



AGE Platform Europe Policy Statement

Work-life balance: an urgent and necessary initiative also for older workers!

AGE Platform Europe Position on the Commission initiative on supporting work-life
balance for working parents and carers

COM(2017)252 final

COM(2017)253 final / 2017/0085 (COD)

November 2017



Table of Contents

Table of Contents	2
EC proposal on work-life balance: an important step forward to recognise informal care!	3
Our position in a nut-shell.....	3
Policy background	6
The case for investment into long-term care	6
Who are carers?	6
What are the benefits of carer’s leave?	7
Impact assessment of the European Commission	8
Analysis of the EC proposal on work-life balance from older people’s perspective and proposals for improvements	10
History of the proposal.....	10
Definition of care leave and carers (art. 3).....	10
Parental leave (art. 5).....	12
Carers’ leave (art. 6)	12
Force majeure (art. 7).....	13
Right to request flexible working arrangements (art. 9).....	14
Employment rights (art. 10)	14
Non-discrimination and protection from dismissal (art. 11 and 12).....	15
Reporting and review (art. 18)	15
Care leave and formal care	16
Annex: Synthetic view of proposed amendments	19
Amendment 1: definition of relative.....	19
Amendment 2: definition of dependency	19
Amendment 3: parental leave and grand-parents.....	20
Amendment 4: carers’ leave	20
Amendment 5: review.....	21

EC proposal on work-life balance: an important step forward to recognise informal care!

Our position in a nut-shell

Around one in five older workers (55-64 years) are caring for family members across Europe, while almost one in three working grandparents regularly spend time caring for their grandchildren. These numbers hide large differences between women and men and across countries, and do not include those who have dropped out of the labour market because of care tasks.

- **AGE Platform Europe has long called for an EU-level initiative on care leaves and strongly supports the Commission's initiative** on supporting work-life balance for working parents and carers, as presented on 26 April. While demographic change, if properly managed, creates many opportunities for employment and growth, AGE warns that with stagnating healthy life expectancy, the needs for long-term care will increase in the coming decades. Care leaves and flexible work arrangements are elements of responding to this challenge, if they are properly backed by formal long-term care services
- Delivering care to older persons in situations of dependency is a challenge for many families, friends and neighbours, and currently an approximated 80% of care needs are fulfilled by informal carers. **Informal carers need support in form of time to reconcile work and care, financial resources and social protection coverage, as well as services** such as training, peer support, respite care and day-care facilities, and recognition of their skills via validation and recognition of their experiences. **The Commission proposal, for the first time, recognises this role** and allocates some time and resources to informal carers. Accompanying with non-legislative incentives to develop formal long-term care services is a necessary call to achieve the aims of alleviating carers and promoting active and healthy ageing.
- **Measures to facilitate work-life balance must go hand in hand with investments into affordable, accessible and quality child and long-term care services for all, including the severest and most expensive care needs.** The development affordable and quality early childcare services should remain a priority for Commission and member states.
- The Commission's Work-Life Balance package goes along the same view: **proposing five days of paid carers' leave, carers are for the first time recognised and supported by EU**

legislation. Proposing a right to request flexible work brings a crucial tool to employees who are struggling to reconcile work and care. Proposing quality benchmarks on long-term care and incentivising investment into the long-term care sector, the Commission encourages member states to develop formal care services. These proposals have to be supported by the marco-economic governance mechanisms, to avoid that they are undercut by fiscal policies.

- The proposed five days of care leaves, while creating a precedent in EU legislation, will have however only little impact on carers when they face a lack of formal care services for their family members. They are a welcome and urgent sign of support, but future assessments should evaluate whether offering more days are not better achieving the objectives of the proposal.

AGE therefore calls for the current proposal to be adopted, and to evaluate it after some years to see whether better outcomes could not be achieved by increasing the number of days. AGE also recommends to elaborate long-term care leave arrangements and to organise the exchange of good practices on long-term solutions.

