



BRIEFING & PRELIMINARY ASSESSMENT

EUROPEAN PILLAR OF SOCIAL RIGHTS & DIRECTIVE ON WORK-LIFE BALANCE FOR PARENTS AND CARERS



The European Commission has recently presented the long-awaited European Pillar of Social Rights (Social Pillar). This briefing looks at the content of the Social Pillar and at the proposed Directive on Work-Life balance for parents and carers.

THE WHY AND HOW OF THE SOCIAL PILLAR

WHAT? The Social Pillar is a European Commission initiative which is intended to act as driver for social change in Europe. It aims at serving as a guide towards efficient employment and social outcomes when responding to current and future challenges.

WHERE? It will act as a framework of social rights and once established, this framework will be used to screen the employment and social performance of participating Member States in order to drive reforms at national level.

WHY? The Social Pillar is seen by many as “the last chance” for a Social Europe. Once implemented, it aims at responding to the lack of social dimension of the EU and at addressing the lack of confidence of EU citizens in the European project.

HOW? The European Pillar of Social Rights has two legal forms: a Commission Recommendation and a proposal for a joint proclamation by the EU Parliament, the EU Council and the European Commission. The Social Pillar comes with a number of legislative and non-legislative initiatives, including a proposal for a Directive on work-life balance and a consultation on access to social protection. This means some initiatives will result in binding obligations and other not.

WHEN? Now the European Commission will start discussing the adoption of the proposed joint proclamation with the European Parliament and the EU Council of Member States. In parallel, both the European Parliament and the EU Council will start the [ordinary legislative procedure](#) to adopt the proposal of the Directive on Work-Life balance.

For more context on EU Policy terms have a look at the MHE Glossary here: <http://www.mhe-sme.org/publications/glossary/>

The Social Pillar was accompanied by [a staff working document \(SWD\) with explanatory fiches on each principle and right](#), an [online social scoreboard to track trends and performances](#), and four supplementary initiatives:

- [Proposal for a Directive on Work-Life Balance for Parents and Carers](#)
- [Consultation for Social Partners on a possible action addressing the challenges of access to social protection for people in all forms of employment](#) (Open for civil society in June 2017)
- [Consultation for Social Partners on a possible revision of the Written Statement Directive](#) (Open for civil society in June 2017)
- [Interpretative Communication on the Working Time Directive](#)

PLEASE CLICK ON THE LINKS ↑ ↑ ↑ TO READ THE DOCUMENTS - ALL DOCUMENTS ARE AVAILABLE IN ALL 24 OFFICIAL LANGUAGES OF THE EU

[Mental Health Europe](#) (MHE) welcomes the initiatives as they show the intention to strengthen and expand the social dimension of the EU. While more in-depth information will be available in the coming weeks as discussions around each initiative will take place, MHE has prepared a first brief overview and assessment of the Social Pillar with its twenty principles and rights, as well as the proposed Directive on work-life balance for parents and carers. MHE will also separately work on some of the other initiatives proposed by the European Commission.

NB: AS PRELIMINARY ASSESSMENT, THIS DOCUMENT IS A WORK-IN-PROGRESS AND THIS INFORMATION WILL BE USED AS A BASELINE FOR OUR WORK ON THESE INITIATIVES.

MHE'S FIRST ASSESSMENT OF THE SOCIAL PILLAR

Below you can find a brief description of the key points of the Social Pillar along with a preliminary assessment on the basis of [MHE's discussion paper](#) on the first draft of the Social Pillar and [its submission to the public consultation](#).

SCOPE

As per its first draft, the Social Pillar is not a binding document and is conceived for the Eurozone, with other EU Member States able to opt in if they wish. It concerns EU citizens and third country nationals with legal residence. It also specifies that when the term "worker" is used, it means all people in employment, regardless of their employment status, modality and duration (i.e. self-employed and employees).

MHE'S VIEW: This is particularly problematic as it means that the Social Pillar might also lead to a division in the implementation of social rights in Europe.

