

**Public consultation on possible EU measures
in the area of carers' leave or leave to care for
dependent relatives**

PUBLIC CONSULTATION ON POSSIBLE EU MEASURES IN THE AREA OF CARERS' LEAVE (LEAVE TO CARE FOR DEPENDENT RELATIVES)

1 INTRODUCTION

1.1 Why a consultation on a possible EU measure in the area of carers' leave?

The European Commission is currently considering a range of legislative and non-legislative measures to improve the reconciliation of work, private and family life in the EU.

The purpose of this document is to consult stakeholders on their views regarding existing **carers' leave** provisions and possible new EU measures in this field. Carers' leave is defined as a period of absence from a place of employment to take care of dependant family members who are ill, disabled or impaired. The consultation is organised by EPEC on behalf of the European Commission in the context of a study on the costs and benefits of potential EU action in the area of carers' leave.

The issue of carers' leave was part of the second stage of consultation of the European social partners under Article 154 TFEU that was launched in May 2007 and that eventually led to the negotiation of social partners on parental leave (Revised Directive 2010/18/EU). Another specific public consultation on paternity leave (i.e. leave taken by fathers at childbirth) has recently taken place in the context of possible EU measures in the area of paternity leave.

Carers' leave would be part of a wider package of EU family leave provisions such as maternity leave, paternity leave and parental leave.

Maternity leave is a break from employment taken by mothers just before and after child birth to protect the maternal and infant health and safety. Maternity is regulated at the EU level. As maternity leave is a work related health and safety measure, the EU Pregnant Workers Directive (Directive 92/85/EEC) has set minimum provisions for maternity leave of 14 weeks at the level of sick pay. Current provisions in the Member States range from between 14 weeks and 52 weeks leave with compensation levels varying between the equivalent of sick pay to full pay.

Parental leave which is regulated at the EU level is offered to parents to be taken later in the child's life – i.e. after maternity leave or later on (generally up to the age of 8). The revised EU Parental Leave Directive will give parents an individual right to 4 months of parental leave each, of which at least 1 month needs to be strictly non-transferable between parents (Directive 2010/18/EU). The revised Directive will have to be transposed by Member States before March 2012. It should be emphasised that both the initial Parental Leave Directive (Directive 96/34/EC) and its revised Framework Agreement (2010/18/EU)¹ included provisions on urgent family leave ("force majeure")² as well as potential

¹ <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=526>

² The following paragraph was already included in the original version of the Directive (Directive 96/34/EC) "Member States and/or social partners shall take the necessary measures to entitle workers to time off from work, in accordance with national legislation, collective agreements and/or practice, on grounds of force majeure for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable" (Clause 7.1).

accommodating options for parents of sick and disabled children³. Carers' leave does not cover any of these provisions existing at the national level as a result of the implementation of the Parental Leave Directive and its Revised Framework Agreement.

Paternity leave is not currently regulated at the EU level⁴. This is typically a rather short form of leave for fathers, to be taken immediately after a child is born, so that the father can spend time with and take care of the mother and child.

Carers' leave is not currently regulated at the EU level. The conditions and provisions for carers' leave vary considerably between Member States in terms of definition, length and compensation as well as eligibility criteria, age and medical condition of the relative being cared for.⁵ Whereas all EU countries have provisions on leave to care of sick, ill or disabled children (often arising from the implementation of the revised Directive on parental leave 2010/18/EU)⁶, three countries have no provisions on carers' leave for adult and elderly relatives and one country provides only for a short carers' leave that is deducted from one's annual leave. The length of these leave measures varies substantially between 2 days to 2 years of leave. In addition, compensation for leave which can be taken for all relatives, including adult and elderly relatives, tends to vary significantly. In 8 EU countries the leave which covers all relatives is unpaid whereas only in 3 EU countries, leave is fully compensated. In countries where carers' leave is fully paid, leave is very short, usually less than 5 days. Carers' leave can be taken in various medical circumstances in the family, ranging from common sickness to disability or terminal illness. Furthermore, carers' leave entitlements are also granted differently across the EU from once per year to several times per year (whenever the relative is sick), or can only be taken once for a certain dependent relative but several times if the working carer has more than one relative to care for during his/her working lifetime.

