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AMENDMENTS 15 - 62

Draft opinion
Jamila Madeira
(PE418.277v01-00)

on the proposal for a European Parliament and Council directive amending Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding

Proposal for a directive – amending act
(COM(2008)0637 – C6-0340/2008 – 2008/0193(COD))

AM_Com_LegOpinion

Amendment 15
Gabriele Stauner

Proposal for a directive – amending act
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Maternity leave under this Directive does not conflict with Member States' other rules on parental leave and there is no intention to circumvent these models. Maternity leave and parental leave are complementary and used in combination can promote a better balance between work and family life. It is up to the parents themselves to decide whether to return to work soon after the birth or to make use of possibilities provided by Member States such as parental leave.

Or. de

Justification

In its explanatory memorandum the Commission draws an artificial distinction between maternity leave and parental leave. Both models complement each other, and using them in combination can promote a better balance between work and family life.

Amendment 16
Elizabeth Lynne

Proposal for a directive – amending act
Recital 9

Text proposed by the Commission

Amendment

(9) The vulnerability of pregnant workers and of workers who have recently given birth or who are breastfeeding makes it necessary for them to be granted the right to maternity leave of at least 18 continuous weeks, allocated before and/or after confinement, ***and renders necessary the***

(9) The vulnerability of pregnant workers and of workers who have recently given birth or who are breastfeeding makes it necessary for them to be granted the right to maternity leave of at least 18 continuous weeks, allocated before and/or after confinement.

compulsory nature of maternity leave of at least six weeks allocated after confinement.

Or. en

Justification

In order that the implementation of the Directive by all Member States is compatible with its objective of ensuring the health and safety of workers, the Commission should look into and monitor how Member States are using the possibilities to derogate from the working time directive as a de facto opt out from the directive.

Amendment 17
Elizabeth Lynne

Proposal for a directive – amending act
Recital 10

Text proposed by the Commission

(10) The International Labour Organization recommends a minimum duration of maternity leave of 18 weeks remunerated at the full amount of the woman's previous earnings. ***The ILO Maternity Protection Convention of 2000 provides for a period of six weeks' compulsory leave after childbirth.***

Amendment

(10) The International Labour Organization recommends a minimum duration of maternity leave of 18 weeks remunerated at the full amount of the woman's previous earnings.

Or. en

Amendment 18
Elisabeth Schroedter

Proposal for a directive – amending act
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) A post termed ‘equivalent’ pursuant to Article 11(2)(c) means that this post will be essentially the same as the former job, as regards both the salary paid and

the duties to be performed.

Or. de

Amendment 19
Marie Panayotopoulos-Cassiotou

Proposal for a directive – amending act
Recital 13

Text proposed by the Commission

(13) Women should therefore be protected from discrimination on grounds of pregnancy or maternity leave, and should have adequate means of legal protection.

Amendment

(13) Women should therefore be protected from discrimination on grounds of pregnancy or maternity leave, and should have adequate means of legal protection, ***in order to safeguard their rights to decent working conditions and a better balance between family life and work.***

Or. el

Amendment 20
Elisabeth Schroedter

Proposal for a directive – amending act
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) Member States should introduce into their national legal systems measures to ensure real and effective compensation or reparation – as the Member States so determine – for any harm caused to a worker by any breach of the obligations under this Directive, in a way which is dissuasive and proportionate to the damage suffered.

Or. de

Amendment 21
Elisabeth Schroedter

Proposal for a directive – amending act
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Victims of sex discrimination should have adequate means of legal protection. To provide more effective protection, it should be possible for associations, organisations and other legal entities to engage in proceedings, as the Member States so determine, on behalf of or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.

Or. de

Amendment 22
Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act
Article 1 – point -1 (new)
Directive 92/85/EEC
Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

-1. In Article 1, the following point is inserted:

"1a. This Directive also aims to improve the work-related conditions for pregnant workers and workers who have recently given birth, who remain or return to the labour market, and to achieve a better reconciliation of professional, private and family life."

Or. en

Justification

The additional subparagraph aims at widening the scope of the Directive and allows for including issues such as flexible working arrangements, paternity leave, etc.

