender pay gap - examples

Improve pay transparency can be done by
→ making an equal pay issue (including pay audits) part of the collective bargaining

- 5 MS (BE, DE, FI, FR and SE) have legal measures in that respect
- 3 MS (AT, CY and PT) provide for voluntary measures
Reduction gender pay, earnings and pension gaps and thus fighting poverty among women

2017-2019 EU Action Plan: Tackling the gender pay gap - examples

Raise awareness on the importance of gender neutral job classification systems to ensure equal pay in practice

• Special attention will be paid to make the concept of "equal pay for work of equal value" more operational on the ground

3) Women on Boards
Promoting equality between women and men in decision-making – KEY ACTIONS:

Proposal for a Women on Boards- Directive

General approach:

• No quota

• Binding rules on a transparent selection process – for large listed companies if 40% target for under-represented gender is not attained

➢ Selection of candidates is based on qualifications and merit and a preference rule only in case of equal qualification

• High degree of flexibility for Member States and companies

• Gender equality measure – based on Article 157(3)TFEU) – with economic and business reasons and implications

Proposal for a Gender balance in corporate boards

Scope:

• EU companies listed on EU stock exchanges

• Except: small and medium-sized companies (SMEs)

• Estimated 5000 companies,

• Privately and publicly owned
Flexibility for Member States
Minimum requirements of the proposed directive

Member States may provide that the objective to be attained is 33% of all board members are of under-represented sex instead of 40% non-executive directors.

Possible exemption for companies where the under-represented sex makes up less than 10% of the workforce

MS can suspend the procedural requirement obligations in case of national measures which are equally effective

Change in the share of women on boards, EU-28, October 2010 – April 2018

Major improvements took place in countries that have taken or considered legislative action or had an intensive public debate on the issue
Promoting equality between women and men in decision-making – KEY ACTIONS:

State of play 2018

The Directive is supported by the majority of Member States and currently being discussed by the Council of the EU.

In the absence of the German position the process of negotiations is blocked.

European Parliament which strongly supports the proposed directive.

Thank you for your attention!