1.2 **What are the main problems which a possible initiative on carers' leave would address?**

In the context of demographic ageing, there is a growing demand for both short-term and long-term care. The 2008 Eurobarometer survey on family life on the needs of an ageing population reported high levels of dissatisfaction with the existing public support for families with dependents, particularly with elderly dependents.⁷ Twenty-two per cent of EU citizens consider the burden of caring for ageing parents and relatives as one of the major difficulties families face nowadays. Only a minority of EU citizens were 'very satisfied' with the public support for people caring for dependent older relatives (7 per cent). According to the same source, 60 per cent of EU citizens consider that "the implementation of the right to paid leave to care for dependent elderly parents and relatives" is a "high priority". The care deficit is likely to worsen in the broader context of demographic ageing, which most EU countries have experienced over the past decades. In Europe (EU 27), the share of people aged 65 years or over in the total EU population is projected to increase from 17.4 per cent in 2010 to 30.0 per cent in 2060. Similarly, the number of people aged 80 years or over who constitute the main consumers of health and long-term care is projected to almost triple from 23.3 million in 2010 to 62.2 million in 2060.⁸ The ageing population means more elderly people are and will be living at home with higher and more complex levels of illness

³ "Member States and/or social partners should assess the need to adjust the conditions for access and modalities of application of parental leave to the needs of parents of children with a disability or a long-term illness".

⁴ The amendments of the European Parliament on the Commission's proposals for a revised Directive on maternity leave include proposals for two weeks fully paid paternity leave (amendment 125 of the EP's position adopted on 20/10/2010), available at <http://www.europarl.europa.eu/oeil/file.jsp?id=5697042>.

⁵ Information on current carers' leave provisions is based on the findings of the study currently being undertaken by EPEC.

⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:068:0013:0020:EN:PDF>

⁷ Eurobarometer (2008). Family life and the needs of an ageing population. Analytical report. Available at: http://ec.europa.eu/public_opinion/flash/fl_247_en.pdf

⁸ Eurostat

and disability, increasing the need for both short and long-term formal and informal care. More people are therefore likely to be caring in some way or another for frail, sick and elderly family members.

Caring can lead to lower employment rates and reduced working hours among carers.⁹ This holds true especially for those with heavy or intense care responsibilities.¹⁰ Without support, family carers are also more likely to experience stress, burnout or mental health problems in comparison with non-carers. If carers have to reduce their working hours or exit the workforce, this translates into costs in the form of lost earnings. There are also wider economic losses as a result of lower productivity, lower tax revenues and lower household consumption.

Only a small proportion of Europeans would consider giving up paid work to take care of elderly relatives in the future¹¹ suggesting that workers prefer keeping their jobs whilst juggling their family care responsibilities. A measure of carers' leave at EU level could enable workers to meet the care needs of family members or other dependents without endangering their position in the labour market and the associated loss of human capital. This would also benefit care recipients as research shows that dependent relatives prefer to be looked after at home by family members or close friends.

Carers' leave has also an important gender dimension as women disproportionately provide care for dependent family members. Research shows that women contribute more time than men to caring for both children and adult or elderly relatives.¹² In the EU, it is estimated that at least two-thirds of family carers are women. Amongst intense caregivers of the most dependent relatives or those terminally ill, the proportion of women rises even further up to 80 percent.¹³ The predominance of women taking up leave to care for dependent relatives is influenced by several factors, notably persistent gender stereotypes in relation to caring roles amongst families, employers and society at large, low compensation rates of carers' leave (if available at all), employers' negative attitudes, fear of career penalty or lack of flexibility in take-up.¹⁴

Caring responsibilities expose women to higher risks to exit the labour market either temporarily or permanently or to work part-time in the longer term.¹⁵ Around 30 % of women with caring responsibilities declare that "they are inactive or work part-time because of the lack of care services for children and other dependent persons".¹⁶ The proportion of women in this situation tends to vary substantially across EU countries; whereas the figure is below 10% in the Netherlands, Finland and Sweden, it is much higher around 80 % in Latvia and

⁹ Colombo, F., Nozal, A., Mercier, J. and F. Tjadens (2011). "Help wanted? Providing and paying for long-term care" OECD, Paris.