Amendment 23

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 a (new)

Directive 92/85/EEC

Article 2 – point a

Text proposed by the Commission

Amendment

-1a. In Article 2, point a is replaced by the following:

"(a) pregnant worker shall mean a pregnant worker, including a domestic worker, who informs her employer of her condition, in accordance with national legislation and/or national practice;"

Or. en

Justification

The Framework Directive on health and safety excludes domestic workers. However, they should be included explicitly in maternity protection.

Amendment 24

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 b (new)

Directive 92/85/EEC

Article 2 – point b

Text proposed by the Commission

Amendment

-1b. In article 2, point b is replaced by the following:

"(b) worker who has recently given birth shall mean a worker, including a

domestic worker, who has recently given birth within the meaning of national legislation and/or national practice and who informs her employer of her condition, in accordance with that legislation and/or practice;"

Or. en

Justification

The Framework Directive on health and safety excludes domestic workers. However, they should be included explicitly in maternity protection.

Amendment 25

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point - 1 c (new)

Directive 92/85/EEC

Article 2 – point c

Text proposed by the Commission

Amendment

-1c. In article 2, point c is replaced by the following:

"(c) worker who is breastfeeding shall mean a worker, *including a domestic worker*, who is breastfeeding within the meaning of national legislation and/or national practice and who informs her employer of her condition, in accordance with that legislation and/or practice."

Or. en

Justification

The Framework Directive on health and safety excludes domestic workers. However, they should be included explicitly in maternity protection.

Amendment 26

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 d (new)

Directive 92/85/EEC

Article 3 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

-1d. In Article 3(1), the following paragraph is inserted:

"The guidelines referred to in the first subparagraph shall be regularly evaluated with a view to their revision, at least once every five years, starting in 2012."

Or. en

Justification

Explanation: it is important to keep the guidelines up to date with recent developments and knowledge.

Amendment 27

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point - 1 e (new)

Directive 92/85/EEC

Article 4 – title

Text proposed by the Commission

Amendment

-1e. In Article 4 the title is replaced by the following:

"Assessment and, information and consultation"

Or. en

Justification

Reproductive risks exist for both men and women, and should be taken into account more

generally as they are important even before the moment of conception.

Amendment 28

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 f (new)

Directive 92/85/EEC

Article 4 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1f. In Article 4, the following paragraph is inserted:

"-1. In the risk assessment carried out under Directive 89/391/EEC, the employer shall include reproductive risks for male and female workers."

Or. en

Justification

Reproductive risks exist for both men and women, and should be taken into account more generally as they are important even before the moment of conception.

Amendment 29

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 g (new)

Directive 92/85/EEC

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

-1g. In Article 4(1), the introductory part is replaced by the following:

"1. For all activities liable to involve a specific risk of exposure to the agents, processes or working conditions of which a non-exhaustive list is given in Annex I, the employer shall assess the

nature, degree and duration of exposure, in the undertaking and/or establishment concerned, of workers within the meaning of Article 2 and workers likely to be in one of the situations referred to in Article 2, either directly or by way of the protective and preventive services referred to in Article 7 of Directive 89/391/EEC, in order to:"

Or. en

Justification

Reproductive risks exist for both men and women, and should be taken into account more generally as they are important even before the moment of conception.

Amendment 30

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 h (new)

Directive 92/85/EEC

Article 4 – paragraph 1 – indent 1

Text proposed by the Commission

Amendment

-1h. In Article 4(1), the first indent is replaced by the following:

"- assess any risks to the safety or health and any possible effect on the pregnancies or breastfeeding of workers within the meaning of Article 2 and workers likely to be in one of the situations referred to in Article 2,"

Or. en

Justification

Reproductive risks exist for both men and women, and should be taken into account more generally as they are important even before the moment of conception.

Amendment 31

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 i (new)

Directive 92/85/EEC

Article 4 – paragraph 2

Text proposed by the Commission

Amendment

-1i. In Article 4, paragraph 2 is replaced by the following:

"2. Without prejudice to Article 10 of Directive 89/391/EEC, workers within the meaning of Article 2 and workers likely to be in one of the situations referred to in Article 2 in the undertaking and/or establishment concerned and/or their representatives *and the relevant social partners* shall be informed of the results of the assessment referred to in paragraph 1 and of all measures to be taken concerning health and safety at work."

Or. en

Justification

Reproductive risks exist for both men and women, and should be taken into account more generally as they are important even before the moment of conception.

