



**Framework agreements
transposed into EU directives:**

**The revised Framework Agreement on
Parental Leave**

By Guillaume Cravero, BUSINESSEUROPE

Joint Training & Mentoring Seminar, Istanbul, 22-23 March 2012

EU SD agreements

1 - Framework agreements transposed into EU directives

- Agreements on **parental leave**, 14 December 1995 + 18 June 2009
 - Directive 96/34/EC of 3 June 1996
 - Directive 10/18/EC of 8 March 2010
- Agreement on **part time work**, 6 June 1997
 - Directive 97/81/EC of 15 December 1997
- Agreement on **fixed term contracts**, 19 March 1999
 - Directive 99/70/EC of 28 June 1999

2 - Framework agreements to be implemented by EU SP

- Agreement on **telework**, 16 July 2002
- Agreement on **work-related stress**, 8 October 2004
- Agreement on **harassment and violence at work**, 21 April 2007
 - Agreement on **inclusive labour markets**, 25 March 2010

Framework agreements transposed into EU directives

The choice of a directive: the European social partners ask the Council to adopt a decision (in practice, this is a directive, proposed by the Commission). In this way, the agreement becomes part of EU law.

The European Commission monitors the transposition, implementation and enforcement of EU legislation.

For candidate countries, the European Commission assists countries with the transposition and enforcement of legislation. EU financial support available.

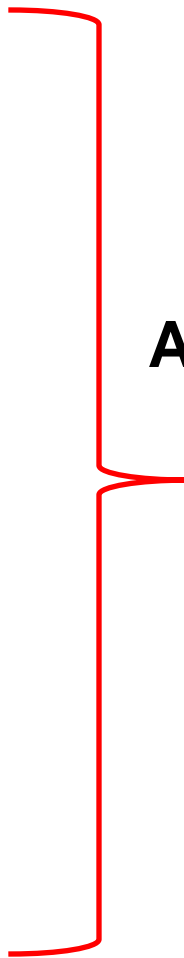
Presentation outline

- **Work-life balance:** what this is about?
- **The Negotiation process**
- **Content of the revised agreement on parental leave:**
what's new?
- **Implementation:** state of play

Work-Life Balance

- A multifaceted issue that covers:

- **Working time arrangements**
- **Care facilities** (childcare, elderly care, etc.) availability, affordability, quality.
- **Leave arrangements** (maternity leave, paternity leave, parental leave, adoption leave, filial leave, etc.)



**A coherent mix
of family and
employment
policies!**

Work-Life Balance

■ Leave arrangements

Maternity leave

- Time that a **woman** takes slightly before and/or after the birth of a child to recover from birth and to care for the new child
- At EU level → Directive 92/85/CEE (currently under revision)



Paternity leave

- Time that a **father** takes slightly after the birth of a child to
- At EU level: NO instrument



Parental leave

- Time that **parents** are entitled to take to take time off to look after a child or make arrangements for the child's welfare
- At EU level: EU SPs agreements of 1996 + 2009 (both transposed into Directives)



Adoption leave

- Time that **parents** take slightly after and/or before the adoption of a child
- At EU level: Provisions in EU SPs agreements on parental leave



Revised Agreement on Parental Leave

Negotiation process

- **EC Consultation on work-life balance**
 - (October 2006) – EC First stage consultation of EU SPs
 - (May 2007) – EC Second stage consultation of EU SPs

- **EU Social Partners action on work-life balance**
 - (July 2007) – EU SPs joint letter to the EC

 - (Nov. 2007 – Jan. 2008) – joint questionnaire on work-life balance is addressed to EU SPs national members

 - (Jan. – Feb. 2008) – ‘Ad hoc’ working group on work-life balance (2 meetings)

 - (March 2008) – Joint progress report on work-life balance:
“EU SPs agreed to undertake joint action to better achieve the aims of the parental leave Directive as a part of a wider work on reconciliation”

 - (July 2008) – Joint letter on Childcare

Revised Agreement on Parental Leave

Negotiation process

- Start negotiations: **17 September 2008**
- 7 rounds of negotiating – **6 months**
- At 6th round of 23 March 2009 a joint text was agreed upon
- Official signing: **18 June 2009**

Signatories: ETUC, BUSINESSEUROPE, CEEP, UEAPME

- **Official Journal of the European Union - Directive 2010/18/EEC 18 March 2010 → Start implementation period of two years (8 March 2012 deadline reported)**

Revised Agreement on Parental Leave

Content

- **(I) Recitals**
- **(II) Content**
 - Purpose and scope
 - Parental leave
 - Modalities of application
 - Adoption
 - Employment rights and non discrimination
 - Return to work

Content

1. PURPOSE AND SCOPE

■ “Increasing diversity of family structures”

- The agreement’s scope now acknowledges the diversity of family structures (Clause 1.1 - updated)
- Recital 11 - **New**: *“certain aspects of parental leave need to be adapted, taking into account the growing diversity of the labour force and societal developments including the increasing diversity of family structures”*

