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Working Documents

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DOCUMENT 1-1528/83

REPORT

drawn up on behalf of the Committee on Social Affairs
and Employment

on the proposal from the Commission of the European
Communities to the Council (Doc. 1-1234/83 - COM(83)
686 final) for a Directive on parental leave and leave
for family reasons

Rapporteur: Dame Shelagh ROBERTS



By letter of 16 December 1983, the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities for a Directive on parental leave and leave for family reasons.

On 16 January 1984, the President of the European Parliament referred this proposal to the Committee on Social Affairs and Employment as the committee responsible and to the Committee on Economic and Monetary Affairs and the Committee of Inquiry into the Situation of Women in Europe for opinions.

At its meeting of 1 February 1984, the Committee on Social Affairs and Employment confirmed the appointment of Dame Shelagh ROBERTS as rapporteur.

The committee considered the Commission's proposal at its meeting of 1 December 1983 and considered the draft report at its meetings of 1 February 1984 and 23 February 1984.

At its meeting of 1 February 1984, the committee decided to recommend to Parliament that it approve the Commission's draft Council directive with the following amendments.

At its meeting of 23 February 1984, the committee then considered the draft report as a whole and adopted it by 12 votes to 4 with no abstentions. In this instance, a minority opinion is also set out in the explanatory statement.

The following took part in the vote: Mr Papaefstratiou, Chairman; Mr Peters, Vice-Chairman; Dame Shelagh Roberts, rapporteur; Mr Abens; Mr Alexiadis (substitute member); Mr Boyes; Mr Ceravolo; Ms Clwyd; Mrs Maij-Weggen; Mr Marck (deputizing for Mr Chanterie); Mr Ouzounidis (deputizing for Mr Dido); Mr Patterson; Mr Prag; Mrs Salisch; Mr Simpson; Mrs Squarcialupi (deputizing for Mr Damette).

The opinions of the Committee on Economic and Monetary Affairs and the Committee of Inquiry into the Situation of Women in Europe are attached.

The report was tabled on 2 March 1984.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

C O N T E N T S

	<u>Page</u>
Amendments	5
A. Motion for a resolution	13
B. Explanatory statement	15
Opinion of the Committee on Economic and Monetary Affairs	17
Opinion of the Committee of Inquiry into the Situation of Women in Europe	19

The Committee on Social Affairs and Employment hereby submits to the European Parliament the following amendments to the proposal for a Council Directive on parental leave and leave for family reasons together with the following motion for a resolution and explanatory statement:

Proposal for a Council Directive on
parental leave and leave for family reasons
(COM (83) 686 final)

Amendments tabled by the Committee
on Social Affairs and Employment

Text proposed by the Commission of the
European Communities

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Unchanged

Having regard to the Treaty establishing the European Community, and in particular Article 100 thereof,

Unchanged

Having regard to the proposal from the Commission,

Unchanged

Having regard to the opinion of the European Parliament,

Unchanged
Amendment no. 13:

Having regard to the opinion of the Economic and Social Committee,

Having regard to the resolution on the
position of women in the European
Community adopted by the European
Parliament on 11 February 1981,

Unchanged

Whereas the Commission, in its communication to the Council of 9 December 1981 on a new Community Action Programme on the promotion of equal opportunities for women 1982-1985⁽¹⁾, undertook to take action to promote parental leave for family reasons;

Unchanged

Whereas the Council, in its resolution of 12 July 1982 on the promotion of equal opportunities for women⁽²⁾, approved the general aims of the Commission communication and expressed the will to implement the appropriate measures to achieve such aims;

¹⁾ COM(81) 758 final.

²⁾ OJ No C 186, 21. 7. 1982, p. 3.

Amendments tabled by the Committee on
Social Affairs and Employment

Unchanged

Unchanged

HAS ADOPTED THIS DIRECTIVE

SECTION 1
General provisions

Article 1

For the purpose of this Directive:

Amendment no. 1:

'Parental leave' shall mean entitlement to leave of a given duration to wage-earners, fathers, mothers, including staff working in the public sector, consequential upon the birth of a child, during the period following, but not necessarily consecutive with, the termination of maternity leave, or to workers, as defined above, on the adoption of a child during the period following its reception in the adoptive parents' household, during which period of leave the beneficiary takes responsibility for the actual care of the child.

