

The Work Life Balance Directive: what is in it for carers?

It is time to go into detail about the rights granted to carers by the Work Life Balance Directive, and describe what they imply exactly



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European Association **Working for Carers**

As the carers' movement welcomes the much-awaited adoption of the 'Work Life Balance Directive' by the European institutions, it is time to have a closer look into the rights granted to carers through this new EU piece of legislation, and explain what they involve exactly.

In particular, it is important to underline that, whereas the EU institutions have introduced new rights for family and carers, Member States retain significant room of manoeuvre in implementing these rights.

This factsheet is aimed at informal carers, carers organisations and practitioners interested in this promising policy development and willing to monitor its implementation process. As a matter of fact, it will be of crucial importance for stakeholders to get involved and to engage with their national/regional government to ensure a transposition of the Directive that brings concrete change in the daily life of carers. This document details the new rights for carers introduced by this EU legal act, the aspects that are left to the appreciation of Member States as well as the recommendations made by EU institutions regarding implementation.

1 The issue of the definition: who should be considered as a 'carer'?

First of all, the Directive builds on a strict definition of the carer, namely "a worker providing personal care or support to a relative [son, daughter, mother, father, spouse or partner in civil partnership], or to a person who lives in the same household as the worker, and who is in need of significant care or support for a serious medical reason" (Article 3). The Directive concerns working carers only.



However, Member States still have unlimited leeway to expand on this definition:

- They will define what is considered as a "serious medical reason";
- They are encouraged by EU institutions to make the right to carers' leave available for additional relatives such as grandparents and siblings, but this is not compulsory.



Eurocarers advocates for the use of a comprehensive definition which goes beyond next of kins and cohabitants to include all people providing support and care on a voluntary basis (e.g. friends and neighbours). We also believe that carers who are not in employment should be recognised and supported.

2 The right to a carers' leave

The Directive establishes a right to a minimum of 5 days of leave per year per worker for caring purposes: *"Member States shall take the necessary measures to ensure that workers have the right to carers' leave of five working days per year, per worker."* (Article 6)

The issue of payment

- Importantly, Member States will get to decide whether this leave should be paid or not. Having said that, they are strongly encouraged to do so: *"Although Member States are free to decide whether to provide a payment or an allowance for carers' leave, they are encouraged to introduce such a payment or an allowance in order to guarantee the effective take-up of the right by carers, in particular by men"* (Recital 32).



Eurocarers has been calling for a fair compensation of the time devoted to caring by informal carers, in particular when their contribution entails a reduction of their working time. The carer's leave must be financially compensated in order to prevent carers from financial hardship.



Member States' Room for manoeuvre also concerns other aspects of the leave, including:

- The number of days to be taken up by case – The Directive lays down minimum rights and Member States are therefore free to provide more than 5 days should they want to do so;
- The periodicity at which the leave is made available to carers (i.e. on an annual basis), can be subject to enhancement by Member States;
- Member States can define the criteria to access to the leave in relation to the person in need of care or support, or as regard the circumstances of the carer;
- Member States can also decide whether the leave is granted to a carer in the context of one caregiving relationship only or whether carers may find themselves in situations where they provide care to more than one person and are therefore entitled to more benefits;
- Finally, it also belongs to Member States to decide whether medical justification should be produced to benefit from the leave. (Recital 27)



On these aspects, Eurocarers strongly believes that the carer's choice and flexibility should be ensured, so that he/she can fully benefit from this new right.

3 The right to request flexible working arrangements

The Directive establishes a right for carers to request flexible 'working arrangements' (meaning "the possibility for workers to adjust their working patterns, including through the use of remote working arrangements, flexible working schedules, or a reduction in working hours") to which employers must respond. The worker being granted flexible working arrangement has the right to return to original working patterns when needed.