■ Categories of workers covered

- Part-time, fixed-term or temporary agency workers now clearly cannot be excluded from the scope of the Directive and are entitled to take parental leave (Clause 1.3 - new)

Content

2. PARENTAL LEAVE

Clause 2.2 contains some important new elements

- **Length** of parental leave

- is increased from 3 to **4 months**

- **Transferability** of the leave

- as in the former agreement, the leave should be granted in principle on a non-transferable basis
- a majority of the ETUC delegation favoured a full non-transferable leave. However, due to the strong divergence with the employers' delegation, the compromise solution is that in those countries where parental leave is transferable between parents, **at least one month should be non-transferable**
- **Recital 16 (updated)** refers to the question of non-transferability of the parental leave and the impact that this might have on the take up by fathers.

- **Unchanged provisions**

- Parental leave remains an individual right
- Age of the child: 8 years old

Content

3. MODALITIES FOR APPLICATION

- **Work qualification and/or length of service qualification to be entitled to parental leave**
 - The right to parental leave to fixed-term workers is strengthened
 - The agreement indicates how the work qualification period shall be calculated (Clause 3.1 – **updated**: “*MS and/or SPs shall ensure that in case of successive fixed term contracts with the same employer the sum of these contracts shall be taken into account for the purpose of calculating the qualifying period*”)

- **Notice periods**
 - Need to take into consideration workers and employers’ needs when establishing notice periods (Clause 3.2 – **updated**)

- **Parents of children with disabilities or a long-term illness**
 - MS and/or SPs 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 (Clause 3.3 – **new**).

Content

4. ADOPTION

- **Special circumstances of adoption**
 - Previous provision of 1996 agreement on adoption leave is reformulated.
 - Additional measures to address the specific needs of adoptive parents can be established if considered necessary by Member States and/or social partners when implementing the agreement

Content

5. EMPLOYMENTS RIGHTS AND NON DISCRIMINATION

- **Protection of workers against less favourable treatment or dismissal**
 - Protection of workers against “less favourable treatment” (as in the text of the Directives on part-time work and fixed term contracts) - Clause 5.4 **updated**
- **Income**
 - The **role of income** – among other factors – is acknowledged in the take-up of parental leave (Clause 5.5 - **New**)
 - This matter to be considered and determined at national level
 - Recital 19 (**Updated**) requires MS to consider not only the maintenance of social security entitlements when implementing this agreement, but also the role of income, as one of the factors influencing the take-up of parental leave
 - Recital 20 (**New**) highlights the positive role played by **the level of income** in the take –up of parental leave, with a specific reference to fathers
- **Unchanged provisions**
 - Right to return to the same job or, if that is not possible, to an equivalent or similar job consistent is maintained;
 - Rights acquired or in the process of being acquired by the worker on the date on which parental leave starts
 - MS and/or SPs shall define the status of the employment contract or employment relationship for the period of parental leave.
 - Social security provisions are also unchanged.

Content

6. RETURN TO WORK

- **Flexible working arrangements**
 - Clause 6.1 (**New**) introduces the possibility of flexible working arrangements for workers returning from parental leave
 - Recital 21 (**New**) spells out the advantages that flexible working arrangements can have to reconcile work and family life and the reintegration into work when returning from parental leave
 - Clause 6.2 (**New**) deals with the establishment of reintegration measures and the maintenance of contacts with the workplace during parental leave.
 - Recital 22 (**New**) deals with the positive role that contacts between employers and workers using parental leave can have to facilitate their return to work

Recitals

- New order of recitals
- New references to EU legislative developments/ Barcelona targets/ Framework of Actions on Gender Equality/ European Commission ongoing work on WLB
- **Recital 8 (Updated)**
 - Family policies should contribute to the achievement of gender equality and be looked at in the context of demographic changes, the effects of an ageing population, closing the generation gap, promoting women's participation in the labour force and the sharing of care responsibilities between women and men
- **Recital 12 (Updated)**
 - Only “encouraging” measures have not led to men assuming an equal share of family responsibilities and that therefore **more effective measures are needed**
- **Recital 24 (Updated)**
 - A stronger reference to the role that social partners can play in **monitoring and evaluating this agreement**

Implementation and follow-up

- **The Directive has been translated into all the EU languages**
- **Member States are responsible for the transposition of the Directive (article 139)**
- **However social partners at national level should...**
 - closely monitor the transposition process and follow the impact of the Directive at various levels
 - monitor the implementation of the Directive in practice
 - use this agreement as a means to negotiate agreements that go beyond the minimum requirements
 - inform the European SP of any problem regarding the implementation

Thank you!



This presentation has been produced with the financial assistance of the European Commission.

The views expressed herein are those of the European Social Partners and can therefore in no way be taken to reflect the official opinion of the European Commission.