Amendment 32

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 j (new)

Directive 92/85/EEC

Article 5 – paragraph 2

Text proposed by the Commission

Amendment

-1j. In Article 5, paragraph 2 is replaced by the following:

"2. If the adjustment of her working

conditions and/or working hours is not technically and/or objectively feasible, [...] the employer shall take the necessary measures to move the worker concerned to another job."

Or. en

Justification

Explanation: the current text of the various subparagraphs gives a far too wide opportunity to employers to argue that they cannot adapt the workplace or offer an alternative job. By deleting this very open text, sufficient scope remains for the employer to argue that offering such alternatives is not technically or objectively feasible.

Amendment 33

Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 k (new)

Directive 92/85/EEC

Article 5 – paragraph 3

Text proposed by the Commission

Amendment

-1k. In Article 5, paragraph 3 is replaced by the following:

"3. If moving her to another job is not technically and/or objectively feasible, [...] the worker concerned shall be granted leave in accordance with national legislation and/or national practice for the whole of the period necessary to protect her safety or health."

Or. en

Justification

Explanation: the current text of the various subparagraphs gives a far too wide opportunity to employers to argue that they cannot adapt the workplace or offer an alternative job. By deleting this very open text, sufficient scope remains for the employer to argue that offering such alternatives is not technically or objectively feasible.

Amendment 34
Stephen Hughes, Jan Cremers, Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point -1 l (new)

Directive 92/85/EEC

Article 7 – paragraph 2 – point b

Text proposed by the Commission

Amendment

-1l. In Article 7(2), point b is replaced by the following:

"(b) leave from work or extension of maternity leave where such a transfer is not technically and/or objectively feasible. [...]"

Or. en

Amendment 35
Anja Weisgerber

Proposal for a directive – amending act

Article 1 – point 1

Directive 92/85/EEC

Article 8 – paragraph 1

Text proposed by the Commission

Amendment

(1) Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to a continuous period of maternity leave of at least 18 weeks allocated before and/or after confinement.

deleted

Or. de

Justification

The current provision of 14 weeks should remain, as it allows the Member States the necessary flexibility to provide for other models to be added to or combined with maternity leave, such as parental leave in particular, which includes fathers. Member States have

already developed such arrangements. Germany has introduced a parental leave system that provides for up to three years' parental leave immediately following maternity leave, for 14 months of which parental benefit is paid.

Amendment 36
Gabriele Stauner, Thomas Mann

Proposal for a directive – amending act
Article 1 – point 1
Directive 92/85/EEC
Article 8 – paragraph 1

Text proposed by the Commission

(1) Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to a continuous period of maternity leave of at least **18 weeks** allocated before and/or after confinement.

Amendment

(1) Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to a continuous period of maternity leave of at least **14 weeks** allocated before and/or after confinement.

Or. de

Amendment 37
Jamila Madeira

Proposal for a directive – amending act
Article 1 – point 1
Directive 92/85/EEC
Article 8 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to a continuous period of maternity leave of at least 18 weeks ***allocated before and/or after confinement.***

Amendment

1. Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to a continuous period of maternity leave of at least 18 weeks, ***with the option of also taking up to two weeks prior to confinement.***

Or. pt

Justification

Women workers need to be protected against any pressure from employers with regard to non-mandatory pre-confinement maternity leave.

Amendment 38
Anja Weisgerber

Proposal for a directive – amending act

Article 1 – point 1

Directive 92/85/EEC

Article 8 – paragraph 2

Text proposed by the Commission

Amendment

(2) The maternity leave stipulated in paragraph 1 shall include compulsory leave of at least six weeks after childbirth. The Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to choose freely the time at which the non-compulsory portion of the maternity leave is taken, before or after childbirth.

deleted

Or. de

Justification

The previous provision under paragraph 2 should continue to apply. Usual practice in the Member States should be taken into account. Account should also be taken of the fact that undertakings need planning certainty with regard to periods of maternity leave.

Amendment 39
Gabriele Stauner, Thomas Mann

Proposal for a directive – amending act

Article 1 – point 1

Directive 92/85/EEC

Article 8 – paragraph 2

Text proposed by the Commission

Amendment

(2) The maternity leave stipulated in paragraph 1 shall include compulsory leave of at least six weeks after childbirth. The Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to choose freely the time at which the non-compulsory portion of the maternity leave is taken, before or after childbirth.

