

July 2023

AGF statement on the

Report of the Independent Advisory Council on Reconciliation of Care and Work 2023

Background

The Independent Advisory Council on the Reconciliation of Care and Work submitted its second full report to the minister for family affairs, Lisa Paus, in July 2023. In August 2022, a partial report of the Advisory Council was published, which outlined the main content of a new family care leave scheme. This forms chapter 2 of the full report, which now has been published. In addition, the full report covers additional needs for further developments in the care system to support family caregivers (which includes non-relatives who are close to the person in need of care and who take on the responsibility for care). It addresses the particular problems of reconciling care with work that face parents with children and young people in need of care, describes the challenges of supporting caregivers who work in small and medium-sized enterprises and concludes with an assessment of the challenges arising from the COVID-19 pandemic. Regarding the last point, the report calls for the reform of care institutions so that they can be guaranteed to function in future crises. On all these issues, the Advisory Council presents recommendations that support family caregivers and the reconciliation of family care and professional work. The AGF is a member of the Council and has contributed to the conception of the proposals.

The unresolved issue of reconciling care and work is of utmost relevance to families. Hence, the current situation needs urgent improvement for several reasons. First, caring relatives have to carry heavy burdens of work and high follow-up costs, including low pensions. Second, the current legal regulations do not provide sufficient relief, either financially or in terms of time. The financial measures are limited to free loans and, since they do not take into account the needs of carers, they are therefore rarely used.

The Independent Advisory Council on the Reconciliation of Care and Work puts forward important proposals for the further development of the support system for caring relatives. Already at the time when the partial report was published in 2022, family organisations emphasised that the introduction of a well-functioning family care leave scheme with adequate financial compensation would be a milestone for the reconciliation of family and work and a big step towards the recognition of the caregiving services of families. The AGF is of the view that the federal government should now take up this and the other proposals of the Council and implement them accordingly – especially since the introduction of such care leave is already embedded in the coalition agreement of the current government.

Reconciliation problems of caring families

Family members are the main support for the care of people with care needs: In Germany there are almost five million people in need of care, of whom approximately 80 % live in a home environment. More than half (2.55 million) are cared for exclusively by relatives. Another 1.05 million people are cared for in their households with the help of or entirely by outpatient nursing and care services.

Even among those who receive professional care, families, and in them predominantly women, make a large contribution to the care. Given that the number of people in need of care is going to grow in the future and that professional care



structures are already under considerable pressure, we may expect that the role of family caregivers will become increasingly important.

For many families, intra-family care is a question of solidarity between the generations and is often taken on willingly and voluntarily. Individuals aim to provide good care for their relatives. On the other hand, caring for relatives is often a necessity because professional structures are not available in sufficient numbers or do not meet specific needs. Either way, families are confronted with special challenges when someone starts to require nursing.

For family members, caregiving is often very time-consuming, in some cases it is physically and psychologically stressful, and it inevitably leads to time conflicts with the demands of employment. In this situation, families need reliable and systematic support, as well as adequate time resources. This is particularly important, as caregiving tasks often arise suddenly and unexpectedly, making it difficult to plan for their duration and intensity. Currently, there are no effective legal options to support the reconciliation of care and work. Care leave and family care leave in their present form do not provide sufficient relief, they are impracticable and therefore they are rarely taken up.

As the majority of carers are of working age, new solutions must be found to the problem of reconciliation. This is also highly relevant from a societal point of view, as about one in ten employees cares for relatives. Not least for this reason, society must take greater responsibility for care, taking into account the needs of both the person cared for and of caring relatives. Strong support is essential to ensure that intra-family negotiations lead to stable and mutually beneficial care arrangements.

Currently, the caregiving relatives, especially women, often try to resolve the reconciliation dilemma individually, by reducing their working hours or even leaving employment completely. However, the direct and indirect costs of these individualised 'solutions' are enormous, especially as many family members have other family responsibilities as well, notably childcare. Women and men who are carers forgo all or part of their income and have to settle for lower wages (if they return to work) and lower pension benefits in the long run.¹ This exacerbates the risk of female old-age poverty in particular.

However, for other caregiver relatives, the time conflict is not resolved at all, which leads to sometimes extreme physical and psychological stress. At the same time, there is a danger that the relatives in need of care do not receive the necessary attention and care that both sides desire.