¹⁰ Lilly et al., 2007 M.B. Lilly, A. Laporte and P.C. Coyte, Labor market work and home Care's unpaid caregivers: a systematic review of labor force participation rates, predictors of labor market withdrawal, and hours of work, *The Milbank Quarterly* 85 (2007), pp. 641–690.

¹¹ Eurobarometer, 2007. Health and long-term care in the European Union. Available at: http://ec.europa.eu/public_opinion/archives/ebs/ebs_283_en.pdf

¹² Miranda, V. (2011). "Cooking, Caring and Volunteering. Unpaid Work Around the World", OECD Social, Employment and Migration Working Papers no. 116, OECD Publishing. Available at: <http://www.oecd-ilibrary.org/content/workingpaper/5kghrjm8s142-en> (accessed online on 15 March 2011)

¹³ Schultz, E. (2004). Use of health and nursing care by the elderly. German Institute for Economic Research. ENEPRI RESEARCH REPORT NO. 2 JULY 2004

¹⁴ Information on the reasons for the low take-up rate amongst men is based on the findings of the study currently being undertaken by EPEC.

¹⁵ Miranda, V. (2011). "Cooking, Caring and Volunteering. Unpaid Work Around the World", OECD Social, Employment and Migration Working Papers no. 116, OECD Publishing. Available at: <http://www.oecd-ilibrary.org/content/workingpaper/5kghrjm8s142-en> (accessed online on 15 March 2011)

Lilly et al., 2007 M.B. Lilly, A. Laporte and P.C. Coyte, Labor market work and home Care's unpaid caregivers: a systematic review of labor force participation rates, predictors of labor market withdrawal, and hours of work, *The Milbank Quarterly* 85 (2007), pp. 641–690.

¹⁶ European Commission (DG Justice) 2011. Report on Progress on Equality between Women and Men in 2010. The gender balance in business leadership (p.2). Available at: ec.europa.eu/social/BlobServlet?docId=6562&langId=en

Romania - countries which do not have any provisions on leave to take care of elderly or adult relatives.¹⁷

Female employment rates in the EU (average of 62.1% in 2010) continue to lag behind the average male employment rate of 75.1% in the same year.¹⁸ As a result, reaching the EU2020 headline target rate of 75% of the population aged 20-64 in employment remains a significant challenge. Lower labour market participation also has a knock on effect on poverty risk, both in work and in particular in old age. Eurostat data show that with 17%, the at-risk of poverty rate was higher among women than men (15%), with an increasing gap in old age (22% among women and 17% among men over 65). This reflects the impact of lower (and shorter) contribution records of women for pension provision.

It should be emphasised that family-related leave policies such as carers' leave are only one part of the work-life balance solution package, which also includes the provision of high quality, accessible and affordable care facilities, as well as family friendly working arrangements.

1.3 The scope of the consultation

The European Commission is currently considering and assessing different legislative options for introducing and/or promoting carers' leave at the EU level.

The options below reflect a combination of different choices regarding duration, pay levels and possible frequency of take-up of leave:

Different length of carers' leave:

- 10 working days/2 weeks
- 22 working days/1 month
- 66 working days/3 months

Different pay during carers' leave:

- No EU minimum standard on pay during leave/Member State left to decide
- Same as sick leave payment

Different frequency of take up:

- Once per year
- Once per working life-time

1.4 Who can respond to the consultation?

Contributions are sought from employer and business representatives, non-governmental organisations and academic institutions and experts, particularly those organisations and experts with experience in the areas of family policy, care and leave policies, gender equality, disability, health and equal opportunities.

