Health and safety at work: workers who are pregnant, have recently given birth or are breastfeeding

2008/0193(COD) - 17/06/2011

The Council took note of a **progress report concerning the recent work** on the proposal to amend directive on the health and safety of pregnant workers and of workers who have recently given birth or are breastfeeding (maternity leave).

Several ministers expressed their concerns on the Commission proposal and/or the opinion of the Parliament at first reading.

Some ministers, given the diverging views, advocated that the Council should consider not continuing its work on this topic, while others stressed that the work should continue.

The Hungarian Presidency recognised that delegations needed further time to reflect on the impact of the proposed EP amendments; therefore, it concentrated the work on those areas where the Member States had already expressed some openness for further examination.

While recognising that there are overlaps in some cases, the Presidency identified the following main thematic groups of amendments:

- provisions related to return to work,
- health and safety and working conditions of pregnant workers,
- combination work and family life,
- equal treatment and general non-discrimination issues, and
- amendments related to special leave and different forms of leave.

As it was clear that the **length and the payment of the maternity leave** were the most sensitive topics and that reaching an agreement on these issues was likely to take some time and reflection, the Presidency left these out of the Working Party discussions for the time being, allowing the delegations more time to consider them.

During the Working Party discussions, some delegations recalled their openness to certain EP amendments and in some instances were able to agree with the spirit of the amendments. However, on the **majority of the EP amendments discussed no majority support could be established**. Several EP amendments were considered too detailed to be included in the draft Directive, especially related to **return to work**. While a number of delegations considered the issues and underlying principles important and even indicated that their national legislation had provisions on a number of issues raised by the Parliament (including time-off for breastfeeding, special working arrangements for parents with disabled children, additional maternity leave in certain cases etc), they considered that specificities should be left to the Member States.

Regarding the **amendments on different types of leave**, a large majority of delegations considered that it should be up to the Member States to decide on additional maternity leave in special circumstances. However, some delegations agreed that including the principle of such longer or additional leave in the Directive might be worth to explore further. One delegation explicitly supported the Commission's proposal on specific additional maternity leave in certain circumstances, however, leaving it to the

Member States to decide on details. Some delegations supported the idea that the Directive could give a non-exhaustive list of examples in which cases additional leave could be granted. Some delegations reiterated that the Directive would be meant to set minimum standards. In addition, some delegations recalled that the recently amended Parental Leave Directive 2010/18/EC aimed at increasing gender equality in child care.

In general, delegations considered that **the Directive should cover only maternity leave**. In particular, many delegations stressed that the proposal should essentially remain a health and safety at work Directive. Only a few delegations were flexible on the issues of adoption and paternity leave.

Many delegations rejected certain amendments, which they considered to be already covered elsewhere in the EU legislation (this concerned especially amendments on the prevention of discrimination, burden or proof, witness protection).

In the light of Council discussions, the need for **an additional impact assessment** should be further explored at a later stage. Work on the proposal will continue in 2011 and the social partners' views are expected to be available shortly.