



# The European Pillar of Social Rights: a source of work-life balance improvements?

by Diogo Silva

In light of the changes on the labour markets and welfare systems and in order to adapt to the developments in the world of work and digital revolution, the European Commission has presented a proposal for a joint proclamation with the European Parliament of a European Pillar of Social Rights, focusing primarily on equal opportunities and access to the labour market, fair working conditions and sustainable social protection.

The European Pillar of Social Rights will serve as a future reference for EU institutions actions and as a basis for political and legal actions at European level: by updating and complementing EU law (whether by binding instruments like directives and regulations, whether by non-binding instruments like recommendations), by the promotion of social dialogue in these matters, with a particular focus on policy guidance and financial support ([Communication of the Commission on the establishment of the European Pillar of Social Rights, p. 7](#)).

An important topic concerning fair working conditions, that had special attention from the European Commission (present on the Point 9 of the European Pillar of Social Rights), is work-life balance. Subsequently, we will only address this issue.

In first place, on the [Point 9 of the Proposal for interinstitutional proclamation](#) is it emphasized that, in order to achieve an adequate work-life balance, it is necessary to take in consideration the needs of parents and workers with caring responsibilities who are in need of a suitable leave or a flexible working arrangements to best suit their necessities. In this respect, both the European Commission and Parliament are strongly committed to ensure that women and men both have equal access to the above-mentioned mechanisms and that their usage and implementation is proportionate with the employers' interests.

Moreover, since the European Pillar of Social Rights is based on concrete legislative and non-legislative initiatives, it is important to devote attention to the Proposal for Directive on Work-Life Balance (henceforth, referred to as "the Proposal"), which aims to guarantee equal treatment at work and equality between men and women at the workplace, through the establishment of minimum requirements to be implemented by European Member States.

In order to fulfill the general and specific objectives the Proposal (that is meant to repeal the Council Directive 2010/18/EU) centers on five key aspects: maternity leave, paternity leave, parental leave, carer's leave and flexible working arrangements.

In regards to parental leave (maternity and paternity), the intervention enhances the enforcement of the already existing rules of prohibition of discrimination related to the paid leave and introduces individual entitlement to the father of ten days of paid leave on the occasion of birth of his child.

Another objective of the Proposal is to extend the rights of paid leave to workers who have to provide care to elderly or disabled family members (denominated carers'), similar, *mutatis mutandis*, with parents with childcare, entitling them to at least five days per year of paid leave. With the implementation of this Directive these workers would also be entitled to the right to request special leave arrangements or flexible working arrangements.

It should be highlighted that these measures discourage what is called the “gender employment gap” and promote the involvement of men on family necessities. With these actions, women won't be the only to be supposed to request a paid leave to attend to familiar needs, since men will also have the opportunity to do it. Thus, it is fully in line with the general objective of the Proposal of the Directive of ensuring “*the implementation of the principle of equality between men and women with regard to labour market opportunities and treatment at work*” (see also [U. Unterhofer, K. Wrohlich, \*Fathers, Parental Leave and Gender Norms\*, IZA Discussion Paper n.º 10712, April 2017](#)).

The right to request for a flexible working arrangements is not completely new, both on a European level and on national level. In the first level, the right to request is predicted in the Parental Leave Directive 2010/18/EU, pursuant to which parents returning from parental leave can request a flexible working arrangements to their employers (flexible working patterns or flexible working hours). Considering now the right to request on a national level of European countries, it is already enacted in some legal systems, like the German system, where workers can request a reduction on working time every two years (see also the [interview to Prof. António Nunes de Carvalho](#), partially on the cogitation of the right to request by carers' in light of the Portuguese paradigm).

However, the Proposal resembles the Dutch legal scheme, that is considered to have the most employee-friendly right to request (see [R. C. Bird, E. Brown, \*The right to request as a model for flexible working time\*, p. 25](#)), because the Proposal assents the request of alteration in working hours, alteration of working pattern or alteration of the working location, allowing also for remote working. The Proposal also extends these rights to carers' and workers with children up to a given age, which shall be at least twelve years old.

Even though it is remarkable that the Proposal advocates for a strengthened European uniformity on these particular topics, it could be questionable the implementation schemes for the promoted measures (specially on the right to request, that assumes the most employee friendly form). The Explanatory Memorandum of the Proposal itself recognizes that “*employer's organizations were not supportive to further EU legislative action, but they supported non-legislative measures for the development of formal care services*”. As it is known, gradualism may be the best policy option when enacting employment rights, as this strategy avoids both resilience and delays in the implementation phase ([F. B. Cid, M. L. Rancaño, \*Social Policies and Structural reforms in Europe\*, Romanian Journal of European Affairs, 2006, n.º 4, p. 6](#)).

In this respect, the Commission also incorporated non-legislative measures to complement the previously investigated now analyzed, such as the removal of economic disincentives for second earners which prevent women from accessing the labour market or working full-time. In the same direction, the Commission is also committed to make better use of European funds to improve long-term and childcare services, through funding of projects aiming, for example, for a better enforcement of EU law on work-life balance, or projects for the development of innovative working arrangements.

In conclusion, the above mentioned actions at European level may represent a better accommodation of workers' preferences concerning work-life balance and may serve as incentives

to the workers' retention on the labour market (J. C. Messenger, *European working time trends and developments in Europe*, Cambridge Journal of Economics, 2011, n.º 35, p. 307).

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