(2) A pregnant woman or new mother, in consultation with her employer, shall be free to position this period of leave around the date of confinement.

Or. de

**Amendment 40
Gabriele Stauner**

**Proposal for a directive – amending act
Article 1 – point 1
Directive 92/85/EEC
Article 8 – paragraph 2**

Text proposed by the Commission

Amendment

(2) The maternity leave stipulated in paragraph 1 shall include compulsory leave of at least six weeks after childbirth. The Member States ***shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to choose freely the time at which the non-compulsory*** portion of the maternity leave is taken, before or after childbirth.

(2) The maternity leave stipulated in paragraph 1 shall include compulsory leave of at least six weeks after childbirth. The Member States ***may extend the compulsory*** portion of the maternity leave ***under this Directive to a maximum of eight weeks after the birth and/or a maximum of six weeks before the birth, if the workers are allowed the possibility of expressly declaring themselves ready to work within this extended period, by a declaration that can be revoked at any time.***

Or. de

Justification

Without a rule prohibiting working before the birth, there is a risk that a pregnant woman

will come under much greater pressure than before, from herself or from others, to work until shortly before her child is born. This situation can entail great risks for the health of both the mother and her unborn child. The Commission itself, in its 'Detailed explanation' of the draft Directive (p.9) stresses the importance of pregnant women being able to decide freely whether to take part of maternity leave before the birth. Women need protection so that they can freely exercise this choice without compulsion. This is provided by the principle of a ban on working before the birth, with an optional opt-out.

Amendment 41
Elizabeth Lynne

Proposal for a directive – amending act

Article 1 – point 1

Directive 92/85/EEC

Article 8 – paragraph 2

Text proposed by the Commission

2. The maternity leave stipulated in paragraph 1 shall include compulsory leave of at least six weeks after childbirth.

The Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to choose freely the time at which the non-compulsory portion of the maternity leave is taken, before or after childbirth.

Amendment

2 The Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to choose freely the time at which the non-compulsory portion of the maternity leave is taken, before or after childbirth.

Or. en

Amendment 42
Anja Weisgerber

Proposal for a directive – amending act

Article 1 – point 1

Directive 92/85/EEC

Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The worker must indicate her chosen period of maternity leave at last two months before the starting date.

Or. de

Justification

Introduction of an obligation on notification of the maternity leave period provides planning certainty for enterprises. Otherwise they, particularly SMEs, would face considerable organisational difficulties.

Amendment 43

Jamila Madeira

Proposal for a directive – amending act

Article 1 – point 1

Directive 92/85/EEC

Article 8 – paragraph 4

Text proposed by the Commission

4. Member States shall take the necessary measures to ensure that additional leave is granted in the case of premature childbirth, children hospitalised at birth, children with disabilities and multiple births. The duration of the additional leave should be proportionate and allow the special needs of the mother and the child/children to be accommodated.

Amendment

4. Member States shall take the necessary measures to ensure that additional leave is granted in the case of premature childbirth, children hospitalised at birth, children with disabilities, **mothers with disabilities** and multiple births. The duration of the additional leave should be proportionate and allow the special needs of the mother and the child/children to be accommodated.

Or. pt

Justification

The greater challenges faced in society by mothers with disabilities mean that in many cases they require additional maternity leave in order to adapt to their new circumstances and ensure the satisfactory evolution of their family life.

Amendment 44

Gabriele Stauner, Thomas Mann

Proposal for a directive – amending act

Article 1 – point 1

Directive 92/85/EEC

Article 8 – paragraph 5

Text proposed by the Commission

(5) Member States shall ensure that any period of sick leave due to illness or complications arising out of pregnancy occurring four weeks or more before confinement does not impact on the duration of maternity leave.

Amendment

(5) Periods of absence before and after the birth due to illness in connection with the pregnancy shall be added to the 14-week period.

Or. de

Amendment 45

Patrizia Toia

Proposal for a directive – amending act

Article 1 – point 1

Directive 92/85/EEC

Article 8 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that any period of sick leave due to illness or complications arising out of pregnancy occurring four weeks or more **before** confinement **does** not impact on the duration of maternity leave.

Amendment

5. Member States shall ensure that any period of sick leave due to illness, complications arising out of pregnancy **or attested postnatal depression** occurring four weeks or more **or after** confinement **do** not impact on the duration of maternity leave.