1.5 How to contribute?

Stakeholders will receive an e-mail confirming the receipt of their contribution and a summary of all contributions when these have been analysed.

The consultation will run for 8 weeks from 14 July 2011 to 15 September 2011. The deadline for submission is 15 September 2011. The survey will be available in English.

The contributions from stakeholders will be collated and analysed by EPEC who will also summarise the findings. The European Commission will receive both the full responses and the summary. The study report is due in end of August 2011.

¹⁷ Information is based on the findings of the study currently being undertaken by EPEC.

¹⁸ Eurostat, lfsa_ergan-Employment rates by sex, age groups and nationality (%) . Males and females age 20-64. Data retrieved on 14 July 2011.

The findings of the stakeholder consultation will be used to contribute to the evidence base on the impact of carers' leave and to inform the next stages of policy development in relation to this issue in the European Commission.

In your reply, please indicate:

- **Your name**
- **Your organisation**
- **Type of your organisation** (e.g. NGO/academic expert/business organisation)
- **Activity field of your organisation** (e.g. gender equality, family issues, business representation)

All contributions received may be published by the European Commission, unless you specifically request not to do so. In that case, please indicate clearly in your reply that you do not agree to your contribution being published. Please also confirm whether you want your contribution to remain anonymous (i.e., the contribution will not be attributed to your organisation).

All answers to the consultation request should be sent to carersleaveconsultation@ghkint.com before 15 September 2011.

Any queries should be addressed via email to Dr. Tina Weber at Tina.Weber@ghkint.com or to the following address: Tina Weber, GHK Consulting, 30 St Paul's Square, Birmingham B3 1QZ, United Kingdom.

2 QUESTIONS FOR CONSULTATION

Below we list a range of questions regarding carers' leave that we would like you to consider.

2.1 Details of respondents

Are you replying?

On behalf of an organisation

If you are replying on behalf of an organisation, please provide the full name of your organisation:

CARITAS EUROPA

What type of organisation is it?

| | |
|--|---|
| <i>Non-governmental organisation (NGO)</i> | <i>Caritas Europa brings together 48 member organisations established in 44 European countries. It is a confederation of Catholic relief, development and social service organisations working for the poor and oppressed. It works on issues related to poverty and social inequality, migration and asylum within all countries of Europe, humanitarian assistance and international</i> |
|--|---|

| | |
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| | <p>development throughout the world.</p> <p>The Caritas Europa network is one of the major social actors in Europe. It collaborates – through service provision on the one hand, but also through effective advocacy and campaigning on the other - with national governments and other public authorities, as well as with public and private partners around the world. Since 2006, it has been working in partnership with the European Commission and is currently funded under the PROGRESS program.</p> |
|--|---|

2.2 Existing carers' leave measures

Questions 1: How would you describe the costs of providing carers' leave in your country, referring to *direct costs* to the government and/or employers associated with compensation payments, *indirect costs* from productivity losses and *administrative costs* (on-off and recurring costs associated with, for example, processing, record-keeping and/or reporting of leave claims)? Please provide any data or evidence to support your view where possible.

Question 2: What are in your view the main benefits of providing carers' leave in your country? Examples of benefits can refer to improved well-being for carer, improved health for care recipient, greater independence for the carer, security of employee's job and income, gender equality, economic benefits (whether to the carer or more widely) etc.

Caritas Europa believes the protection of fundamental rights should be at the core of every society. A comprehensive social protection system mindful of the needs of family carers would have, as a first immediate benefit, an **enhanced protection of human rights**. Entitling carers to the right to leave from work would be a concrete expression of solidarity and justice.

