

Leave provisions

Leaves refer to time off from work for employed parents or other relatives to stay at home and look after a new-born, a baby, an older child, or a disabled or dependant family member. For the sake of this position, we consider both paid and unpaid leaves, during which the beneficiary's employment is protected.

COFACE uses the three pillars approach to sustainable and effective family and social policies: families have a right to (1) sufficient resources, (2) accessible, affordable and quality services and (3) flexible time arrangements and leave provisions. Leaves are an integral part of time policies, but have implications on the two other pillars as well.

These three pillars are macro-areas that touch transversally different economic, social, fiscal policies and legislations. While they can be discussed separately, their links must be kept in mind for sustainable policy making. In every country the length of leaves will have an implication on the availability of early childhood care services, or other care services, and the implication of the level of financial support during the leave has an overall impact not only on the financial situation of the family, but has also consequences for the employer. For these reasons, COFACE believes that employment-related policies should have a family dimension, considering employees not only as individuals but also as members of families and carers and should not work against, but instead support family responsibilities.

The generosity of leaves (length and level of payment during the leave) varies greatly across the European Union, and we recognize that this variety has its roots in the history, culture, ideology and economics in the different countries, as well as the role and place of women and men in the society. There are however some cross cutting issues that can be addressed in a general manner, and in this policy position COFACE aims at highlighting these.

Here are some considerations about the context of the Policy Position:

Demographic challenge: at the same time as less children are born and later in their parents life, people also live longer (not necessarily in good health). From these trends arises the need for rethinking the leave systems from the life-course perspective that takes into consideration not only the care needs of infants, but also of dependent adults and the elderly. Policy makers and employers therefore cannot ignore the needs of all those workers, mostly women, especially those who are close to retirement, who must take care of their ageing parents or other relatives.

Women's labour market participation: While the rate of women in employment has increased, women still face barriers and discrimination to access and/or re-enter the labour market and the objectives set by the European Union have not yet been met. Higher labour market participation of women correlates with higher fertility rates, while in countries with lower female participation in the workforce, fertility rates are historically

low. This is a very complex issue and requires both short and long term actions, going from educational and awareness raising campaigns to targeted action, including quotas to support women's participation on the labour market at all levels. In this context leave provisions play an important role since they can support better retention rates on the labour market, more flexibility and enable women and men to better reconcile their work and family lives and share care responsibilities in the family.

Labour market mobility is another factor that can no longer be underestimated. May it be for choice or as a last resort for finding employment, more and more people chose to move to a different country, and this puts a geographical distance between their place of residence and their family. While technologies can support long-distance or even transnational family life (e.g. Skype), they cannot fully replace the physical presence needed when caring for a sick or dependant relative. The geographical distance also means, that grandparents or other relatives who could step in to perform occasional care are not able to, therefore in case of episodic needs for care in the family the working parents have to take time off work, using their holiday entitlements, and in case of longer periods (months) of absence risk losing their job, and face financial consequences. In addition, the geographical distance between family members creates specific needs for those workers, who have to travel, sometimes great distances to be able to care for their ageing parents or other relatives. Therefore workers must be allowed a certain degree of flexibility in organising their own leaves of absence, without risking their jobs.

COFACE believes that a more family friendly workplace, in which the wellbeing and individual needs of workers are respected and taken into account, and in which leaves are not grounds for discrimination but rather a corner stone for a more inclusive and equal labour market, will contribute to higher employment rates for women, improved economic performance, reduced absenteeism, and ultimately contribute to economic growth. For leave schemes relating to children (e.g. maternity, paternity and parental leaves..) the best interest of the child must be the guiding principle of policy making. Investing, protecting and promoting the well-being of children, including through appropriate leave provisions granted to parents, guardians or other relatives, is of ultimate importance.

Currently, only two types of leaves are regulated at European level: maternity leave and parental leave. COFACE is trying to get existing leave provisions improved, but is also lobbying for European legislation on paternity leave and carer's leave.

1. MATERNITY LEAVE

Maternity leave is a break from employment taken by mothers just before and after childbirth to protect maternal and infant health and safety. Maternity leave provisions should be granted to all women, employed, self-employed or unemployed.

Existing European legislation

The EU Pregnant Workers Directive (Directive 92/85/EEC) has set the minimum length of maternity leave to 14 weeks. Current provisions in the Member States range from between 14 weeks and 52 weeks. Following a wide public consultation, the Commission presented a 'reconciliation package' in October 2008 that includes among others a proposal to reinforce the maternity leave directive. This proposal was voted through by the European Parliament in 2010 but is currently blocked in Council. COFACE believes that discussions and negotiations should re-start as soon as possible to adopt the new directive.

COFACE's position:

- The length of leave must be increased to 20 weeks, of which at least 16 weeks are to be taken post-birth in accordance for the wellbeing of both the mother and the baby.