In addition to a needs-based legal and financial regulation of the reconciliation of care and professional work, caring relatives need a good, supportive care infrastructure that is accessible to and affordable by all. Those in need of care who have only a low income and no financial assets must have the option to choose their care arrangement, either home or institutional care. Furthermore, the access to those services and offers must be designed in a culturally sensitive way in order to offer real support also to families with a migration history and to transnational families in which parents are in need of care.

Family care leave and the family care allowance

A central component of the report is the introduction of a new family care leave scheme. This is supposed to merge the current laws on care leave and family care leave, which are both intended to serve to reconcile care and work. The Advisory Council is thus following up on its own first report, which first made this proposal in 2019. The core of its 'new family care leave' is a tax-funded wage replacement benefit for periods when caregivers reduce their working hours or withdraw completely to care for a relative (the former is limited to 36, the latter to six months). In addition, measures for working time flexibility are proposed. These building blocks are rightly highlighted, and the family organisations underline the paramount importance of an effective family care leave scheme with adequate financial compensation.

¹ In this context, consideration should be given to whether changes in the pension system are necessary to solve these problems and what such changes should be.

In its report, the Council was guided, among other things, by the principle that the required measures should contribute to a more gender-equal division of family care tasks and that employed men should undertake a greater share of family care. Another principle was that employment should in principle be maintained during the period of caregiving. Any measures should promote a balance between care and employment, rather than providing benefits for those who leave the labour market and thus increase the risk of poverty in old age for relatives that were caregivers.

The family organisations emphasise that special challenges for families in providing care often arise suddenly and unexpectedly and that the duration and intensity of care usually cannot be planned. Therefore, the report's proposals for supporting a temporary complete withdrawal from work are appropriate. Currently, the entitlement for a complete withdrawal to up to six months' leave exists under the Care Time Act. This is undoubtedly significant in ensuring flexibility, but it will only have a positive effect when backed by financial compensation, which is lacking at present.

Extending the definition of the term 'relatives'

The AGF very much welcomes the proposal to expand the concept of 'relatives'. Thus, non-core relatives who take on care responsibilities for 'elective relatives' will also get support for their care activities. Care relationships are not always linked to direct family relationships. Support for informal care must do justice to the diversity of modern family life.

Families increasingly do not live in one place. This makes it more difficult for many families to take on care obligations that go beyond purely organisational matters. Therefore, the report rightly defines carer relatives as people who either have a kinship relationship in the sense of the former definition of a close relative in the Caregivers Law (PflegeZG) or have a special relationship with the person in need of care. The person in need of care must be the one to decide who is a 'close relative' and by whom she or he would like to be cared for.

Designing the paid carers' leave scheme – reconciling social and equality policy goals

The AGF strongly supports the demands of the report. As a member of the Council, the AGF participated in drawing up the proposal. However, on the specific question of the amount and calculation of tax-funded family care leave, the AGF differed from the majority of the Council and lodged a dissenting opinion.²

The AGF sees the need for a better gender-equal distribution of care work and supports measures that are aligned with this goal. However, the design of family care leave should also take social factors into consideration. Especially for families with low incomes, care services that are not covered by care insurance become unaffordable, with the result that the families (have to) take on care tasks themselves

With regard to the effects on the goal of gender equality, the AGF doubts that a design of the family care leave as a direct parallel to the design of the of paid parental leave will have the same beneficial effects for carers as those that have fortunately been shown with parental leave. In family care, we are dealing not so much with male–female dyads as we do in the context of with the majority of parents, who decide freely (or according to economic needs) which parent will take on which share of the care. The potential caregivers assigned to an older family member are not automatically male-female constellations: for example, some parents have only female or only male children, or there is de facto only one gender available to care for relatives because the children live too far away to be of help. In addition, the decision about the caregiver cannot be made without the person in need of care.

Therefore, the AGF questions the efficacy of the use of funds in providing the family care allowance with regard to the equality policy goal. At the same time, however, it seeks to avoid a socio-politically unfair distribution that will disadvantage persons with low incomes if family care leave is calculated in exactly the same way as parental leave.