- **The current proposal does not allow employees to take carers' leave for care needs of siblings (brothers or sisters) or members of their family-in-law.** In-laws are often treated equally in many member states' legislations, and family solidarity networks often blur the line between the own and a spouse's family. As well, brothers and sisters form important solidarity networks when one of them fall ill and needs long-term care and assistance. Therefore, **AGE calls upon the Parliament and member states to explore widening the proposal to include first and second degree family members into the application of the directive.**
- **Many informal carers have no link to the family of the person in need:** it can be neighbours, friends, volunteers from solidarity organisations promoting help between generations. In practical terms, it is important that carers are geographically close to the cared-for person, which does not only concern the family. **It should be assessed whether the objectives of the directive are not better achieved if the right to take care leaves could not be extended to all workers providing informal care, for both family members and other persons.**

The Commission proposal improves the rules on parental leave, making the existing four-month leaves for each parent paid at sick-leave level and non-transferrable between mothers and fathers. **AGE supports policies that aim a better sharing of child care,** in view of the very large gender pension gap of almost 40 % and the corresponding risk of poverty and social exclusion for older women. **However, about one in three older workers (55-64) also provide care for their grandchildren.** For them, reconciliation of employment and child care is also an issue.



While care should be the primary responsibility of parents, the recognition of the role of grandparents would underline the principle of solidarity between generations.

- AGE proposes introducing a recommendation on parental leave beyond the two four-months periods provided for by the directive: **if member states decide to provide for more parental leave than proposed in the directive, part of this additional ‘third’ period should be transferrable to working grandparents as well.** AGE believes this could take the form of a Council recommendation accompanying the directive.

Policy background

The case for investment into long-term care

Europe is ageing at a rapid pace. The 2015 Ageing Report estimates that by 2060, the EU 'working-age' population will decline by 12.6%.¹ It also projects the costs of long-term care to rise by 1.2 percentage points of GDP by 2060 for the EU-28, with increases reaching 3.5 percentage points of GDP in Norway or 3.3 in the Netherlands.² These figures show that unhealthy ageing has a cost and is a burden not only on the current generations, but also for future generations. Long-term care is a social risk that should be provided for by social protection and national solidarity, as not everyone is faced with care needs during the life-cycle. Age-friendly environments can do a lot to fulfil the promise towards older people to 'live a life of dignity and independence', as enshrined in the EU Charter of Fundamental Rights at article 25. They can also help in mitigating part of the costs of disease and thereby reduce the need for long-term care.

Nevertheless, demographic ageing and the need to better protect those in need of care mean that the needs for long-term care will increase in the future, a common development in all EU member states. While the state has a core responsibility in ensuring that formal care structures providing affordable, accessible and quality long-term care exist, relatives, friends and/or neighbours of often provide the care, the assistance and the support that an old person may require. In cases where care needs appear suddenly, after a sudden illness or an accident, they need time to organise and coordinate care provided for their members. As Eurofound has pointed out in the sixth European Working Conditions Survey 2016, one of the major reasons for workers reporting a poor balance between work and family life is the inability to arrange an hour off to face sudden family emergencies³. Therefore, AGE calls both for an increase of member state's investment and the development of formal long-term care services for all, with a special attention to the quality of care, and for care leaves to support families but also other informal carers – friends and neighbours – who provide care and assistance. These two demands are not antagonistic, they go together.

Who are carers?

In Europe, around 12% of men and 16% of women between 18 and 64 are caring for a family member in need for care at least once a week.⁴ Among older workers (55-64), 18% of men and

¹ European Commission and Economic Policy Committee, [Ageing Report 2015. Economic and Budgetary Projections for the EU Member States \(2013-2060\)](#). In: *European Economy*, Vol. 3 2015. P. 22.

² *Ibid.*, p. 153.

³ Eurofound, [6th European Working Conditions Survey. Overview Report](#), 2016. p. 115.

⁴ Eurofound, [Working and caring: Reconciliation measures in times of demographic change](#), 2015.

22% of women provide care.⁵ The majority of these are in employment, but about half of full-time informal carers and 30% of part-time carers are not. Employment rates especially of older women are dramatically low – 45.2% for women between 55 and 65 in the EU-28.⁶ Often, carers have no choice but to support their family members to live with dignity, and may be penalized for this fact by dropping out of employment and social protection systems. In many EU countries, care services are all but affordable, accessible and available – the situation has been only further aggravated since the economic crisis in 2008.

In some countries, formal care services take over the heaviest and more specialised tasks of caring, but the emotional support and help in activities of daily life by a family member is invaluable and promotes inclusion of people with health limitations into societies. In some settings formal care provision tends to specialise on the medium care needs, leaving those with heavy and severe conditions without adequate services available to them. In these cases, informal carers bear the heavy burden of providing care often 24 hours per day, an activity that is not only incompatible with employment, but is also linked to social isolation, stress, burnout and ultimately episodes of maltreatment and abuse. Therefore, the development of care services, including for older people in situations of high dependency, and measures to relieve family carers from their tasks are urgently needed.