To understand the significance of this measure, we should also underline that the absolute majority of carers is represented by **women**. Too many women in Europe are still disadvantaged in accessing employment and professional training, in the pay gap and in pension retirement benefits. Women – be they young or old - run higher risks of social exclusion compared to men. Caritas reports and statistics on the situation of poverty in Europe reveal appalling situations where lone-parent families, mostly headed by women, are the most affected by social exclusion. Caritas Europa, therefore, supports the introduction of carers' leave measures also as a way to promote women in employment and foster their inclusion in society.

In the Caritas Europa view, a just social protection system must enable all members of society (citizens and non- citizens) to protect themselves from life's risks in the form of, among others, unemployment and economic poverty, and enable everyone to make provisions for their old age. A right to leave would protect family carers from the **risk of unemployment** and of **diminished income** both during their working life and retirement. In addition, providing carers' leave would contribute to **job stability**, one of the conditions Caritas Europa sees as indispensable components of decent work. The provision of a right to care leave, making family life and career compatible and in particular in the case of care

obligations for family dependants, would certainly **underpin the role of families** as primary caregivers and actors of social protection. It would also reaffirm the interest and co-responsibility of the State for the needs of the most vulnerable family members, by offering the family relief from this serious burden. Lastly, since it would enable care-needing people to be attended by those who are closest to them, it would also be an expression of the principle of **subsidiarity**.

Question 3: What impact has carers' leave had on gender equality in your country? Please refer to gender equality aspects such as female employment rate, share of part-time workers in total female and male employment, gender pay gap, occupational and vertical segregation and gender pay gap. Whenever possible, please specify the type of impact (for instance, "positive", "negative") and the magnitude of the impact ("major impact", "significant impact", "slight impact" or "negligible impact").

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

Question 4: What is, in your view, the added value of carers' leave, compared to other forms of family-related leave (parental leave, leave for urgent family reasons etc.)?

Carers' leave addresses care needs of **adult** and **elderly relatives**, including the specific situation of **long-term dependency**. The latter is often complicated by health problems and emotional distress, bearing also important economic consequences for the family. This is not comparable to the necessity of the (usually younger) parents to take care of little children, or to the different case where workers have to provide for (short-term) emergencies within the family. The legal aspects of this question are explained below.

Question 5: Which measures have been the most successful in encouraging men to take up carers' leave? Why? Please provide any data or evidence to support your view where possible.

2.3 Possible EU initiative on carers' leave

Question 1: Do you see a need for an EU initiative on carers' leave and, if yes, what kind of initiative (legislative, non-legislative) would generate the greatest EU added value? What would be the advantages and disadvantages of such an initiative?

A specific EU initiative would fill up a void left so far by EU and some national legislation. It would allow the social protection of situations not ascribable to those already foreseen by the parental leave Directive. In particular, the existence of Clause 7 of the revised Framework Agreement on parental leave of 18 June 2009 (implemented by Council Directive 2010/18/EU of 8 March 2010) cannot be deemed sufficient to cover the needs induced by age or illness dependency within the family. Clause 7 in fact only addresses reasons of "force majeure" referring to cases of sickness or accident, therefore of shorter duration than long-term dependency. In addition, the said clause does not introduce EU norms to protect workers but just refers to "national legislation, collective agreements and/or practice", therefore leaving the case in point up to the different national provisions.

A new legislative initiative at EU level would put an end to the current uncertainty. It would also be consistent with the already existing EU legislation aimed at reconciling work and family life (e.g. the said Directive on parental leave, the Directive on the safety and health of pregnant workers, workers who have recently given birth and women who are breastfeeding, the 1992 Recommendation on

childcare). This is also why Caritas Europa considers legislation in the form of a **directive** to be best suited to this issue. An immediate advantage of a directive would be the introduction of common EU standards while keeping national margins of manoeuvre, according to national contexts and also leaving space for *more favourable* provisions. The disadvantage (or rather, the risk) would arise, vice-versa, in case of adoption of very minimal EU standards as the lowest common denominator among Member States (MS). This would not introduce any further protection at EU level.

Question 2: If you support legislative options in the section above, which do you think would achieve the best balance between costs and benefits?

Based on the arguments made throughout this document, Caritas Europa believes a **directive** would achieve the best balance between costs and benefits, in that it would still allow for national arrangements according to each specific national situation.

Question 3: What would be the added value of an EU initiative on carers' leave, compared to existing measures or possible future initiatives at Member State level?

Its added value, compared with national provisions, would reside in the protection to be offered to **people moving within the EU borders along with their families**. For this protection to be valuable, the EU standards should be set sufficiently high. This key issue is explained under question 4.

Question 4: What would be, in your view, the likely costs of a legislative initiative introducing an entitlement to carers' leave up to 3 months at EU level?

Generally, the likely costs deriving from such an initiative would be related to reduced productivity in the workplace, the possible replacement by another worker and the cost of financial compensation. However, these costs could balance each other out if well-coordinated and could even be offset when considering, on the other hand, the lower costs allowed by a leave period, both for families and for public healthcare systems.

What should be avoided, though, is the creation of a sort of competition (or even of "social dumping") within and outside the EU borders. In the event evoked before under 2.3, Question 1, of adopting minimal EU standards, the MS legislations would probably differ more significantly than in the event of EU standards offering higher levels of protection. This would allow for the coexistence of different social protection levels among MS, corresponding to different costs from one MS to another. The lower the protection, the lower costs are, and vice versa. In relation to non-EU countries, there would also be disparities towards those countries who do not offer the same social protection, with obviously lower costs. Considering the above, Caritas Europa recommends shifting the cost burden from the employers to States or social security, through financing it by public taxation rather than contributions paid by the employers.

Question 5: What would be, in your view, the likely benefits of a legislative initiative introducing an entitlement to carers' leave up to 3 months at EU level? Examples of benefits can refer to improved well-being for carer, improved health for care

recipient, security of employee's job and income, retention of carer in the labour market/workforce etc.

In the Caritas view, home should be the setting of first choice for care and treatment, in accordance to the needs and wishes of the care-needing person. In the **home**, family members are best able to provide **care and love**. This would be the ultimate, most important benefit of a carers' entitlement to a leave. In addition to the benefits illustrated above (see 2.2, question 2), other "quantifiable" benefits would be enhanced physical and psychological well-being for carers and care-receivers, job and income security for carers and their family dependants.

However, for reasons of equity and justice, we would rather insist on a leave period of at least four months, in line with the existing legislation on parental leave. The latter, in fact, allows for a leave of at least four months for each parent. We do not see why a similar treatment should not be offered to workers having to take care of their elderly, a situation often aggravated by ill-health conditions and, for this reason, higher costs. Let us also not forget that elderly care is, usually, more psychologically straining. The leave duration and entitlements have to be determined and may vary, consequently, also in connection with possible other national provisions. In Luxembourg, for example, a specific social security measure ("assurance dépendance") enables dependent people to either receive professional care services, or to pay informal care given by a family member. This measure is financed through a mandatory contribution in addition to health insurance. The conditions for leave must then be adapted so as to complement existing arrangements. In Member States where such arrangements do not exist, carers' leave should be apt to be used more extensively, as the sole applicable measure.

Question 6: What impact would such potential EU measure on carers' leave have on gender equality in your country? Please refer to gender equality aspects such as female employment rate, share of part-time workers in total female and male employment, gender pay gap, occupational and vertical segregation and gender pay gap. Whenever possible, please specify the type of impact (for instance, "positive", "negative") and the magnitude of the impact ("major impact", "significant impact", "slight impact" or "negligible impact").

3 ANY OTHER COMMENTS AND SUGGESTED REFERENCES

We would welcome any other comments you may have about existing and possible measures on carers' leave. You can either enter your comments here or attach any relevant documents (academic articles, impact assessment, survey results) to your reply email.

Financial compensation for a short-term leave should follow the same rules as the common sick leave.

Compensation for a long-term leave should follow different rules.