² The Forum for Progressive Family Policy (ZFF) was not yet a member of the AGF at that time. Nevertheless, the ZFF is similarly of the view that, when introducing a wage replacement benefit, social factors must be taken into account in addition to gender-equality goals, so that families with low incomes in particular are actually supported. How this can and should be reflected in the concrete design of family care leave is currently (July 2023) being discussed within the ZFF in a position-finding process.



Weighing up these points, it seems reasonable to set the paid care leave as a lump sum of an appropriate amount or at least to give a higher value to social criteria than is the case with parental leave payment. This means, for example, that if assessment for family care leave is to be based on the applicant's previous income, in groups with low incomes a higher percentage of the previous income is taken into account than for parental leave or the upper income limit for full wage replacement benefit is set higher. With the same overall tax expenditure, the AGF considers the impacts on social equality is a more urgent need and also more effective compared to the impacts on gender equality than the wage-equivalent benefit preferred by the majority of the Advisory Council. The AGF fears that without the adequate gender equality effect that we observe in parental leave, the redistribution of money from those at the bottom of society to those at the top is not justified.

The framework conditions for reconciling care and work: the need for mixed-care arrangements involving both professional and family care

The introduction of a paid family care leave is an important element within the mix of measures. However, more measures are needed. For example, the expansion of the supporting infrastructure is an important precondition for successful reconciliation. Therefore, from the point of view of families, formal professional care services must be expanded and the conditions for cooperation between formal and informal care must be improved. This is all the more necessary as care may be required for a long time – often longer than the cutoff point proposed paid family care leave. This applies especially to the long-term care of children and young people and to family members with disabilities.

The report's reference to the social space as a potential resource for people in need of care and their family caregivers corresponds to the experiences of caring families. Accessible support services in the home environment of the person in need of care have a decisive influence on the quality and stability of home care, as well as on the possibilities for reconciling care and professional work for the family carers.

The need for quantitative and qualitative development of care models and care structures

The AGF therefore supports the general approach of the Advisory Council to the further development of care models and care structures: the promotion of mixed-care arrangements and the development of municipal and support infrastructures for family carers who are in work can both help to avoid excessive demands on such family members. To transform the fragile support relationship by a family caregiver into a stable, differentiated care arrangement, this stronger mix of informal family and formal professional care is usually needed. This needs to be accompanied by family-oriented working conditions and state support in reconciling care and work.

Families should thus become more fully aware of these mixed-care arrangements and the care structures should be further developed towards this goal. The needs of family caregivers include flexible care support services that can be adapted to the changing conditions in their households. Thus, the recommendation of the Advisory Council is worth emphasising: "Professional care and care by relatives must be better interlinked and combinable as flexibly as possible, including services for preventive care, short-term, day and night care."³ These services must be comprehensive, accessible and without barriers.

Early counselling: the basis for fair intra-family decisions

From the family's point of view, the importance of counselling and case management in the care process can hardly be overestimated. The Advisory Council rightly emphasised this in its first report in 2019. The AGF supports the demands for neutral counselling and the expansion of outreach counselling services. That "relatives and people in need of care [...] are informed about the services in good time when the need for care arises" is a self-evident and necessary prerequisite for people in need of care and their families to be able to make informed, "good" decisions about the design

³ At the time of the writing of the statement no English version of the Council's report has been published. Therefore all quotes were translated by AGF.

of their care arrangements. Indeed, the family organisations even go one step further: families should not only be provided with basic knowledge about support options "in good time when the need for care arises" but even before the onset of health problems and the need for care.

To be able to act quickly when a health crisis arises, the basis for intra-family exchange should be laid down in advance. This should include the wishes and hopes of those potentially in need of care and the potentially caring relatives regarding the organisation of care. Decision-making within the family that considers both the ideas of relatives on their possible increasing need for help and the resources of the likely caring relatives, as well as the consequences for them and for their (employment) biography and social security, should not primarily take place under acute pressure to act. Counselling should therefore be offered and taken advantage of at an early stage. From the AGF's point of view, this opens up a field of cooperation between care counselling and family education.

If a decision about remaining in the home has to be made quickly when the need for care arises or in an acute health crisis, the needs of all those involved can often no longer be sufficiently taken into account. However, acute situations undoubtedly require particularly intensive counselling and support.