What are the benefits of carer's leave?

Carers' leaves can have a clear, positive benefit for both individuals in need of care and societies: working family members do not need to leave their jobs, while activity is promoted and future health costs saved. **Carer's leave is not a substitute for investment into care and other social services**, nor a unique measure that would address all challenges faced by older persons in need of care, however. To be meaningful, carers and people in need of care have to be supported through coherent and comprehensive public policies and services. Properly designed, carers leave is good for:

- **Care recipients**, as they have regular contact with their families and can stay in their communities for longer, keeping them more active and ultimately healthier. Having a support network from friends and family has the potential to reduce isolation and feelings of loneliness, which are a reason for older persons to leave their home and go into institutions. Regular visits by persons of trust can also help older persons in signalling discomfort or inadequacies of (medical) treatments, which care recipients might not dare to express to formal health professionals, providing an avenue to adapt the environment or the treatments.

⁵ *Ibd.*

⁶ Eurostat 2014.



- **Carers**, as they can continue to work and to have an income, are protected against dismissal and sickness, continue to contribute for their pension and other social rights, including unemployment insurance, and ideally can count on supportive services that train them, provide them with a peer group and can provide respite care to avoid burnout.
- **Societies**, as carers continue to contribute with their experience, taxes and contributions; as healthier care recipients also alleviate states' budgets for health and as reconciliation of work and care promotes more inclusive societies for all ages and genders.

It should be outlined that **care leave is not a holiday**. Family members who take care of their relatives that have a severe disease or impairment are often under heavy emotional stress and perform often tasks that, if delivered in a formal care system, would normally be exercised by trained professionals. The formal care system should alleviate this stress placed on family carers, but the family still bears the emotional (and often heavy financial) burden linked to care dependency.

Impact assessment of the European Commission

The Commission, in its impact assessment has tried to evaluate the impact of different forms of carers' leave: the options evaluated were either no legislation and only policy guidance on the success factors of carer's leave, 12 weeks of unpaid leave, 4 weeks of paid leave (sick pay level) and 5 days of short-term leave (sick pay level).

The five-day option would mean some change in member state's legislation, but no fundamental changes, which makes this option more acceptable for member states. The option of 12-weeks unpaid leave is evaluated negatively because the aim of the initiative is to encourage men to take up care leaves, and it was deemed less likely that more men will take up care leaves if they are unpaid. It was identified that the 5-day option might be unsuitable for persons with family member who have heavy care needs, therefore the Commission highlights the need for the provision of formal care services for this option.

All options, according to the impact assessment, should have an impact facilitating women's employment and a reduction of the risk of poverty of their households, but this impact is deemed stronger for the options including pay.

> **The impact on companies** was assessed the following ways: all options considered create costs for companies for arranging the leaves, temporary loss of productivity, and, where employers incur the cost for the leave payment, the payment itself. However, they also benefit



from staff satisfaction and retention and avoid re-hiring costs. According to the impact assessment, a 12-weeks unpaid leave would create costs of 300 million over the next 40 years, the 4-weeks paid option would create benefits of 295 million and the 5-days paid option 1.078 million.

> **For governments, the impact of paid care leaves is also considered positive.** Costs are linked to the processing of leave requests and payment of benefits, estimated benefits derive from additional tax revenue and the non-payment of unemployment benefits that would be drawn by workers who stop working because of care duties.

> **Macroeconomic benefits** include the increase of the size of the labour force and changes in employment and labour market participation; these changes are positive for the scenarios of paid leave. It is expected that exports would marginally decrease (by 0.2 billion in 2050) and prices marginally decrease (-0.3%). The employment effect is expected to be of +45.000 by 2030 and +76.000 by 2050 for the four-weeks paid scenario, slightly lower for the 5-days paid scenario and much lower for the 12-weeks unpaid one.

While the overall evaluation seems to suggest that the four-weeks proposal is more beneficial for companies, governments and individuals, the impact assessment warns about higher administrative problems linked to the introduction of the leave compared to the 5-days paid option. Therefore, the Commission retained the last option.