Text proposed by the Commission of the
European Communities

Whereas there are disparities between the Member States in national provisions on parental leave and leave for family reasons, great enough to affect the compatible functioning of the common market; whereas it is appropriate to remedy this by an approximation of laws towards the most advanced provisions in the terms of Article 117 of the Treaty, under conditions such as will improve the standard of living and working conditions of the labour force;

Whereas it is necessary to ensure respect in this area for the principles of equal treatment as laid down in Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (1),

HAS ADOPTED THIS DIRECTIVE

SECTION 1
General provisions

Article 1

For the purpose of this Directive:

'Parental leave' shall mean entitlement to leave of a given duration to wage-earners, fathers, mothers, including staff working in the public sector, consequential upon the birth of a child, during the period following the termination of maternity leave, or to workers, as defined above, on the adoption of a child during the period following its reception in the adoptive parents' household, during which period of leave the beneficiary takes responsibility for the actual care of the child.

(1) OJ No L 39, 14. 2. 1976, p. 40.

Amendments tabled by the Committee on Social Affairs and Employment

Amendment no. 18:

'Leave for family reasons' shall mean entitlement to limited periods of leave granted for pressing and important family reasons to workers with family responsibilities.

Amendment no. 2:

The provisions of this Directive regarding parental leave shall also apply to step-parents of the children concerned, where the step-parent takes responsibility for the actual care of the child.

Article 2

Amendment no. 3:

1. This Directive is designed to entitle workers to parental leave and leave for family reasons within commonly agreed definitions in the Member States.

Unchanged

Unchanged

Article 3

Unchanged

Unchanged

Text proposed by the Commission of the European Communities

'Leave for family reasons' shall mean entitlement to short periods of leave granted for pressing family reasons to workers with family responsibilities.

Article 2

1. This Directive is designed to entitle workers to parental leave and leave for family reasons under harmonized conditions in the Member States.

2. Provisions for the implementation of this Directive ensure that there shall be no discrimination whatsoever on grounds of sex whether directly or indirectly by reference, in particular, to marital or family status.

3. This Directive shall be without prejudice to provisions granting paternity leave to a father on the birth of a child.

Article 3

1. All wage-earners, including staff working in the public sector, are entitled to parental leave and leave for family reasons.

2. Part-time workers shall be entitled to parental leave and leave for family reasons. Any allowance granted or period of insurance credited shall be calculated on the same basis as and in proportion to those of full-time workers in the same situation.

Amendments tabled by the Committee on
Social Affairs and Employment

SECTION 2
Parental leave

Article 4

Amendment no. 14:

1. Parental leave shall be granted to enable a working parent to stay at home in order to take sole or principal charge of the care and upbringing of his or her child.

Unchanged

Amendment no. 20:

- the workers shall give adequate notice, if possible, of their intention to take parental leave;

- the workers shall give adequate notice, if possible, of their intention to return to work after parental leave;

Unchanged

Amendment no. 21:

3. The period of parental leave to which workers are entitled shall be at least three months after each birth or adoption.

Amendment no. 22:

4. The duration of parental leave may be extended only in the case of single-parent families or in the case of a handicapped child living at home.

Amendment no. 6:

5. Entitlement to parental leave shall cease when the child reaches the age of two years, or five years in the case of a handicapped child living in the household of the entitled parent or, in the case of an adopted child, during the first two years of adoption, if the child is under five.

Text proposed by the Commission of the
European Communities

SECTION 2
Parental leave

Article 4

1. Parental leave shall be granted to enable a working parent to stay at home in order to take sole or principal charge of his or her child.

2. Parental leave shall constitute a right and not an obligation. It shall be granted to a working parent on request subject to the following provisions:

- the workers shall give adequate notice of their intention to take parental leave;

- the workers shall give adequate notice of their intention to return to work after parental leave;

- in no case shall the period of notice required exceed two months.

3. The period of parental leave to which workers are entitled shall be at least three months.

4. The duration of parental leave may be extended for the single parent in the case of one-parent families or for both parents where the child is handicapped and lives at home.