24-hour care

The AGF welcomes the fact that the report at least briefly takes up the question of so-called "24-hour care". At a conference in 2021, the AGF discussed the tension between the requirements of families in need of care and the consequences for the families of foreign carers.⁴ Against this backdrop, with regard to the Advisory Council's recommendation to "swiftly implement a legally secure basis for care in the home environment that meets the needs of carers, those in need of care and care workers", the AGF points out that the realities demand that the legal security afforded by regulation should not be the only criterion. The women (and to a lesser extent men) who live as carers in the households of older people in Germany themselves mostly have children or parents in need of care in their countries of origin. In the spirit of justice and solidarity, legal certainty must be provided for German families, but also there must be a fair balance between the interests and needs of families in Germany and those in the care workers' countries of origin. At the very least, this means that no sub-standards under labour law are created and legitimised for these workers.

Freedom of choice – for whom and how?

The report rightly states that the interests of those in need of care and all those involved must be taken into account when designing care arrangements. At the same time, in line with its mandate, the report focuses on the decision-making scope of caring relatives within the care relationship.

When discussing freedom of choice, however, it should be pointed out that other perspectives and elements also determine its framework. Specifically, this is the perspective of those in need of care, which is mentioned but not intensively examined in the report. Respect for their self-determination is vitally important in terms of their autonomy and quality of life. This should be reflected more strongly in the report's remarks. For example, the reality of those in need of care cannot be changed by a sheer act of will, such as shaking off the role of caring relative. Often, the freedom of choice of those in need of care with regard to home care ends at the moment when relatives are overburdened or declare themselves to be so, because in our system sustainable home care arrangements are scarcely possible without family support.

Furthermore, the focus on relatives' freedom of choice means that the fact that there is in reality no such freedom owing to the lack of adequate support or the subjectively perceived poor quality of the infrastructure recedes into the background. As a result, there is enormous moral and to some extent financial pressure on the (female) relatives to supply family care. This is also a potential for conflict between the relatives, their different needs and abilities.

⁴ See report: <https://ag-familie.de/en/expert-discussion-care-workers/>.



Families with children and young people in need of care

The AGF very much welcomes the fact that, in this reporting period, the Advisory Council took a close look at the special situations of families in which children and young people are cared for. This does justice to the very special challenges of these families. It is true that situations differ greatly, among other things with regard to the need for care and support or the degree of autonomy of the children. What they do have in common, however, is that there are often great uncertainties and fears about the future of the children's individual development and opportunities for inclusion. The support structures must respond flexibly to these needs in order to guarantee the care of the children and young people according to their ages and needs, as well as to take into account the parents' difficulties in reconciling care and professional work.

Improving the quality of life of children and parents by better reconciliation

Progress in reconciling work and care often goes hand in hand with improving the quality of life of the children in need of care, as they benefit from relieved, less stressed and more satisfied parents. Enabling inclusion for the child and the other family members should therefore be taken together as the goals of all supportive measures.

From the perspective of children in need of care, one important goal as they grow up is to achieve the greatest possible social inclusion and autonomy – also in relation to their own parents. Therefore, such children should not be forced into permanent dependence on their parents; nor should the parents be forced to provide lifelong care.

Insufficient infrastructural and financial support structures

In this context, the report rightly points out that finding and utilising institutionalised support services still pose considerable difficulty for families. This is because of the lack of care services specialised in the professional care of young people and their caregivers. Therefore, children are almost exclusively cared for by mothers (and, to a lesser extent, fathers) at home. It is also other family members and friends who provide temporary relief and stand in for the parents when required.

The report rightly criticises the existing legal regulations and infrastructure as insufficient. These lead to parents, usually mothers, leaving the labour market completely or at least significantly reducing their working hours for a very long time in order to take care of their child. As a consequence, these families have to get by on low family incomes for years, with corresponding consequences for the parents' pension expectations. Additional financial burdens due to care-related adaptations to accommodation, vehicles suitable for disabled persons and costs for care services that are not subsidised exacerbate the situation. Both the single earner and the caring parent are under enormous pressure to fulfil their respective tasks. In the case of single parents, the burdens fall on one person, which leads to very precarious situations, both financially and psychologically.