IMPLEMENTATION

The Staff Working Document (SWD) specifies that the Social Pillar will be implemented with the involvement of social partners and civil dialogue via the existing frameworks :

- European Semester
- European Structural and Investment Funds (ESIF), in particular the European Social Fund (ESF)
- [Social scoreboard](#) within the framework of the European Semester
- The post-2020 programming period

MHE'S VIEW: Integrating the Social Pillar into existing processes may raise some questions. It has become more and more evident that the Europe 2020 Strategy and the European Semester have failed to deliver on their promise. MHE has concerns regarding the effectiveness of using these processes alone to fully implement the Social Pillar. While we welcome the development of a social scoreboard in the context of the European Semester, it remains unclear how this will be carried out in practice.

A LOOK AT THE 20 PRINCIPLES AND PRELIMINARY ANALYSIS

As explained in our [first briefing note](#), the Social Pillar focuses on 3 'categories' and 20 principles, some of which are very relevant for mental health. The 3 categories are:

- 1) EQUAL OPPORTUNITIES AND ACCESS TO THE LABOUR MARKET
- 2) FAIR WORKING CONDITIONS
- 3) ADEQUATE AND SUSTAINABLE SOCIAL PROTECTION

The following section outlines the principles of the Social Pillar and introduces MHE's views on the principles which are relevant to mental health. The most relevant principles are in the boxes.

1. EDUCATION, TRAINING AND LIFE-LONG LEARNING

The principle clearly states the right to quality and inclusive education. The SWD also states that "inclusive education, training and lifelong-learning entail accessible means to acquire, maintain or develop skills and competences to a level that equips everyone for active life. For example, the special needs of people with disabilities or of those from disadvantaged backgrounds should be catered for so that they are ensured access on an equal basis."

MHE'S VIEW: Compared to the draft of the Social Pillar, this principle now includes inclusive education, however it still fails to include mental health in schools and resilience skills.

2. GENDER EQUALITY

This principle has been decoupled from the one on work-life balance and now addresses equality to all areas.

3. EQUAL OPPORTUNITIES

The Social Pillar partially goes beyond the current EU law and policy by extending protection against discrimination on the grounds of religion or belief, disability, age and sexual orientation to the areas of social protection, including social security and healthcare, education, and access to goods and services available to the public. The Pillar also extends the prohibition of discrimination based on gender to the area of education, which is not covered by EU law and policy. This principle also encourages Member States to take positive action and incentive measures to foster equal opportunities for under-represented groups.

4. ACTIVE SUPPORT TO EMPLOYMENT

This principle refers to the right to timely and tailor-made assistance, including the right to receive support for job search, training and re-qualification. It also contains the principle of transferability of social protection and training entitlements during professional transitions. The principle focuses on early intervention, individualized assistance and support in enhancing employability. For people in unemployment, the principle provides the right to personalised support for at least 18 months in line with the long-term unemployment recommendation.

MHE'S VIEW: However, MHE is concerned that receiving personalised support within 18 months might be a long period. Moreover, the formulation of the principle emphasises support prior to employment whilst MHE promotes the Individual Placement and Support (IPS) model. We are concerned that the current formulation does not sufficiently recognise the need for prioritising such models.

5. SECURE AND ADAPTABLE EMPLOYMENT

This principle provides for equal treatment between workers irrespective of the type of employment relationship. It also includes flexibility for employers to adapt swiftly to changes in the economic context, including differential treatment on objective grounds or adaptations in working conditions to avoid excessive employment loss during downturns.

MHE'S VIEW: This principle does not mention the Employment Equality Directive and raises concerns in its formulation since it only speaks about adaptations. Reasonable accommodation, which is essential for persons with disabilities goes beyond that and is a right.

6. WAGES

This principle sets out the right to fair wages providing for a decent standard of living for all workers.

7. INFORMATION ABOUT EMPLOYMENT CONDITIONS AND PROTECTION IN CASE OF DISMISSALS

This principle requires written information to be provided to the worker about his or her working conditions at the start of the employment relationship (rather than within the two months as established by the Written Statement Directive). It also adds information duties regarding the probation period. The principle introduces the right to be informed of the reasons for dismissal and be granted a reasonable period of notice, as well as the right to access to effective and impartial dispute resolution and redress. This principle was not present in the first draft of the Social Pillar and it has resulted in a consultation of the Written Statement Directive.