Or. it

Justification

The aim of this amendment is to ensure that the protective measures on illness also include the specific case of postnatal depression, which affects 10-15 of women and has significant repercussions for work and family life.

Amendment 46
Patrizia Toia

Proposal for a directive – amending act

Article 1 – point 1

Directive 92/85/EEC

Article 8 – paragraph 5a (new)

Text proposed by the Commission

Amendment

5a.. Member States shall adopt suitable measures for the recognition of postnatal depression as a serious illness, and shall support awareness campaigns aimed at disseminating accurate information on this illness and correcting the prejudices and possible stigmatisation which it can still attract.

Or. it

Justification

The aim of this amendment is to raise Member States' awareness of the need for official recognition of postnatal depression as an illness, given that it affects 10-15% of women and has significant repercussions for work and family life.

Amendment 47
Gabriele Stauner, Thomas Mann

Proposal for a directive – amending act

Article 1 – point 2

Directive 92/85/EEC

Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Prohibition of dismissal

In order to guarantee that workers within the meaning of Article 2 can exercise their health and safety protection rights as recognised under this Article:

(1) The Member States shall take the

necessary measures to prohibit the dismissal and all preparations for a dismissal of workers within the meaning of Article 2 during the period from the beginning of their pregnancy to the end of the maternity leave provided for in Article 8(1), save in exceptional cases not connected with their condition which are permitted under national legislation and/or practice and, where applicable, provided that the competent authority has given its consent.

(2) If a worker within the meaning of Article 2 is dismissed during the period referred to in point 1 the employer must cite duly substantiated grounds for her dismissal in writing. If the dismissal occurs within six months following the end of maternity leave as provided for in Article 8(1), the employer must cite duly substantiated grounds for her dismissal in writing at the request of the worker concerned.

(3) The Member States shall take the necessary measures to protect workers within the meaning of Article 2 from the consequences of dismissal which is unlawful by virtue of points 1 and 2.

(4) Less favourable treatment of a woman related to pregnancy or maternity leave within the meaning of Article 8 shall constitute discrimination within the meaning of Directive 2002/73/EC, as recast by Directive 2006/54/EC.

Or. de

Justification

Art. 10 of the Directive should not be changed. The rules on protecting workers from dismissal under the current Directive 92/85/EEC should continue to apply.

Amendment 48
Gabriele Stauner

Proposal for a directive – amending act

Article 1 – point 2

Directive 92/85/EEC

Article 10 – paragraph 1

Text proposed by the Commission

(1) The Member States shall take the necessary measures to prohibit the dismissal and all preparations for a dismissal of workers within the meaning of Article 2 during the period from the beginning of their pregnancy to ***the end of the maternity leave provided for in Article 8(1)***, save in exceptional cases not connected with their condition which are permitted under national legislation and/or practice and, where applicable, provided that the competent authority has given its consent.

Amendment

(1) The Member States shall take the necessary measures to prohibit the dismissal and all preparations for a dismissal of workers within the meaning of Article 2 during the period from the beginning of their pregnancy to ***at least four months after childbirth***, save in exceptional cases not connected with their condition which are permitted under national legislation and/or practice and, where applicable, provided that the competent authority has given its consent.

Or. de

Justification

A ban on dismissal for up to four months after childbirth seems advisable. Mothers are in particular need of protection just after the end of maternity leave, in their first weeks back at work. This is when they will first experience in practice the difficulties of combining work and family. We therefore advocate that the end of the period when dismissal is prohibited should not be obligatorily tied to the end of maternity leave.

Amendment 49
Elisabeth Schroedter

Proposal for a directive – amending act

Article 1 – point 2

Directive 92/85/EEC

Article 10 – paragraph 2

Text proposed by the Commission

(2) If a worker within the meaning of Article 2 is dismissed during the period

Amendment

(2) If a worker within the meaning of Article 2 is dismissed during the period

referred to in point 1 the employer must cite duly substantiated grounds for her dismissal in writing. If the dismissal occurs within **six** months following the end of maternity leave as provided for in Article 8(1), the employer must cite duly substantiated grounds for her dismissal in writing at the request of the worker concerned.

referred to in point 1 the employer must cite duly substantiated grounds for her dismissal in writing. If the dismissal occurs within **twelve** months following the end of maternity leave as provided for in Article 8(1), the employer must cite duly substantiated grounds for her dismissal in writing at the request of the worker concerned.