Counselling as a central factor

Early support for parents and children through professional counselling is crucial. Parents with children in need of care have to invest a lot of time and energy in gathering important information about support and assistance services. What is needed is an independent information and counselling body that accompanies the families over their life course and has comprehensive expertise on the various laws and regulations underlying care and on the support services that exist locally. The Council's recommendations to "ensure independent counselling for parents of children and young people in need of care, using the structures of existing information and counselling centres, and to establish and expand a competence centre at federal level as a pilot with special expertise on the needs of families with children or adolescents in need of care" should therefore definitely be pursued further.

Expanding inclusive education and care services

The reconciliation of care and work for families with children or young people in need of care is strongly influenced by "indirect" infrastructural conditions. If the children attend a suitable care and education facility, caring mothers (and



fathers) can resume work that was interrupted or, if necessary, increase their number of working hours again. The qualitative and quantitative expansion of care and education facilities is strongly supported by family organisations, as it serves to reconcile care and work for parents and can enable children and young people to exploit to the fullest their potential for an autonomous, happy, productive and fulfilled life. The expansion of a high-quality education and care structure, which is necessary in any case, poses a particular challenge, as many providers already lack the necessary resources and in some cases do not have the competences to adequately support children or young people in need of care and their relatives.

Improvements needed in children's sickness allowance

With regard to children's sick days, the Advisory Council's proposals are highlighted here because they can be implemented quickly and relatively easily. When a child is ill, it is proposed that the number of working days, which include an entitlement to sick pay, be permanently increased to the level authorized during the COVID-19 pandemic. Additionally, it should be possible to transfer children's sick pay to caring family members or others close to the child to mitigate the difficulties that families have in accessing suitable professional support.

Carers in small and medium-sized enterprises (SMEs)

In contemplating the ways in which care and work can be reconciled, the issues that arise for companies must also be factored in. This is particularly the case with small and medium-sized enterprises, which have to deal with day-to-day challenges when employees take time off. The starting point is the aim of providing all carers with the necessary support, regardless of the size of their employer. More than half of all employees in Germany are employed in SMEs. Because the majority of SMEs belong to the services sector, women are disproportionately represented in their workforces. In micro-enterprises with fewer than five full-time equivalents, they even make up 60 percent of employees.

Limited eligibility by company size

The family organisations appreciate that many SMEs make an effort to support their employees who have caring responsibilities. In very small companies especially, people relate on a personal level that allows flexible working and an understanding of emergencies and challenges, as well as pragmatic solutions arrived at between and among employees and management. Nevertheless, the experience of the family organisations also shows that only a minority of SMEs have so far fully exploited the possibilities for supporting the reconciliation of care and work.

For the family organisations it is important that, as far as possible, all individuals have equal rights to the support measures. Therefore, the AGF would have welcomed a recommendation on the new family care leave that treats employees in small and large companies equally. At the same time, the AGF is aware that the planned leave regulations can pose great challenges for small companies.

The Council proposed that the "entitlement to partial leave [...] does not apply to companies regularly employing 15 or fewer employees". This does eliminate the currently pertaining unequal treatment, which is due to the two different care leave laws in Germany: The entitlement to partial leave by the Caregiver Leave Act applies to employees in companies with more than 15 employees, but under the Family Caregiver Leave Act this applies to employees in companies with more than 25 employees. The AGF supports harmonisation of these two laws, but a significant percentage of employees would still be excluded from the legal entitlement. To limit this exclusion, the Council proposes that in small enterprises that offer family care leave voluntarily, the carers should have the same rights and should not be disadvantaged compared to those working in larger ones. This is a reasonable approach.

In addition, when implementing the new provision for family care leave, it is essential to devise ways to support its take-up by employees in small companies and to create medium-term perspectives for the inclusion of all employees in the eligible group.



Similarly, the AGF welcomes the Council's proposal that self-employed persons should also be eligible to take advantage of family care leave. Hitherto, the self-employed have not been taken into account in the PflegeZG and the FPfZG. They should also be entitled to a compensatory allowance similar to the tax-funded allowance so as to make it possible or easier for them to take time off for caring duties.

The AGF supports the decision of the Council to deal with the question of SMEs again in more depth in the next Council period. In view of the high proportion of carers in SMEs, the family organisations deem access to good reconciliation measures important for this group.