The legal gap analysis seems to suggest that not much adaptation is needed on the carer's leave proposal:

No current provisions ↓ Falls significantly short of requirements ✘ Falls somewhat short of requirements ➔ Meets requirements ✔ Exceeds requirements ↑

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK		
Carers' Leave	Right to a short-term leave of 5 days per year	✔	✔	✔	✘	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	
	Paid at sick pay level	✔	✔	✔	✘	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	
Flexible Working Arrangements	Right to request flexible schedule	Parents with children up to 12	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	
		Carers	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✔	✘	✘	✘	✘	✘	✘	
	Right to request telework	Parents with children up to 12	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
		Carers	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✘	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
	Right to request reduced working hours	Parents with children up to 12	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
Employer obligation to consider the request and reply	Automatic right to return to working hours	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	

(Impact assessment, p.116)

Analysis of the EC proposal on work-life balance from older people's perspective and proposals for improvements

History of the proposal

After the proposal of a revision of the maternity leave directive in 2008 and a reflection on carer's leave (public consultation in 2011) that did not have any effect, the maternity leave directive passed the Parliament and was blocked in the Council for several years. Therefore, the Commission removed the revision in summer 2015 and has come forward with a roadmap for a larger reflection on work-life balance for families and carers, which was followed by a public consultation, at which AGE participated, and two stages of social partners' consultations. The result of the social partners' consultations was that trade unions were willing to negotiate a social partners' agreement on work-life balance; while business representatives refused to negotiate further measures. As an effect, the European Commission used its powers and proposed legislative and non-legislative action in April 2017.

AGE considers that the Commission has respected the autonomy of social partners, leaving sufficient time to prospect a possible agreement. The Commission's impact analysis clearly shows the economic and societal benefits of such a proposal and the Commission has rightly used its power of initiative to start building a coherent framework for work-life balance.

The new package addresses family leaves in a comprehensive manner. It repeals the existing directive on parental leave to integrate new provisions, most notably on care leaves, while most provisions of the past parental leave directive are still present in the new proposal.

AGE considers that the fact that the Commission wishes to repeal the directive on parental leave to build a more comprehensive directive is not a move against social partners, who were at the origin of the repealed directive, but complements and prolongs this existing agreement. The fact that the agreement is already existing and implemented shows that it is of the competence of the EU to legislate in this field with the aim of working towards high levels of employment, gender equality and the improvement of living and working conditions in the Union, as provided for in the treaties. AGE does not see a breach of the principle of subsidiarity in the proposal.

Definition of care leave and carers (art. 3)

The directive defines care leaves as a right of workers who have an employment contract or an employment relationship. It defines a 'carer' as 'a worker providing personal care or support in case of a serious illness or dependency of a relative' (art. 3 (c)), meaning a 'worker's son,

daughter, mother, father spouse or partner in civil partnership' (art. 3(d)); **thus it does not include in-laws, aunts and uncles nor sisters and brothers.**

AGE considers that the definition of 'relative' should also include first- and second-degree family (aunts and uncles, sisters and brothers, nephews, grandchildren as well as the relatives of the spouse or partner in civil partnership). The directive should not prejudice the ties of solidarity that exist in a family. Adapting this provision will allow these networks of solidarity to express themselves

Proposed wording

Art. 3

(d) "relative" means a worker's **first-degree relatives (son, daughter, mother, father, sibling), and second-degree relatives (uncles, aunts, nephews, nieces, grandparents, grandchildren, half-siblings), as well as** spouse or partner in civil partnership, where such partnerships are envisaged by national law, **step- and foster children, both in the own and in the spouse's or partner's family;**

'Dependency' is defined as a situation in which a person is '*temporarily or permanently in need of care due to disability or a serious medical condition other than serious illness*' (art. 3(e)) The provisions in the draft directive would allow member states to define conditions of length of service prior to opening the rights, but this length should not exceed one year.

AGE considers that defining 'dependency' and the need for 'care' in this context only in relation to a disability or a serious medical condition is reductive. Functional limitations related to a chronic health condition or a loss of autonomy are also situations where a person is in a situation of dependency and requires care – both health and social care (which includes assistance with activities of daily living) This should be acknowledged in the definition. Secondly, it is not clear what is meant by the difference between serious medical conditions and serious illnesses.