5. Entitlement to parental leave shall cease when the child reaches the age of two years, or five years in the case of a handicapped child living in the household of the entitled parent, or of an adopted child.

Amendments tabled by the Committee on
Social Affairs and Employment

Unchanged

Article 5

Unchanged

Amendment no. 7:

Delete

Amendment no. 8

3. The granting of parental leave
may be made conditional on a
minimum service or employment which
shall not exceed one year.

Unchanged

Unchanged

Unchanged

Unchanged

Article 6

Amendment no. 25:

1. During parental leave, the male
or female worker shall receive
a parental leave allowance.

Unchanged

Text proposed by the Commission of
the European Communities

6. A worker's right to parental
leave shall not be transferable.

Article 5

1. Parental leave shall be accorded
as a continuous period of either
full-time leave or, with the agree-
ment of both the individual parent
and the employer concerned, as part-
time leave, the period during which
leave is taken being extended
proportionately.

2. Where parental leave is taken in
part, entitlement to the remaining
part shall cease.

3. Parental leave may be made subject
to a requirement regarding length of
service or employment, which must
not, in any case, exceed one year.

4. Parental leave shall be suspended in the event of
the illness of the parent on leave, within the
limitations set in Article 4 (5).

5. Periods of parental leave or leave for family
reasons shall not prejudice any entitlements acquired
or in the process of being acquired.

6. Periods of parental leave shall be credited in the
same manner as periods of maternity leave for the
purposes of periods of insurance as regards sickness,
unemployment and invalidity benefit and old-age
pensions.

7. On termination of the leave, the worker shall
return to the same job or be assigned to an equivalent
job.

Article 6

1. During parental leave, workers
may receive a parental leave
allowance.

2. This allowance should be paid
from public funds, social security
systems included.

Amendments tabled by the Committee on
Social Affairs and Employment

Article 7

Unchanged

SECTION 3
Leave for family reasons

Article 8

Amendment no. 11

1. Workers shall be entitled to claim a minimum number of days leave per annum for pressing family reasons within definitions to be laid down by the Member States in accordance with guidelines drawn up by the Commission.

Amendment no. 16

2. The following amongst others shall be considered as pressing family reasons:

- illness of a spouse;
- death of a near relative;
(Third indent deleted)
- illness of a child. (7 words deleted)

Amendment no. 17:

3. The duration of this leave as provided for in paragraph 1 may be extended where:

- the beneficiary is head of a single-parent family.
(Second indent deleted)

Unchanged

Text proposed by the Commission
of the European Communities

Article 7

Provisions limiting recourse to temporary work shall not prevent employers from replacing workers absent on parental leave.

SECTION 3
Leave for family reasons

Article 8

1. Workers shall be entitled to claim a minimum number of days leave per annum (to be laid down by the Member States) for pressing family reasons.

2. The following amongst others shall be considered as pressing family reasons:

- illness of a spouse;
- death of a near relative;
- wedding of a child;
- illness of a child, or the person caring for the child.

3. The duration of this leave as provided for in paragraph 1 may be extended where:

- the beneficiary is head of a single-parent family;
- the beneficiary concerned has three or more children living at home, under an age limit to be determined.

4. For the purposes of remuneration, social security contributions and allowances and pension entitlements, periods of leave for family reasons shall be assimilated to paid holidays.

Amendments tabled by the Committee on
Social Affairs and Employment

SECTION 4
Final provisions

Unchanged

Unchanged

Unchanged
(Amendment no. 30 does not apply
to the English version)

Unchanged

Unchanged

Unchanged

Unchanged

Text proposed by the Commission of
the European Communities

SECTION 4
Final provisions

Article 9

Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves wronged by failure to apply this Directive to pursue their claims by judicial process, possibly after recourse to other competent authorities.

Article 10

Member States shall take the necessary measures to protect workers against dismissal by the employer as a reaction to any steps taken by the worker aimed at enforcing compliance with the provisions of this Directive.

Article 11

This Directive shall be brought to the attention of employers and workers, emphasizing the availability of parental leave and leave for family reasons to working parents of both sexes.

Article 12

1. Member States shall introduce the laws, regulations and administrative provisions necessary in order to comply with this Directive and put it into effect at the latest by (1).