Or. de

Amendment 50
Jamila Madeira

Proposal for a directive – amending act
Article 1 – point 2
Directive 92/85/EEC
Article 10 – paragraph 2

Text proposed by the Commission

2. If a worker within the meaning of Article 2 is dismissed during the period referred to in point 1 the employer must cite duly substantiated grounds for her dismissal in writing. If the dismissal occurs within **six months** following the end of maternity leave as provided for in Article 8(1), the employer must cite duly substantiated grounds for her dismissal in writing **at the request of the worker concerned**.

Amendment

2. If a worker within the meaning of Article 2 is dismissed during the period referred to in point 1 the employer must cite duly substantiated grounds for her dismissal in writing. If the dismissal occurs within **twelve months** following the end of maternity leave as provided for in Article 8(1), the employer must cite duly substantiated grounds for her dismissal in writing.

Or. pt

Justification

During this period, the grounds for dismissal of a worker should be cited whether or not the worker has so requested.

Amendment 51
Rovana Plumb

Proposal for a directive – amending act

Article 1 – point 3 – point b

Directive 92/85/EEC

Article 11 – point 2 – point (c)

Text proposed by the Commission

(c) the right of workers within the meaning of Article 2 to return to their jobs or to equivalent posts on terms and conditions that are no less favourable to them and to benefit from any improvement in working conditions to which they would have been entitled during their absence;

Amendment

(c) the right of workers within the meaning of Article 2 to return to their jobs or to equivalent posts on terms and conditions that are no less favourable to them and to benefit from any improvement in working conditions to which they would have been entitled during their absence; ***in exceptional circumstances of restructuring or substantial reorganisation of the production process, workers shall in all cases be guaranteed the possibility of discussing the impact of the changes on their professional and, indirectly, their personal situation;***

Or. ro

Amendment 52
Anja Weisgerber

Proposal for a directive – amending act

Article 1 – point 3 – point b

Directive 92/85/EEC

Article 11 – point 2 – point (c a) (new)

Text proposed by the Commission

Amendment

(ca) Workers within the meaning of Article 2 shall maintain their opportunities for career development through education and training.

Or. de

Justification

The workers should be supported, but they should not be given a right to additional measures, as many Member States do not make any such provision for workers in general; therefore it should not be introduced for workers within the meaning of Article 2.

Amendment 53
Gabriele Stauner

Proposal for a directive – amending act

Article 1 – point 3 – point b

Directive 92/85/EEC

Article 11 – point 2 – point (c a) (new)

Text proposed by the Commission

Amendment

(ca) The Member States shall ensure that the period of maternity leave is counted as a period of employment for pension purposes and that workers do not suffer any reduction of pension rights through taking maternity leave.

Or. de

Justification

It is important to ensure that workers do not suffer any reduction of pension rights through taking maternity leave. The Member States must prevent this and compensate any loss of pension rights.

Amendment 54
Rovana Plumb

Proposal for a directive – amending act

Article 1 – point 3 – point b

Directive 92/85/EEC

Article 11 – point 2 – point (c a) (new)

Text proposed by the Commission

Amendment

(ca) the right of women workers, pursuant to Article 2, to education and ongoing professional training with a view

to consolidating their career prospects.

Or. ro

Amendment 55

Gabriele Stauner, Thomas Mann

Proposal for a directive – amending act

Article 1 – point 3 – point c

Directive 92/85/EEC

Article 11 – point 3

Text proposed by the Commission

(3) the allowance referred to in point 2(b) shall be deemed adequate if it guarantees income equivalent to the last monthly salary or an average monthly salary, subject to any ceiling laid down under national legislation. Such a ceiling **may** not be **lower** than the allowance received by workers within the meaning of Article 2 in the event of a break in activity on grounds connected with the worker's state of health. The Member States may lay down the period over which this average monthly salary is calculated.

Amendment

(3) the allowance referred to in point 2(b) shall be deemed adequate if it guarantees income equivalent to the last monthly salary or an average monthly salary, subject to any ceiling laid down under national legislation. Such a ceiling **should** not be **less than 90% of** the allowance received by workers within the meaning of Article 2 in the event of a break in activity on grounds connected with the worker's state of health. The Member States may lay down the period over which this average monthly salary is calculated.