Proposed wording

Art. 3

(e) "dependency" means a situation in which a person is, temporarily or permanently, in need of care **and assistance** due to disability, a loss of autonomy or a serious medical **or mental health** condition; ~~other than serious illnesses.~~

Parental leave (art. 5)

The proposal changes the current system, by which parents are granted four months of parental leave under the current EU directive. In this former directive, no mention of financial compensation is made and rights to parental leave can be transferred from one parent to another. The Commission proposal introduces financial compensation at least of the level of sick pay and introduces a requirement to make at least four months of parental leave non-transferrable to the partner. The proposal would also introduce the possibility to arrange parental leave flexibly, enabling workers to take it as a block or on a part-time basis.

AGE considers that the aim of sharing childcare more equally between mothers and fathers is justified in the light of the life-long impacts that unequal caring has on the employment opportunities, social inclusion and old-age poverty rates of women, as well as on the gender pension gap. AGE therefore supports these changes

The proposal falls however short of considering the needs of working grandparents, who also often engage in childcare and reduce their working time for this reason. Therefore, AGE proposes to introduce a recommendation on transferability in those member states where parental leave exceeds four months per parent.

Proposed wording:

Article 5

2. Where Member States allow one parent to transfer their parental leave entitlement to the other parent, they shall ensure that at least four months of parental leave cannot be transferred. ***Where Member States allow parents more parental leave than the four months in the present directive, a limited amount of it should be transferrable not only to the other parent, but also to persons effectively taking care of the child, such as working grandparents.***

Carers' leave (art. 6)

For cases of care dependency of a relative, as defined above, the proposal allows for five days per year, per worker, subject to the appropriate substantiation of the medical condition of the worker's relative (art. 6). Care leave, as parental and paternity leave provided for in the proposal, should be remunerated at least on the level of sick leave.

AGE considers that right to take care leaves and the remuneration are necessary and urgent measures to support informal carers. The justification by substantiating the medical condition of the worker's relative seems appropriate to justify the care leave to be taken for illnesses; however, this would not be possible for persons in loss of autonomy, who have not contracted a

concrete disease. This should be provided for as well. Additionally, it should be ensured that the rights to privacy of the dependent person are upheld and that this information is handled confidentially.

Five days of carers' leave per year seem very few, considering the burden that many carers face. The Commission's impact assessment also shows that longer care leaves are beneficial for the employment targets and in a macroeconomic perspective. However, strong criticism have been noted from the side of business associations and some member states about the cost of long leaves; therefore, AGE supports the proposal of five days of care leave, but would like to see a review of the directive after a couple of years of implementation, to assess whether the number of days could be extended.

Proposed wording

Article 6

Carers' leave

Member States shall take the necessary measures to ensure that workers have the right to carers' leave of at least five working days per year, per worker. Such right may be subject to appropriate substantiation of the medical *or mental health* condition *or the loss of autonomy* of the worker's relative. ***The information on the medical condition or situation of loss of autonomy should be kept confidential and be shared only with a restricted number of involved services to safeguard the right to data protection of both the worker and the person in need of care.***

Force majeure (art. 7)

Carer's leave is distinct in the directive from '*time off from work on grounds of force majeure*', which should be provided '*for urgent family reasons in cases of illness or accident making the immediate presence of the worker indispensable*'. Time off in cases of *force majeure* is not remunerated under the provisions of the directive. The case of '*force majeure*' is not a novelty and already exists in EU employment legislation

AGE considers that the right to take leave because of urgent family reasons remains an important provision, as even in non-serious medical conditions the urgent intervention of family members may be necessary. The fact that leave for *force majeure* is not remunerated limits the scope for unjustified use and the costs incurred by companies.

Right to request flexible working arrangements (art. 9)

Additionally to the right to leave, the proposal introduces a right to request flexible work arrangements for parents and carers for caring purposes. Flexible working arrangements mean *'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'* (art. 3 (f)). The duration may be fixed to a reasonable maximum (art. 9(1)). Employers have to consider the request and respond to them, but can oppose them if the opposition is duly justified (art. 9 (2)). The directive protects the right to request returning to the original working pattern if the arrangements are agreed upon to be of a limited duration. Employers are obliged to consider and to respond to such a request as well (art. 9 (3)).

The possibility to request flexible work arrangements and to request of telework is a novelty in European legislation. Given the technological developments, many tasks can be performed from a distance and work-life balance implies that one might need to adapt work patterns according to, for example, schedules of formal long-term care services such as day care.