2. Member States shall abolish or amend any laws, regulations or administrative provisions contrary to the provisions of this Directive and shall take the measures necessary to ensure that similar provisions in collective agreements, individual contracts of employment and internal rules of undertakings are likewise abolished or amended.

3. Member States shall immediately inform the Commission of measures taken in compliance with this Directive.

4. Member States shall ensure that adequate machinery exists to enable measures introduced in implementation of this Directive to be enforced especially with regard to the principle of equal treatment of male and female workers.

Amendments tabled by the Committee on
Social Affairs and Employment

Text proposed by the Commission
of the European Communities

Unchanged

Article 13

1. By^(*) at the latest, Member States shall transmit to the Commission all relevant information to enable the latter to draw up a report on its application for submission to the Council and the European Parliament.

Unchanged

2. By^(*) at the latest and every three years thereafter, the Member States shall transmit information to the Commission with respect to progress made in the application of this Directive, trends in the use of the provisions contained therein and the evolution of public childcare facilities and services to enable the Commission to draw up a report for the Council every three years.

Unchanged

Article 14

This Directive is addressed to the Member States.

(¹) Date to be inserted, being two years from the date of notification.

(²) Date to be inserted, being three years from notification.

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MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive on parental leave and leave for family reasons

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council (COM(83) 686 final)¹,
 - having been consulted by the Council (Doc. 1-1234/83),
 - having regard to the report of the Committee on Social Affairs and Employment and the opinions of the Committee on Economic and Monetary Affairs and the Committee of Inquiry into the Situation of Women in Europe (Doc. 1-1528/83),
 - having regard to the result of the vote on the proposal from the Commission,
1. Welcomes the proposed Directive as a very positive contribution to the improvement of family life and to the establishment of equal rights for both parents to share in the care of their children;
 2. Considers that it is important to establish the right of male and female employees to receive a parental leave allowance;
 3. Requests the Commission specifically to include step-parents within the categories of those entitled to parental leave and, in the case of handicapped children, to raise the age of children in respect of whom entitlement to parental leave arises in proportion to the degree to which they are handicapped; PE 88.271/rev./res./Am.1
- TWO PARAS. DELETED
4. Considers, however, that the parental leave entitlement should not be less than three months in any circumstances; PE 88.271/rev./res./Am.5
 5. Recognizes the difficulties in achieving generally acceptable and comprehensive definitions of what could constitute 'pressing family reasons' and recommends the alternative of definitions drawn up by the

¹OJ No. C 333, 9.12.1983, p.6

Member States in accordance with guidelines from the European Commission;

6. Requests that the Commission only submit the proposal for a Directive to the Council on condition that the final text embodies Parliament's amendments;
7. Instructs its President to forward to the Commission and the Council the proposals from the Commission as voted by Parliament and the corresponding resolution as Parliament's opinion.

PE 88.271/rev./A

Previously paras. 6,7 and 8.

EXPLANATORY STATEMENT

1. As can be noted, the main changes to the draft Directive recommended by the Committee on Social Affairs and Employment are as follows:

Preamble

This should record that the European Parliament specifically requested a Community initiative on parental leave in its resolution of 11 February 1981 on the position of women in the European Community¹. (This request was first put forward in an amendment tabled by Dame Shelagh ROBERTS and Gloria HOOPER of the European Democratic Group).

Article 1

The addition of the words 'but not necessarily consecutive with' was deemed to be necessary because the original text suggested that the period of parental leave should follow immediately upon the ending of maternity leave, and this is clearly not the intention.

The committee also felt that the provisions of the Directive under this Article should be extended to step-parents.

Article 2

The creation of 'harmonized conditions', as specified in paragraph 1 of this Article, can clearly not be the aim of this Directive, since it leaves considerable latitude to the Member States, principally in Articles 6 and 8. 'Commonly agreed definitions' is therefore more accurate.

Article 4

The committee felt that the addition of the words 'if possible' in paragraph 2 of this Article was necessary to take account of any family emergencies which might arise.

The committee's amendment to paragraph 5 is designed to give clearer expression to the need for special consideration of the case of adopted children, while not giving them quite the same priority as handicapped children.