8. SOCIAL DIALOGUE AND INVOLVEMENT OF WORKERS

This principle sets out the right of social partners to be involved not only in the consultation and preparation of relevant legislation and policies, but also in their implementation.

9. WORK-LIFE BALANCE

The principle extends the right to work-life balance to all people in employment with caring responsibilities and confers the right to flexible working arrangements. This principle is accompanied by the proposal for a Directive on work-life balance.

MHE'S VIEW: Please see the last page of this document to read MHE's view on this.

10. HEALTHY, SAFE AND WELL-ADAPTED WORK ENVIRONMENT AND DATA PROTECTION

This principle introduces a high-level of protection for workers from risks to health and safety at work. It also grants workers the right to have a working environment adapted to their specific occupational circumstances and to adapt the working environment to enable workers to have sustainable and longer working careers.

MHE'S VIEW: MHE is concerned that this principle still does not mention the UN CRPD, including accessibility and reasonable accommodation, and seems to predominantly focus on physical health, with no reference to psychosocial risk factors or mental health at work.

11. CHILDCARE AND SUPPORT TO CHILDREN

This principle establishes that all children have the right to good quality early childhood education and care. It also sets the right for children to be protected from poverty. This principle also gives children from disadvantaged backgrounds the right to specific measures (namely reinforced and targeted support) with a view to ensuring their equitable access to and enjoyment of social rights.

12. SOCIAL PROTECTION

It grants the right to social protection to all workers regardless of their employment status, thus including the self-employed.

13. UNEMPLOYMENT BENEFITS

This principle covers all unemployed people, including formerly self-employed and short-term unemployed. It grants the right to adequate income support and income replacement benefits, which should be granted for a reasonable duration.

14. MINIMUM INCOME

This is the first time an explicit right to an adequate minimum income has been stated in EU policy which aims to enable people to live a life in dignity in all stages of life. The principle also specifies that minimum income should be combined with incentives to reintegrated into the labour market.

15. OLD-AGE INCOME AND PENSIONS

This principle foresees the right to a pension proportionate to the contribution for both workers and self-employed.

16. HEALTHCARE

This principle grants the right to affordable, preventive and curative health care of good quality.

MHE'S VIEW: Compared to the first draft of the Pillar, the principle takes now a more human rights-based approach and has removed the reference to cost-effectiveness and financial sustainability. However, the principle fails to make any specific mention to mental health and to recognise inequalities in access to care and the need to address them.

17. INCLUSION OF PEOPLE WITH DISABILITIES

This principle reflects a holistic human rights-based approach and makes a clear reference to income support, services and adapted work environment.

MHE'S VIEW: While having a more holistic approach, the principle still does not include the issue of disability recognition.

18. LONG-TERM CARE

Everyone has the right to affordable long-term care services of good quality, in particular home-care and community-based services. Compared to the first draft of the Pillar, the principle now focuses not only on older people, but on "persons who are reliant on care". While there is still no reference to the CRPD, there is a reference to the use of ESIF to promote the shift from institutional to community-based care and integrated services.

19. HOUSING AND ASSISTANCE FOR THE HOMELESS

This principle includes access to social housing as well as housing assistance to those in need. It grants the right of vulnerable people to seek assistance and protection against forced eviction, as well as adequate shelters and services to homeless people to be (re-)integrated into society.

MHE'S VIEW: The incusion of homelessness is very welcome and will allow for further support and respect of the dignity of those persons who often have severe/complex mental health issues.

20. ACCESS TO ESSENTIAL SERVICES

This principle grants the right to access essential services and to be provided with support to enable access for those in need. The background document also states that "the accessibility of essential services in addition to availability and affordability, are essential to ensure equal access to all, and essential for persons with disabilities and older people."

WANT TO READ MORE?