AGE considers the right to request flexible work as an important and necessary novelty in EU labour law. **It is a necessary complement to the five days of carers' leave**, because these are not sufficient to respond to long-term care needs beyond the time necessary to organise care at the onset of health problems.

The reduction of working time stemming from flexible working arrangements **is not protected by employment rights** mentioned in article 10 (maintenance of acquired rights, right to return to the job, entitlements to social security). This is an important difference to care leave, although flexible working arrangements in fact prolong the time granted through care leaves in many families. **This is still a big challenge for carers on which a review should pay attention.** The risk of working time reductions and the linked reduction of rights to pensions, health and unemployment insurance is still present for carers under this provision.

The introduction of flexible working arrangements **should not be used as an excuse not to develop adequate, quality formal long-term care services.** Such arrangements should not mean that workers will end up both working and assuming heavy care responsibilities towards relatives in situations of dependency. Preventing such a drift, which could result in greater caregiver stress and burnout, implies to resolutely develop the access to formal care services.

Employment rights (art. 10)

These rights apply only to Paternity, Parental and Carers' leave, not to leave for *force majeure* or flexible working arrangements.

During care leaves, employment rights acquired by a worker at the time of starting a carer's leave shall be maintained (art. 10 (1)). This provision safeguards, for example, the access to occupational pensions or occupational health insurance where this right is granted to a worker. When returning from leaves, workers should return to their jobs or equivalent posts, for which conditions should not be less favourable than before the leave, including improvements in working conditions to which they would have been entitled if they had stayed in full service. (art. 10(3)). Member States are free to define the entitlements to social security that workers have during their leave, but the employment relationship shall be maintained (art. 10(3)).

AGE considers the protection of employment rights during family leaves crucial to avoid abuse or the loss of acquired rights. AGE thinks that these rights should also apply (to a more limited extent) to periods covered by flexible working arrangements, where working time has been reduced.

Many carers will still need to stop working altogether, and workers could face reduced rights to social protection when using the provision on flexible working arrangements or *force majeure*. AGE calls on the Commission, in the framework of the European Pillar of Social Rights' principle on adequate old-age income and pensions (principle 15) and its work on the gender pension gap, to consider **adopting a recommendation on social protection of carers including the maintenance and acquisition of pensions, pension credits, the maintenance rights of unemployment benefits and health insurance**. This recommendation would need to look at those who substantially reduce their working time through their right to request flexible working arrangements under the directive, and especially those who still will have to stop working altogether to provide care.

Non-discrimination and protection from dismissal (art. 11 and 12)

The proposal protects workers from less favourable treatment in the case they have applied for or exercised the rights referred to in the directive (art. 11). Additionally, the proposal reverses the burden of proof in case a worker considers to be unjustifiably dismissed because of having exercised her or his rights under the directive (art. 12). In this case, the employer has to provide explanations proving that dismissal was not linked to the uptake or request of the rights in the directive.

AGE strongly supports the inclusion of these provisions into the proposal

Reporting and review (art. 18)

The proposal includes the obligation for the Member States to report within the five years after the entry into force of the directive relevant information concerning the application of the Directive, so that the Commission can draw up a report on its application (art. 18(1)). The Commission shall then report a review of the application of the Directive and accompany it if necessary by a legislative proposal.

AGE strongly supports the review of the application of the directive five years after its entry into force (i.e. three years after the transposition of the directive).

Given the identified shortcomings, a review should focus on, *inter alia*:

- The **appropriateness of the number of five days** of carers' leave for the purposes of supporting carers, enhancing their employability and ensuring a high-quality level of care
- The **effect of measures that allow for the transferability** of parts of parental leave to grandparents, if these are adopted by the co-legislators: take-up, amount of time etc.
- The **actual effects of the directive on gender equality** in the domains of gender gaps in care, employment, income, career progression, poverty and social exclusion, the gender pension gap
- The **effects of the situation of family carers**, whether they have taken leaves and arrangements provided for by the present directive or not, including especially family carers who are not in employment.
- The **impact of extending carers' leave not only to relatives**, but to any person who voluntarily gives unpaid care to a dependent person

Proposed wording:

Article 18

Reporting and review

3. The report reviewing the application of the directive shall also provide impact assessments, *inter alia*, on the following points:

- possibilities to extending the duration of care leave
- possibilities to extending the definition of carers
- the effect of the directive on family carers who are using the possibility for carers' leave, who have used the possibility of requesting flexible working arrangements, and who have used none of the arrangements covered by this directive

Care leave and formal care

AGE's February 2016 position on carer's leave was that, in a perspective of gender equality, care leaves only make sense if they are flanked by affordable, available quality long-term care

services. The Commission identified the same in the impact assessment, especially in the analysis of the impact of the proposal for five-days care leaves. The communication accompanying the proposal for a directive includes a number of elements towards this:

- **Sharing of best practices** with social partners and Member States through seminars under the Mutual Learning programme on smooth transitions between leaves and employment, on crediting of family-related leave periods in the pension system
- **Guidance** on employment-friendly and accessible care services, and monitoring the provision in the European Semester
- Improve **EU level data collection** on availability, affordability and quality of care services, with a view to explore possibilities of developing benchmarks at EU level
- Encourage the **use of the European Fund for Strategic Investment** to finance social infrastructure, including through public-private partnerships
- Develop the provision of accessible, affordable and quality long-term care services using **support from ESF and the ERDF**; request member states to review the programming of European Structural and Investment funds to earmark more means
- Monitor the adequacy of member state's spending in light of their long-term care needs via the **European Semester**

AGE strongly supports the thoughts about an Action Plan on Long-Term Care and the development of quality and access indicators and benchmarks for long-term care. AGE highlights however that benchmarks need to be meaningful and pay appropriate attention to the quality of care, not only on the number of places in care available; reporting mechanisms for these indicators should not add a burden to professionals working in the care sector.

AGE remains convinced that the long-term care sector is suffering from **significant underinvestment**, which results in bad quality care, insufficient access and difficult working conditions for care professionals. More needs to be done to encourage Member States to invest in this sector, where needs are rising.

AGE reiterates its position that if the proposal on carers' leave shall yield benefits in terms of gender equality, **it has to be flanked by a strategy for affordable, accessible and high-quality formal long-term care services, including for the heaviest needs**



AGE highlights that while **digitalisation can have significant benefits for the quality of care**, care beneficiaries and care providers, care also always needs to have a human component and that **digitalisation cannot replace the contact with well-trained human professionals**

AGE **welcomes the shift of towards developing community-based and home care** that enables older people to stay in their homes as long as they wish; however AGE also highlights the **gap that often exists for heavy care needs**, for which sometimes residential care would be the best option

AGE calls for **taking a rights-based view on long-term care**, respecting the rights of dignity and independence of older persons, but also their **right to choose the environment** they would like to live in

Annex: Synthetic view of proposed amendments

Amendment 1: definition of relative

Initial wording	Proposed wording
Article 3 Definitions (d) "relative" means a worker's son, daughter, mother, father, spouse or partner in civil partnership, where such partnerships are envisaged by national law;	Article 3 Definitions (d) "relative" means a worker's first-degree relatives (son, daughter, mother, father, sibling), and second-degree relatives (uncles, aunts, nephews, nieces, grandparents, grandchildren, half-siblings), as well as spouse or partner in civil partnership, where such partnerships are envisaged by national law, step- and foster children, both in the own and in the spouse's or partner's family;
<p><i>Justification:</i> AGE considers that the definition of 'relative' should also include first- and second-degree family (aunts and uncles, sisters and brothers, nephews, grandchildren as well as the relatives of the spouse or partner in civil partnership). The directive should not prejudge the ties of solidarity that exist in a family. Adapting this provision will allow these networks of solidarity to express themselves</p>	

Amendment 2: definition of dependency

Initial wording	Proposed wording
Article 3 Definitions (e) "dependency" means a situation in which a person is, temporarily or permanently, in need of care due to disability or a serious medical condition other than serious illness ;	Article 3 Definitions (e) "dependency" means a situation in which a person is, temporarily or permanently, in need of care and assistance due to disability, a loss of autonomy or a serious medical or mental health condition; other than serious illnesses.
<p><i>Justification:</i> AGE considers that defining 'dependency' and the need for 'care' in this context only in relation to a disability or a serious medical condition is reductive. Functional limitations related to a chronic health condition or a loss of autonomy are also situations where a person is in a situation of dependency and requires care – both health and social care (which includes assistance with activities of daily living) This should be acknowledged in the definition. Secondly, it is not clear what is meant by the difference between serious medical conditions and serious</p>	

illnesses.

