

Forthcoming EU Work-Life Balance Package

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Introduction

- June 2014 - European Commission announced intention to come forward with initiatives to address challenges of work-life balance faced by working families.
- So-called work-life balance package now expected in March.
- Commission has previously indicated package *could* include proposals to revise existing EU legislation on maternity leave and on parental leave and proposals for new EU legislation on paternity leave, carers' leave and flexible working arrangements as well as non-legislative proposals (e.g. policy guidance, financial support, etc.)
- Aim to outline background to this initiative, what is being *considered* and possible implications for the debate on work-life balance in Ireland.

Context – Key EU legislation

- 1992 **Maternity Leave** directive:
 - Provides maternity leave paid at least to level of sick pay for at least 14 weeks, two weeks mandatory.
 - Protect against dismissal from beginning of pregnancy until end of maternity leave – permitted only in exceptional circumstances not connected to pregnancy or maternity leave.
 - Directive 2010/41/EU extends above to female self-employed or female spouses of self-employed.
- 2010 **Parental Leave** directive implements framework agreement between EU social partners:
 - Right to parental leave of at least 16 weeks on birth or adoption, until child reaches given age up to 8.
 - At least one month is non-transferable between parents (i.e. is lost if not taken by other parent).
 - No provisions on pay.
 - More detailed conditions set by member states (or to social partners).
 - When returning, parents can *request* changes to working hours and/or patterns, for certain period.
 - Protects against dismissal and less favourable treatment for applying or taking parental leave.
 - Limited time off for urgent family reasons (*force majeure*) in case of sickness or accident of child.
- No EU legislation on paternity leave or carers' leave.

Context – Key Irish legislation

- **Maternity Leave** (1994 and 2004 Acts)
 - 26 weeks @ €230 a week and 16 weeks unpaid
 - Some employers continue to provide full pay and require maternity benefit paid to them.
 - Ireland prohibits *preparatory* measures for dismissal until end of maternity leave.
- **Paternity Leave** (2016 Act)
 - Two weeks @ €230 a week since September 2016
- **Parental Leave** (2013 Statutory Instrument)
 - 18 weeks of parental leave, four of which non-transferable between parents.
 - Duration depends on take-up of both parents.
 - Age limit is 16 for child with a disability or long-term illness.
 - Ireland one of 7 member states that do not provide payment
- **Carers' Leave** (2001 Act)
 - At least 13 weeks, to maximum of 104, to provide full-time care; employer can refuse request for less than 13.
 - Very short leave, e.g. to attend relatives in case of emergency or accompany to medical appointment.
 - May be eligible for Carer's Benefit (e.g. €205 if caring for one person) if enough PRSI contributions.
 - If not eligible, can apply for means-tested Carer's Allowance (e.g. €204 if caring for one person).

2008-14 stalemate on maternity leave

- 2008: Commission issued proposal to update 1992 Maternity Leave Directive – to extend leave from 14 to 18 weeks (in line with ILO recommendation), 6 weeks on full pay.
- May 2009: European Parliament (EP) approved - suggested 20 weeks on full pay.
- But stalemate in Council – not discussed after 2011.
- 18 June 2014: Commission said it would withdraw 2008 proposal and replace it with new broader initiative to ‘address the challenges of work-life balance faced by working families’.
- 19-20 June 2014: Council adopted conclusions urging Commission and member states to *‘support work-life balance for women and men, by encouraging the equal sharing of responsibility for care of dependent family members and household tasks...’* – Ministers Richard Bruton and James O’Reilly both in attendance.
- August 2015: Commission formally withdrew 2008 proposal and issued Roadmap ‘New start to address the challenges of work-life balance faced by working families’.

Employers not willing to negotiate

- Before issuing proposals for social legislation, Commission must hold two-stage consultation of European social partners – first on direction of EU action, second on content of envisaged legislation – to see if they're willing to negotiate framework agreement (i.e. as with current EU legislation on part-time work, fixed-term work, working-time in specific sectors, healthcare work).
- First stage consultation - between November 2015-January 2016.
- Trade unions respondents included European Trade Union Confederation and Eurocadres, both of which represent ICTU.
- Business respondents included BusinessEurope (i.e. IBEC), UEAPME (i.e. ISME), Eurocommerce (i.e. Retail Ireland).
- Unions in favour and were willing to negotiate but employers were opposed.
- Also held broader public consultation between Nov. 2015-Feb.2016 - nearly 800 contributions from all member states, e.g. European Women's Lobby (i.e. NWCI), Families Europe (i.e. ICA),
- Second stage consultation – July-September 2016 - no report yet.

The challenge – raising female participation in labour market

- ‘The key issue that this initiative aims to address is the *low participation of women* in the labour market and *support the equal use* of occupational rights between men and women such as *leave arrangements*.’ (July 2016 consultation document).
- EU female employment rate of 63% v. 75% of men in 2014 (of 20-64 age group); in full-time equivalents, 55% for women v. 72% for men.
- Cites 2004 Institute of Labour Economists research on impact of family-friendly policies in Denmark and Sweden which found parental leave legislation raised female employment rates by 3-4 per cent.
- Cites 2012 OECD research on reducing gender gap in labour market participation which estimated that having gap could raise OECD GDP by 6% and full convergence could raise it by 12%.
- (This OECD research also estimated that halving gender gap in Ireland could raise labour force to 2.6 million by 2030 and that 100% convergence could raise it to over 2.8 million by 2030.)

Will continue to have negative impact on women and on economy

- ‘Women’s under-representation in the labour market translates...to their lower earnings [16% gender pay gap], pension entitlements [40% less on average] and fiscal contributions, as well as higher rates of poverty [20% of older women at risk v. 15% of men], with significant implications for the social protection systems and for public finances in the Member States’.
- ‘...in its aim to increase its global competitiveness Europe *cannot afford* not to use all its human capital. In particular, it cannot afford to *waste* the talent and skills of workers with children or other caring responsibilities by denying them reasonable opportunities as to how to organise their work-life balance.’ (Commission Staff Working Document, July 2016)

Member States unwilling or ineffective

- ‘...if no action is taken at EU level, since *no comprehensive action at Member State level is anticipated*, women will continue to face limitations on their involvement in the labour market despite their education and skills...’
- ‘In principle, Member States could take measures to improve the situation, however the track record to date shows that they have not all done so, or *not done so effectively*,’
- ‘A comprehensive package *that includes legislation* is...needed and the *only way* to ensure that these problems are addressed is through *action at the level of the Union*’.
- ‘It should therefore be easier from an EU perspective to fight the misconception that work-life balance measures lead to greater costs for firms.’ (Commission staff working document)

What is Commission *considering* to promote equal use of leave?

- **Maternity Leave**
 - Improve dismissal protection (e.g. until 6 months *after* end of maternity leave).
 - Provide for breastfeeding breaks and/or facilities.
- **Paternity Leave**
 - Introduce 'around two weeks' at unpaid, sick pay 'or even full pay'.
- **Parental Leave**
 - Increase age of child eligibility from 8 to 12.
 - Provide for individual right to chose to take leave on full-time or part-time, in blocs.
 - Payment at level of sick-pay or full-pay, either for part (e.g. non-transferable part) or all.
 - Increase leave to 20 weeks (currently 18 in Ireland), and part that is non-transferable from 4 to 10.
- **Carers' Leave**
 - Introduce leave of 4 to 12 weeks over lifetime.
 - No pay, to sick pay or full pay for part or all of leave.
 - Taken on full-time or part-time in one block or in number of blocs.
- **Flexible working arrangements**
 - Introduce right of all parents (i.e. not just those returning from parental leave) to request changes to their working patterns or create stronger and enforceable legal right to flexible working arrangements
 - Introduce right to request reduced working hours or create stronger and enforceable legal right to reduced working hours.

Council willing to discuss?

- Council's 18 month programme Jan. 2016-July 2017 (Dec 2015):
 - [Among the priorities will be] 'Upcoming initiatives to address the challenges of work-life balance for working families and support women's participation in the labour market'
- Programme of the Jan-June 2017 Maltese Council Presidency:
 - 'Further to the outcome of the public consultation launched by the Commission in 2016 with regard to the European Pillar of Social Rights, the Maltese Presidency will *initiate the discussions* in Council on this dossier that will cover initiatives aimed at addressing the challenges of worklife balance faced by working families...'

MEPs keener

- From EP resolution on European Pillar of Social Rights, 19 January:
 - ‘...there is a need for new effective measures at both European and national levels for the reconciliation of professional, private and family life, including *legislative* proposals as regards maternity leave, paternity leave, parental leave, carers’ leave, access to quality care services and flexible working time arrangements;...’
- Attempt by some centre-right MEPs to remove ‘legislative’ from above was defeated, with 131 supporting its removal - European Conservatives and Reformists (i.e. UK Conservatives), Europe of Freedom and Direct Democracy (i.e. UKIP), and Europe of Nations and Freedom (i.e. FN) – 510 voting to retain it (Socialists & Democrats, European People’s Party, Liberals, European United Left and Greens) and 25 abstaining.
- Paragraph 25 was approved by 435 in favour (EPP, S&D, Liberals, European United Left, Greens) to 209 against (ECR, EFDD, ENF) with 23 abstentions.

Non-legislative action likely

- “The Commission *will* further develop [the] framework of [supporting policy measures], with a particular focus on childcare, care services and infrastructure for the elderly, and how tax and benefit systems can better ensure that women, particularly mothers, are not discouraged from working and working more hours’
- New benchmarks on provision of childcare, elderly care services and tax-benefit disincentives with regular monitoring and public reporting?
- Revise Barcelona childcare targets (i.e. to provide childcare to 90% of children aged 3 to mandatory school age and at least 33% of children under 3) by setting new target date, improving target for under 3’s, taking into account opening hours and including out of school hours for children in mandatory school?
- Additional knowledge-sharing and awareness raising.
- Use EU funds to invest in care services and infrastructure and to support participation of women in labour market. (All from Staff Working Document)

Conclusions

- Commission *seems* inclined towards *some* legislation – but what it proposes will ultimately be a *political* decision.
- Package is being linked to the European Pillar on Social Rights.
- Easier to *amend* existing EU legislation (i.e. maternity leave, parental leave) than introduce *new* legislation (i.e. on paternity leave, carers' leave, flexible working arrangements)?
- Any such proposal(s) to EP and Council could take 18 months+ to agree and, *if* adopted, further two years+ to transpose.
- Will also be forwarded to Oireachtas.
- Package likely to contain non-legislative actions (childcare, elder care, tax/benefit)
- 'Work-life balance is not a concept in wide usage or with any real history in Ireland.' Mary Daly, President, Royal Irish Academy, February 2016. Opportunity to redress?

Annex – main documents

- Commission consultation document, 12 July 2016, (C(2016)2472 final)
- Commission staff working document, 12 July 2016, (SWD(2016) 145 final).
- *Creating labour market conditions favourable to work-life balance*, EP resolution, 13 September 2016 (P8_TA(2016)0338)
- *'ETUC position on second stage consultation of the social partners at European level under Article 154 TFEU on possible action addressing the challenges of work-life balance faced by working parents and caregivers, 28 September' 2016.*