Suggestions for further discussion in the coming Advisory Council periods

Potential clashes of interests between people in need of care and the family caregiver

From the AGF's point of view, the Advisory Council should, in its next report, pay closer attention to groupings in which the interests of the person in need of care and the family caregiver do not coincide and examine how such situations are influenced by the existing support offers. Families regularly face situations where there is a lack of support and counselling to enable them to deal better with such conflicts. Families need these services in order to establish a care arrangement in which the interests and preferences of all parties can be observed as much as possible in the context of the available resources and limitations.

Bringing the perspective of caring families into the discussion on the further development of preventive, short-term, day and night care

From the point of view of the family organisations, the Council should deal more robustly with the quantitative and qualitative development needs of preventive, short-term, day and night care. For example, the decisive role of short-term care, according to § 42 SGB XI for home care, has long been emphasised as the means of keeping the family care arrangement viable, for instance in cases of acute health crises, after a hospital stay or when family carers are overloaded with crisis-related responsibilities. While the discussion on the quantitative need and the qualitative development of the offers (e.g. intermittent vs. a single episode of short-term care, quality standards) is currently mainly driven by service providers, care professions and academics, the Council could focus more on the perspectives of families and caring relatives and their effects on the problem of reconciliation.

Focus on transnational families

The special challenges of transnational families and families with migration histories have not been given enough consideration in the Council's two reports to date. Transnational family care arrangements can be particularly challenging, as intra-family care and assistance may be long-distance and across national borders. The current legal regulations do not take these situations into account. Germany is actively recruiting new workers and benefits particularly from qualified immigrants in view of the shortage of skilled workers. In most cases, they leave behind close family members such as their parents in their countries of origin, who often develop a need for assistance and care simply owing to increasing age. The same applies to all other families with a migration history and who have close relatives in their country of origin, both from other European countries and from third-country nationals.

Here too, opportunities must be created to ensure better reconciliation between professional work and transnational care and support. A new family care leave scheme must therefore include regulations that also provide effective relief to transnational families with their specific needs and to guarantee equal access.

In short, the Advisory Board should shine a light on the situation of these families and develop appropriate recommendations for action.



Summary

The present second report of the Independent Advisory Council on the Reconciliation of Care and Work offers more specific proposals for the development of a new family care leave that was first put forward in its report in 2019. The Council's recommendations respond to the major challenges of reconciling care and work that caregivers face today. More than half of the five million people in need of care in Germany are cared for exclusively by relatives. Very often, families also make a large contribution, even if those in need of care receive professional support in the home. Time conflicts between professional work and care, as well as psychological and physical stress, characterise the situations of caring relatives of working age. The majority of the main caregivers are women.

To date, there have only been ineffectual legal possibilities to resolve these time conflicts, namely care leave and family care leave. They do not offer adequate relief, are impracticable and are therefore rarely taken up.

The Independent Advisory Council on the Reconciliation of Care and Work therefore recommends the introduction of a new 36-month family care leave scheme, which includes appropriate tax-funded compensation for reductions in working hours. This benefit is supposed to replace the state loan that is currently offered as financial support. The coalition agreement of the current federal government provides for the introduction of such a benefit, and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth also designates the further development of care time and family care time as one of its priority projects. The family organisations in the AGF support the model of the Advisory Council, except only that they favour lump-sum financial relief instead of the wage replacement benefit. Overall, the introduction of a 36-month family care leave scheme for caregiver relatives, which includes appropriate monetary compensation for reductions in working hours, would be a milestone along the way towards reconciling family and work and a big step towards recognition of the care services provided by families

Although the coverage of the report does not officially extend to the further development of the care system, the report is to be applauded for highlighting the close connection between formal support and the reconciliation of care and work and broadening the discussion beyond direct compatibility measures. The Council's recommendations on the further development of care models and structures, on the relief of families with children and young people in need of care, as well as on the conclusions from the COVID-19 pandemic, serve as important guidelines for the reform of the structural framework of care to improve compatibility between care and work.

The implementation of the Council's recommendations are now a matter for politicians. The coalition agreement announces the further development of the laws on caregiver and family caregiver leave with the aim of giving family caregivers more control of their time and the introduction of a wage replacement benefit in the case of care-related leave. The recommendations of the present report form a blueprint that only needs to be taken up by the federal government.

Berlin, July 2023