"Member States shall take the necessary measures to ensure that (...) carers have the right to request flexible working arrangements for caring purposes. The duration of such flexible working arrangements may be subject to a reasonable limitation. (Article 9 §1)

"Employers shall consider and respond to requests for flexible working arrangements (...) within a reasonable period of time, taking into account the needs of both the employer and the worker. Employers shall provide reasons for any refusal of such a request or for any postponement of such arrangements." (Article 9 § 2)

"When flexible working arrangements (...) are limited in duration, the worker shall have the right to return to the original working pattern at the end of the agreed period. The worker shall also have the right to request to return to the original working pattern before the end of the agreed period where justified on the basis of a change of circumstances. The employer shall consider and respond to a request for an early return to the original working pattern, taking into account the needs of both the employer and the worker." (Article 9 § 3)



How it can be adapted by Member States:

- The right to request flexible working arrangements might be subject to a **period of work qualification or a length of service** qualification which shall not exceed **six months** (Article 9 § 4);
- Member States might **limit the duration** of flexible working arrangements (Recital 35 a);
- The case of the small and medium-sized enterprises (SMEs) : « Member States are therefore invited to thoroughly assess the impact of their implementing measures on SMEs in order to ensure the equal treatment of all workers, that SMEs are not disproportionately affected by the measures, with particular focus on microenterprises, and that any unnecessary administrative burden is avoided." (Recital 48)



On these aspects, it will be important that the right to request flexible working arrangements is made accessible to all carers, including those concerned by non-standard forms of work, and that the duration of flexible working arrangements responds to the needs of the carer.

4 Protection of workers

The Directive foresees that Member States take the necessary measures to protect working carers against discrimination or dismissal on the ground that they have exercised these new rights. (Article 11 & 12)



It is crucial that workers are made fully aware of their rights. Furthermore, public authorities and stakeholders should seek to raise awareness about informal carers in the wider society, contributing to a better understanding of their contribution and needs.

5 The promotion of a dialogue aimed at fostering the reconciliation of work and private life

The introduction of new rights for carers is part of a wider objective of ensuring a better work life balance across the whole life cycle for all, parents as well as carers. It is guided by the recognition that the current situation is detrimental in terms of quality of life of people trying to combine work and care, and gender equality, as women tend to take most of the care responsibilities. Supporting the full participation of women on the labour market through an improved work life balance and more equal sharing of care between genders is expected to have a positive impact on our economy. Moreover, work life balance policies on the work place are likely to improve occupational health and retain skilled workers, to the benefit of the enterprise.



How Member States are invited to implement this dialogue:

- Beyond a pure legislative process, the Directive invite Member States to mobilise all stakeholders about the potential gains for all of fostering the reconciliation of work and private life, and build the implementation on a dialogue with social partners as well as with other partners “*such as non-governmental organisations, local and regional authorities, service providers which promote work-life balance policies*”. Measures aimed at promoting work-life balance in the workplace, such as voluntary certification systems, vocational training, awareness raising, and information campaigns are encouraged (Recital 50).



Obviously, carers organisations have their place in this dialogue and the activities recommended.

Eurocarers’ proposed EU strategy for carers across Europe, which defines 10 core steps to implement a carer-friendly policy environment seeking to recognise, support and empower informal carers in a comprehensive and coherent manner, might be used as a reference in this dialogue.



What's next?

- The Work-life balance was adopted by the Employment, Social Policy, Health and Consumer Affairs Council on 13 June 2019 and entered into force on 2 August 2019.
- EU members states have to transpose the provisions into national law by 2 August 2022. They may entrust the social partners with the implementation of this Directive.
- Member states should report on the application of this Directive by 2 August 2027, notably with data on the take-up of different types of leave and flexible working arrangements by men and women, for the purpose of monitoring and assessment of the implementation of this Directive, in particular with regard to gender equality. A report on the implementation of this Directive at EU level will be then drafted by the European Commission, which shall be accompanied by a legislative proposal if appropriate.
- **Read the full text of the Directive in all EU languages [here](#).**

'Let's turn this legislative act into meaningful & positive change for carers'

Glossary

EU Directive

a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals.

Implementation of an EU Directive

The Member States must then pass the relevant domestic legislation to give effect to the terms of the Directive within a time frame set in the directive.

*'Let's turn this
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