Amendment 3: parental leave and grand-parents

Initial wording	Proposed wording
<p>Article 5 Parental leave 2. Where Member States allow one parent to transfer their parental leave entitlement to the other parent, they shall ensure that at least four months of parental leave cannot be transferred.</p>	<p>Article 5 Parental leave 2. Where Member States allow one parent to transfer their parental leave entitlement to the other parent, they shall ensure that at least four months of parental leave cannot be transferred. <i>Where Member States allow parents more parental leave than the four months in the present directive, a limited amount of it should be transferrable not only to the other parent, but also to persons effectively taking care of the child, such as working grandparents.</i></p>
<p><i>Justification:</i> AGE considers that the aim of sharing childcare more equally between mothers and fathers is justified in the light of the life-long impacts that unequal caring has on the employment opportunities, social inclusion and old-age poverty rates of women, as well as on the gender pension gap. AGE therefore supports these changes The proposal falls however short of considering the needs of working grandparents, who also often engage in childcare and reduce their working time for this reason. Therefore, AGE proposes to introduce a recommendation on transferability in those member states where parental leave exceeds four months per parent.</p>	

Amendment 4: carers' leave

Initial wording	Proposed wording
<p>Article 6 Carers' leave Member States shall take the necessary measures to ensure that workers have the right to carers' leave of at least five working days per year, per worker. Such right may be subject to appropriate substantiation of the medical condition of the worker's relative.</p>	<p>Article 6 Carers' leave Member States shall take the necessary measures to ensure that workers have the right to carers' leave of at least five working days per year, per worker. Such right may be subject to appropriate substantiation of the medical <i>or mental health</i> condition <i>or the loss</i></p>



	<p><i>of autonomy</i> of the worker’s relative. <i>The information on the medical condition or situation of loss of autonomy should be kept confidential and be shared only with a restricted number of involved services to safeguard the right to data protection of both the worker and the person in need of care.</i></p>
<p><i>Justification:</i></p> <p>AGE considers that right to take care leaves and the remuneration are necessary and urgent measures to support informal carers. The justification by substantiating the medical condition of the worker’s relative seems appropriate to justify the care leave to be taken for illnesses; however, this would not be possible for persons in loss of autonomy, who have not contracted a concrete disease. This should be provided for as well. Additionally, it should be ensured that the rights to privacy of the dependent person are upheld and that this information is handled confidentially.</p> <p>Five days of carers’ leave per year seem very few, considering the burden that many carers face. The Commission’s impact assessment also shows that longer care leaves are beneficial for the employment targets and in a macroeconomic perspective. However, strong criticism have been noted from the side of business associations and some member states about the cost of long leaves; therefore, AGE supports the proposal of five days of care leave, but would like to see a review of the directive after a couple of years of implementation, to assess whether the number of days could be extended.</p>	

Amendment 5: review

Initial wording	Proposed wording
	<p>Article 18</p> <p>Reporting and review</p> <p><i>(new paragraph) 3. The report reviewing the application of the directive shall also provide impact assessments, inter alia, on the following points:</i></p> <ul style="list-style-type: none"> <i>- possibilities to extending the duration of care leave</i> <i>- possibilities to extending the definition of carers</i> <i>- the effect of the directive on family carers who are using the possibility for carers’ leave, who have used the possibility of requesting flexible working arrangements, and who have</i>



	<i>used none of the arrangements covered by this directive</i>
<p>Justification: a review should focus on, <i>inter alia</i>:</p> <ul style="list-style-type: none"> • The appropriateness of the number of five days of carers' leave for the purposes of supporting carers, enhancing their employability and ensuring a high-quality level of care • The effect of measures that allow for the transferability of parts of parental leave to grandparents, if these are adopted by the co-legislators: take-up, amount of time etc. • The actual effects of the directive on gender equality in the domains of gender gaps in care, employment, income, career progression, poverty and social exclusion, the gender pension gap • The effects of the situation of family carers, whether they have taken leaves and arrangements provided for by the present directive or not, including especially family carers who are not in employment. • The impact of extending carers' leave not only to relatives, but to any person who voluntarily gives unpaid care to a dependent person 	



AGE work is co-funded by the **Rights, Equality and Citizenship Programme** of the European Union. The contents of this document are the sole responsibility of AGE Platform Europe and cannot be taken to reflect the views of the European Commission.