¹OJ C 50, 09.03.1981

Article 8

The committee's amendment to paragraph 1 of this Article proposes one way for dealing with the problem of detailed definitions in the Directive: the Commission should set guidelines for individual Member States to observe when drawing up their own definitions.

The committee's decision to propose the deletion of 'wedding of a child' was based on the consideration that as this was an event which could be planned in advance, there should be no need to make special provision for it under this heading. (In fact, it could be argued that acceptance of the amendment proposed to paragraph 1 of this Article renders unnecessary any listing of specific examples in paragraph 2. Certainly the wording 'the following amongst others shall be considered as pressing family reasons' is an extremely loose formula for inclusion in a legislative instrument).

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2. With these changes, and a number of relatively minor ones (generally designed to clarify the text), the committee approved the draft Directive, having considered in all 31 draft amendments.

3. A minority of four members of the committee (all from the European Democratic Group) voted against the draft Directive. Their most serious objections were:
 - (a) to the idea that the parental leave allowance might be paid for out of public funds;
 - (b) to the fact that no allowance was made for the exclusion of small firms (those employing less than ten people) from the obligations of the Directive, which would not only aggravate their operational and staffing problems, but would also add to their financial burden;
 - (c) to the provision in Article 4 that the period of parental leave to which workers are entitled should be at least three months: in their view, one month would have been more realistic in the present social, political and economic climate.

OPINION

(Rule 101 of the Rules of Procedure)
of the Committee on Economic and Monetary Affairs
Draftsman: Mr Van Rompuy

On 21 December 1983, the Committee on Economic and Monetary Affairs appointed Mr Van Rompuy draftsman of the opinion.

The committee considered the draft opinion at its meeting of 31 January and 1 February 1984. It adopted the draft opinion on 1 February by 4 votes to 1 with 5 abstentions.

The following took part in the vote: Mr J. Moreau, chairman; Mr Van Rompuy, draftsman; Mr Beumer (deputizing for Mr Vergeer), Mrs Desouches, Mr Giavazzi, Mr Herman, Mr Nordmann, Mr Rogalla, Mr Welsh and Mr von Wogau.



The Committee on Economic and Monetary Affairs,

1. Is of the opinion that the adoption of rules on parental leave and leave for family reasons that apply to both men and women offers a solution to the remaining barriers to the full integration of women in the work process and that this type of leave could contribute both to the enhancement of the family structure and to the flexible organization of working hours and consequently to a reduction in working hours;
2. Emphasizes that any rules in this area must be coordinated at Community level to prevent national differences leading to a disruption of the internal market;
3. Agrees with the Commission that parental leave may help reduce unemployment; emphasizes however that appropriate flexible legislation on temporary work is necessary otherwise undertakings will not be able to temporarily replace employees who have taken parental leave or leave for family reasons;
4. Is of the opinion, moreover, that there should be no obligation to take parental leave or leave for family reasons because no suitable facilities are available for looking after children; emphasizes also that every effort must be made to improve facilities and services for child care;
5. Considers that in the present economic situation it is out of the question for the undertakings to make additional contributions to financing this leave on top of the extra costs inevitably entailed in granting parental family leave; benefits during such leave must be financed from public funds and must in no circumstances be passed on to the employer by increasing his social security contributions, which would affect his competitive position; indicates that in view of the budget deficits with which some Member States have to contend, financing benefits in respect of such leave could cause difficulties and to prevent this scheme from having an adverse effect on budgets, efforts should be made to secure compensation for these benefits from the reduction in unemployment benefits which may result from the temporary employment provided by these provisional jobs.



OPINION OF THE COMMITTEE OF INQUIRY INTO THE SITUATION OF WOMEN IN EUROPE

Draftsman: Mrs PHLIX

On 20 January 1984, the proposal for a Council directive on parental leave and leave for family reasons was referred for an opinion to the Committee of Inquiry into the situation of women in Europe.

The committee appointed Mrs PHLIX draftsman of the opinion.

The opinion was considered and unanimously adopted by the committee of inquiry at its meeting of 1 February 1984.

The following took part in the vote : Mrs CINCIARI-RODANO, chairman; Mrs von ALEMANN, vice-chairman; Mrs PHLIX, rapporteur; Mrs van den HEUVEL and Mrs SPAAK.