The European Commission also published other content related to the Social Pillar that can be found below:

- [A reflection paper on the social dimension of Europe](#)
- [A Staff Working Document on the Investing in Children Recommendation](#)
- [A Staff Working Document on the implementation of the 2008 Commission Recommendation on the active inclusion of people excluded from the labour market](#)

Mental Health Europe work on the Social Pillar:

- [Discussion Paper on the Social Pillar](#)
- [Response to Public Consultation on the Social Pillar](#)

OVERVIEW AND PRELIMINARY ASSESSMENT OF THE DIRECTIVE ON WORK-LIFE BALANCE FOR PARENTS AND CARERS

As explained, the Social Pillar comes with a proposal for a Directive on work-life balance and a consultation on access to social protection. Below you can find a brief description from a mental health perspective of the key points of the proposal for a Directive on work-life balance for parents and carers along with a preliminary assessment.

This draft includes many provisions that could potentially have a beneficial impact on the mental health and well-being of workers and those who are dependant on them. It also provides some specific measures concerning parents with disabilities and parents of carers of persons with disabilities. **However, in order to have those provisions adopted in a satisfactory manner we need to join efforts on advocacy work since a lot will also be in the hands of the Member States.**

Following the withdrawal of the Maternity Leave Directive in 2015, the European Commission published the first ever proposal for a comprehensive EU directive on work-life balance of parents and carers. This proposal preserves and builds on existing rights, as well as introduces new rights:

- Paternity leave of at least 10 working days around the time of birth of the child. Paternity leave will be compensated at least at the level of sick pay

- Parental leave of at least 4 months that can be taken up until the child reaches the age of 12 and cannot be transferred between parents. This parental leave can be taken in flexible forms (full-time, part-time, in a piecemeal way). This parental leave will be compensated at least at the level of sick pay.

MHE'S VIEW: Important to note is that one of the provision foresees that Member States shall assess the need for the conditions of access and detailed arrangements for the application of parental leave to be adapted to the needs of adoptive parents, parents having a disability and parents with children with a disability or long-term illness.

- An entitlement of 5 days of leave per year for all workers to take care of seriously ill or dependent relatives. This entitlement will be compensated at least at the level of sick pay.

- A possibility for time off from work on grounds of force majeure: Member States shall take measures to ensure that workers have the right to time off from work on grounds of force majeure for urgent family reasons in cases of illness. There is a possibility for Member States to limit this time.

MHE'S VIEW: MHE will aim at amending this provision to ensure that reasons of urgent mental health issues will be more explicitly part of the grounds of force majeure.

- The right to request the flexible working arrangements for all working parents of children up to 12 and carers with dependent relatives. Flexible arrangements include: reduced working hours, flexible working hours and flexibility on the place of work.

MHE'S VIEW: The Directive's definition of dependency is unclear and should be re-formulated. Whilst including disability, it does not specifically mention other mental health problems. It uses the wording "serious medical condition" which is a medical expression and open for interpretation.

MHE'S VIEW: Overall, MHE welcomes this proposal as it clearly shows a concrete attempt from the European Commission to respond to the need of parents and carers. However, it is of concern that the proposed Directive encourages workers and employers "to maintain contact during the period of leave and may make arrangements for any appropriate reintegration measures." While understanding the reasoning behind the provision, MHE strongly believes that the final text of the Directive should ensure that this provision does not create additional barriers and distress for parents and carers and is in no way an excuse for not replacing the absent parent or carer. Also, there is a scope for improving the definitions and terminology of the proposal and MHE will propose amendments.

MHE members will have an important role to play in the National lobbying efforts, to ensure that their respective Member States support the adoption of the Directive. Thereafter, members will need to work on ensuring an ambitious implementation of the Directive in National legislation, as a means to further promote mental well-being of carers, parents and their children or relatives, and ensuring specific rights for parents of children with psychosocial disabilities or mental health problems, as well as parents with psychosocial disabilities. As the Directive only includes minimum provisions, these lobbying efforts will be very important in guaranteeing a comprehensive set of rights.

LET'S STAY IN TOUCH:

