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From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL on work-life balance for parents and carers and repealing
Council Directive 2010/18/EU (**first reading**)

- Adoption of the legislative act
- Statements

Statement by Slovenia

Slovenia supports the objective of the directive as stated in its Article 1, namely to achieve equality between men and women with regard to labour market opportunities and treatment at work through facilitating the reconciliation of work and family life for working parents and carers. Slovenia is of the firm opinion that its current national system has already achieved this objective. In Slovenia, the employment rate of women is one of the highest in the EU and the gender employment gap is one of the lowest. The positive impact of parenthood on women's employment is very high.

Given that the directive affects the national social security systems and their financial equilibriums, Slovenia underlines that the setting of minimum standards should be done in a way that does not interfere with well-established systems which are already achieving equal labour market opportunities for women and men.

Slovenia also points out that the directive is the first legislative file based upon the principles of the European Pillar of Social Rights (EPSR) aiming at upward convergence among Member States, which is strongly supported by Slovenia.

However, the lengthy and complex negotiations have shown that national systems vary considerably and that Member States support different sets of measures which allow “equal access to special leaves of absence in order to fulfil their caring responsibilities and encourage to use them in a balanced way” (principle 9 of EPSR). To the contrary, the final compromise text insists only on some of these measures, i.e. pay and non-transferability of leave. Furthermore, the final compromise disproportionately focuses on the measure of non-transferability rather than on pay. In particular, it reconfirms the derogation for tackling some Member States' concerns of payment, while omitting equally valid proposals for tackling concerns of other Member States, like Slovenia. Slovenia is therefore strongly convinced that the directive as finally agreed will not contribute to upward convergence and will not encourage parents to use special leaves in a balanced way.

Based on the above, Slovenia will vote against the directive

Joint statement by Croatia, the Czech Republic and Germany

Die Bundesrepublik Deutschland („Deutschland“), die Republik Kroatien („Kroatien“) und die Tschechische Republik („Tschechien“) unterstützen das allgemeine Ziel des Richtlinienvorschlags des Europäischen Parlaments und des Rats zur Vereinbarkeit von Beruf und Privatleben für Eltern und pflegende Angehörige.

In diesem Zusammenhang sind der Anwendungsbereich der Richtlinie bzw. die Definition des Arbeitnehmers/der Arbeitnehmerin für Deutschland, Kroatien und Tschechien von Bedeutung. Der Wortlaut von Art. 2 und dem entsprechenden Erwägungsgrund des Richtlinienvorschlags ist eher ungewöhnlich. Daher möchten Deutschland, Kroatien und Tschechien gerne ihre Sichtweise diesbezüglich darlegen, die auf den im Laufe der Verhandlung gewonnenen Erkenntnissen basiert.

Deutschland, Kroatien und Tschechien verstehen die Formulierung sowohl in Art. 2 als auch im entsprechenden Erwägungsgrund als Klarstellung, dass die Mitgliedstaaten dafür zuständig sind, den Anwendungsbereich der Richtlinie entsprechend ihren jeweiligen nationalen Regelungen zu definieren.

Deutschland, Kroatien und Tschechien sind auch der Ansicht, dass die Erwähnung des EuGH, seiner Rechtsprechung oder Teile davon lediglich einen Verweis auf die Aufgabe des EuGH darstellt, die Wirksamkeit der Richtlinie sicherzustellen. Diese Aufgabe ist darauf beschränkt, die Wirksamkeit mit Blick auf das Ziel der jeweiligen Richtlinie zu garantieren, und aus diesem Grund auf eine Willkürkontrolle im Einzelfall beschränkt.

Statement by Hungary

Hungary supports the overall aim of the Proposal for the Directive of the European Parliament and of the Council on work-life balance for parents and carers ('the Directive'), namely to enhance equality between men and women through facilitating the reconciliation of work and family life for working parents and carers.

Hungary strongly believes that family policy is of paramount importance and is fully committed to support the families with all possible instruments. One of the key elements of the Hungarian family policy is to support the adequate balance between work and family life, to help women with children to be able to return to work and to support men's involvement in the life of the family.

Family policy falls primarily under the competence of the Member States, in this context, the principles of subsidiarity and proportionality are of particular importance when it comes to Union level legislation. Hungary cannot support any Union measure that endangers Hungarian family policy and the achievements thereof. Hungary is strongly convinced that we shall not intervene in the life of families and force their decision regarding the uptake of parental leave, without respecting their freedom of decision based on their personal, social and financial circumstances. This is particularly true regarding the non-transferability of parental leave. Accordingly, Hungary is convinced that at EU level, it is only appropriate to designate basic principles for the Member States, leaving the necessary room for manoeuvre for them to set up the tools, timing and priorities at national level, in accordance with the principle of conferral of competences and the principles of subsidiarity and proportionality as laid down in the Treaties.

The scope of the draft Directive, particularly the definition of worker is of great significance for Hungary. Hungary considers Article 2 together with its corresponding recital of the draft Directive that Member States have full discretion regarding the definition of the scope of the Directive in accordance with their national rules. In doing so account should be taken of the case-law of the Court of Justice of the European Union regarding workers who make use of their Union right to movement.