GENERAL OBSERVATIONS

The Committee of Inquiry into the Situation of Women in Europe welcomes the proposal for a Council Directive on parental leave and leave for family reasons.

The committee:

- considers that this directive will ensure a more even distribution of parental responsibilities and will have a favourable effect on family life and promote equality between men and women;
- approves, having regard to the provisions of the various Member States, that the period within which parental leave may be granted be limited to two years after the birth of the child and considers that, in the case of a severely handicapped child, the limit should be extended to six years, always providing that the child continues to form part of the family;
- considers that it would be fair to extend parental leave to those workers who, in exceptional circumstances such as the illness or death of the legal or natural parents, accept responsibility for the care of a child;
- considers that only parents who actually take care of the child should be entitled to such leave;
- considers that, since these arrangements are to apply to both father and mother, it would be appropriate for such leave to be offered for a period from the end of maternity leave until the date on which the child reaches the age limit, the objective of these measures being to meet the genuine needs of the families to which they apply;
To keep the disruption of work in industry to a minimum, it is highly desirable for the employer to receive adequate notice of the date of commencement and the duration of parental leave, as laid down in Article 4;
- considers that it should be stated clearly that the entitlement to parental leave applies to each child;

- considers that where parental leave is taken in part, the right to the remainder should not lapse;
- considers that the proposal for a directive should in no way prejudice more favourable arrangements which may already apply in the Member States;
- takes the view that, as regards leave for family reasons, important family reasons should be added to 'pressing family reasons' and that these reasons should be more closely defined by the Member States; nevertheless stresses the need to specify the total number of days which may be taken each year in connection with any given situation which may arise.

CONCLUSIONS

The Committee of Inquiry into the Situation of Women in Europe requests the Committee on Social Affairs and Employment to take account of the following amendments in adopting its motion for a resolution on this proposal.

Footnotes:

The committee observes that:

- 1.- In paragraph 7 of the explanatory memorandum to the proposal, the age limit for handicapped children is set at five years, while in paragraph 4 of section II it is set at four years (Translator's note: no such discrepancy appears in the English text).
- 2.- In paragraph 2 of section II the maximum period of parental leave is set at six months, though this is not mentioned anywhere in the text of the Directive.
- 3.- The explanatory memorandum refers to a period of four years after the entry into force of the Directive, while the text of the Directive lays down a period of two years from the date of notification.

AMENDMENTS to the proposal for a Council directive on parental leave and leave for family reasons (COM (83) 686 final) (Doc. 1-1234/83) tabled by Mrs PHLIX on behalf of the Committee of Inquiry into the Situation of Women in Europe

Amendment No. 1

Article 1, first paragraph

Add the following at the end of the first paragraph:

'This right shall also be granted to workers who are responsible for the actual care of the child in exceptional circumstances such as the serious illness or death of its legal or natural parents'.

Amendment No. 2

Article 4(1)

Add the following :

'In the absence of the parents, this right shall be granted to the person responsible for the actual care of the child, as provided for in Article 1'.

Amendment No. 3

Article 4 - new paragraph

Add the following new paragraph 3(a) :

'The right to parental leave shall commence with the birth of each child'.

Amendment No. 4

Article 4(4)

to read as follows :

'.....where the child is severely handicapped.....'

Amendment No. 5

Article 4(5)

to read as follows :

'Entitlement to parental leave shall cease when the child reaches the age of 2 years or 6 years in the case of a severely handicapped child (remainder unchanged)....'.

Amendment No. 6

Article 5(1)

to read as follows :

'Parental leave shall be accorded either as a period of full-time leave taken continuously or at intervals..... (remainder unchanged)'.

Amendment No. 7

Article 5(2)

to read as follows :

'Where parental leave is taken in part, the beneficiary shall retain entitlement to the remainder'.

Amendment No. 8

Article 8, paragraph 1

to read as follows :

'.....for pressing or important family reasons.....'.

Amendment No. 9

Add the following at the end of Article 12(2):

'and shall ensure that this Directive is without prejudice to any more favourable laws, regulations or administrative provisions in force in the Member States'.