- In case of pre-birth pregnancy complications, the time off work should not be taken off from the total amount of maternity leave, but considered to be sick-leave or incapacity for work.
- The minimum pay during the leave period should be set at 85% of the last gross salary and the amount calculated on the basis of the last full month's salary for the total length of the leave period. For those women who are not in employment, a minimum financial provision should be set.
- Employers have to guarantee the same or an equivalent job to women returning from maternity leave as regards the salary and the responsibilities/duties on the job
- The parent adopting a child under 12 months should be entitled to the same rights and conditions for maternity leave
- Women who chose to breastfeed beyond the maternity leave should be encouraged and permitted to do so by adjusting working conditions or by granting a prolonged maternity leave.
- In the event of stillbirth, women should be entitled to 8 weeks maternity leave
- In the case of the birth of a child with disabilities, mothers should be entitled to an additional 8 weeks of maternity leave
- Employers have to guarantee a protection against dismissal for 6 months after return from maternity leave

2. PATERNITY LEAVE

Leave generally available to fathers or mothers' partner, usually to be taken soon after the birth of a child, and 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. In cases where the father or the mother's partner is not present (e.g. single mothers, transnational families, father not living with the mother..), this provision should be transferred to another relative chosen by the mother.

COFACE is calling for a binding European legislative initiative on paternity leave, included in the revised Maternity Leave Directive. Paternity leave has a key role in an integrated gender equality policy to allow fathers and mothers to share parental responsibilities at the earliest possible stage and encourage father-child bonding from early infancy.

COFACE's position:

- Length of leave should be not less than 10 working days, taken right after the birth or the adoption of a child under 12 months
- It must not be transferable to the mother
- Policies and practices should contribute to increase the take up of paternity leave by fathers
- Paternity leave must be paid the equivalent of maternity leave
- In the event of stillbirth, fathers or mothers' partners should be entitled to paternity leave as well

3. PARENTAL LEAVE

Parental leave is generally understood to be a care measure, intended to give parents the opportunity to spend time caring for a child while being able to stay in employment.

Existing European legislation

Parental leave (Directive 2010/18/EU) is available for parents to take later in the child's life (after maternity leave or later, generally up to the age of 8). Both the initial Parental Leave Directive (Directive 96/34/EC) and its revised Framework Agreement (2010/18/EU) included provisions on urgent family leave ("force majeure") as well as potential accommodating options for parents of sick and/or disabled children.

COFACE's position:

- Parental leave must be extended for parents to take for each child up to the age of 12 years old. An extension should be granted to those families with children with disabilities or long-term illnesses. In these cases, parents should be allowed to use parental leave provision also for their children above 12 years old.
- Parental leave should be for a period of at least 6 months per parent per child, to be taken full time, part time, or needs based
- The payment of parental leave should be at least 70% of the monthly gross earnings per parent
- In case of adoption the same rights should apply. If the child lives with a non-biological parent, may it be a foster parent, the mother's/father's (new) partner, he/she should be entitled to entitled to enjoy parental leave provisions.

4. CARER'S LEAVE

Currently, provision for this type of leave varies widely between Member States. This leave is wider in scope than other types of leave and can arguably include help for elderly, ill or disabled relatives rather than just a child, and can supplement parental leave.

COFACE supports a legislative initiative in the area of carers' or filial leave.

EU intervention is necessary to lay down standards for recognition of unpaid care work in order to increase gender equality and deliver more uniform protection for workers.

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, reduce stress and above all offer a better balance between work, private life and caring duties. Men's involvement is key to gender equality.

For such provisions to be effective, comprehensive prevention policies and public support to family carers will need to be implemented. Additional measures like retention of social/employment rights during the leave period and qualifying for career advancement and promotion opportunities are also needed.

COFACE's position:

- Carers' paid leave should be paid at least at the level of sick leave
- The length and frequency depends very much on the need of the cared for person and the family, and this needs to be assessed and granted on an individual basis
- Carers should have the choice to take Carers' leave full-time, part-time or based on specific needs.
- We advocate for the freedom of choice for the cared for person to chose his/her carer, and they should be entitled, even if they are not first degree relatives or family members at all to the carers leave
- Carers lave should not be categorised with other career breaks, such as leaves for further education, travel, etc.

5. LEAVE TO CARE FOR A SICK CHILD

Leave to care for a sick child is time off from work that workers can use during periods of temporary illness of their children to stay home and take care of them. Lack of regulation on such a specific provision has often left the parents with no option that to take some time off work using their holidays *or their own sick leaves*. While this can be an easy solution for those parents having a stable job, it may cause problems for those in a more precarious working conditions.

COFACE's position:

COFACE, therefore, calls on the introduction of specific leave provisions for parents to care for sick children. COFACE suggests that each parent should be entitled to 10 working days per year per child, paid minimum as sick leave. The employer should be granted the possibility of requesting a medical certificate to proof the child sickness.

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