Or. de

Justification

A lower ceiling seems advisable, to give Member States more flexibility in adjusting their national legislation.

Amendment 56

Kathy Sinnott

Proposal for a directive – amending act

Article 1 – point 3 – point d a

Directive 92/85/EEC

Article 11 – point 5 a (new)

Text proposed by the Commission

Amendment

(da) The following point is added:

"(5a) Member States shall take the measures to ensure that employers provide sufficient breaks and appropriate accommodations for workers that have returned from maternity leave and wish to continue breastfeeding."

Or. en

Justification

According to WHO Recommendation A55/15 "infants should be exclusively breastfed for the first six months of life to achieve optimal growth, development and health. Thereafter, to meet their evolving nutritional requirements, infants should receive nutritionally adequate and safe complementary foods while breastfeeding continues for up to two years of age or beyond". This article has been added to ensure that women are able to continue breastfeeding beyond their six months of maternity leave.

Amendment 57
Anja Weisgerber

Proposal for a directive – amending act

Article 1 – point 4

Directive 92/85/EEC

Article 12a

Text proposed by the Commission

Amendment

(1) Member States shall take such measures as are necessary in accordance with their national judicial systems to ensure that when persons who consider that their rights under this Directive have been breached establish, before a court or other competent authority, facts from which it may be presumed that there has been such a breach, it shall be for the respondent to prove that there has been no breach of the Directive.

deleted

(2) Paragraph 1 shall not prevent the Member States from introducing rules of

evidence which are more favourable to plaintiffs.

(3) Paragraph 1 shall not apply to criminal proceedings.

(4) Member States need not apply paragraph 1 to proceedings in which the court or competent body investigates the facts of the case.

(5) Paragraphs 1 to 4 shall also apply to any legal proceedings commenced according to Article 12.

Or. de

Justification

Discrimination on grounds of pregnancy already fulfils the criteria for sex discrimination. The existing reversal of the burden of proof enshrined in Directive 2006/54/EEC can also be brought to bear.

Amendment 58 **Elisabeth Schroedter**

Proposal for a directive – amending act
Article 1 – point 4
Directive 92/85/EEC
Article 12a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(4a) Member States shall ensure that associations, organisations or other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.

(If this amendment is adopted, Paragraph 5 shall be amended accordingly to read:

'Paragraphs 1 to 4a shall also apply to any legal proceedings commenced according to Article 12.')

Or. de

Amendment 59
Anja Weisgerber

Proposal for a directive – amending act

Article 1 – point 6

Directive 92/85/EEC

Article 12c

Text proposed by the Commission

Member States shall lay down the rules on penalties applicable to breaches of national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied.

Penalties may comprise payment of compensation, which may not be limited by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive.

Amendment

Member States shall lay down the rules on penalties applicable to breaches of national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied.

Or. de

Amendment 60
Rovana Plumb

Proposal for a directive – amending act

Article 1 – point 7

Directive 92/85/EEC

Article 12d

Text proposed by the Commission

Member States shall ensure that the body or bodies designated under Article 20 of Directive 2002/73/EC as recast by Directive 2006/54/EC for the promotion,

Amendment

Member States shall ensure that the body or bodies designated under Article 20 of Directive 2002/73/EC as recast by Directive 2006/54/EC for the promotion,

analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex shall be competent in addition for issues falling within the scope of this Directive, where these issues pertain primarily to equal treatment and not to the worker's health and safety.

analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex shall be competent in addition for issues falling within the scope of this Directive, where these issues pertain primarily to equal treatment and not *solely* to the worker's health and safety.

Or. ro

Amendment 61
Rovana Plumb

Proposal for a directive – amending act
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Member States may adopt preventive measures for the protection and safety at the workplace of pregnant workers and mothers of newly-born infants;

Or. ro

Justification

Workplace stress can have an adverse psychological affect on pregnant women and mothers of newly-born infants and can have repercussions for the foetus or infant.

Amendment 62
Jamila Madeira

Proposal for a directive – amending act
Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. It is recommended that the rules arising from this directive be transcribed in the text of collective and individual

work contracts in the Member States.

Or. pt

Justification

Women workers very often do not avail themselves of their rights because they do not know they are protected by the law. If those rights are referred to in their contracts, the nature of the applicable legislation becomes more transparent.