

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 30.03.1994

Re-examined proposal for a
COUNCIL DIRECTIVE
on the protection of young people at work

(presented by the Commission pursuant to Article 189 C (d)
of the EC Treaty)

EXPLANATORY MEMORANDUM

INTRODUCTION

The initial proposal for a Directive on the protection of young people at work, setting out minimum standards applicable to young people under the age of 18, was presented to the Council on 18 March 1992.¹

The Economic and Social Committee gave its opinion on 24 September 1992.

The European Parliament gave its opinion at first reading on 17 December 1992.

On 15 February 1993, the Commission forwarded to the Council an amended proposal for a Directive.²

On 23 November 1993, the Council adopted a common position taking account of changes made to the amended proposal by the European Parliament.

The European Parliament examined the common position at a second reading on 9 March 1994 and endorsed it subject to twenty proposed amendments.

The Commission adopted 7 amendments, either wholly or in part, in its re-examined proposal. The amendments concerned are Nos 1, 3, 4, 13 (2), 16, 26 and 28.

Amendments adopted

Amendment No 1

New recital to the effect that the Community should observe the principles laid down in the ILO Conventions, in particular Convention No 138.

Comment:

The recital is worded along the lines of the similar text in the Directive on the organisation of working time.

Amendment No 3

Deletion of the twenty-second recital concerning the additional transitional period granted to the United Kingdom for the implementation of some provisions of the Directive.

¹ OJ C 84, 4.4.1992

² OJ C77, 18.3.1993

Comment:

Since a transitional period of this nature is not permissible for the implementation of provisions relating to weekly working time for children, the term "young people" is deleted and replaced by "adolescents".

Amendment No 4

Rewording of the last part of Article 1(1) to read "is not lower than the age of completion of compulsory full-time schooling and, in any case, not less than 15 years".

Comment:

The amendment provides necessary clarification in terms of setting a minimum working or employment age which may not be lower than 15 years.

Amendment No 13 (last part)

Introduction, in Article 8(2), of a limit on working time (2 hours per day, 12 hours per week) for adolescents who are still in full-time education.

Comment:

Since the principle of limiting the working time of the adolescents concerned is accepted, a new general provision is inserted in Article 8(2).

Amendment No 16

Narrowing of the scope for derogation from the prohibition on night work, under Article 9(2)(a), as regards adolescents.

Comment:

In order to define more clearly the scope for derogation, additional provisions are aimed at specifying the nature of activities covered by the derogation and ensuring that the work in question is performed under the supervision of an adult worker.

Amendment No 26

Introduction of a "non-regression" clause in a new Article 16a.

Comment:

The Article is worded along the lines of similar provisions in other directives.

Amendment No 28

Deletion of Article 18(1)(c) providing for the United Kingdom to be granted an additional transitional period for implementing certain provisions of the Directive, with the possibility of the period being extended.

Comment:

A transitional period of this nature is not permissible for the implementation of provisions relating to weekly working time for children. Consequently, the phrase "Article 8(1)(b) first subparagraph with regard to the provision relating to the maximum weekly working time" is deleted.

Moreover, in order to make clear that this is the period deemed necessary for the United Kingdom to adapt its internal law to the Directive, the last part of Article 18(1)(c) is deleted.

Amendments not adopted

The Commission wishes to make the following comments in respect of the rejected amendments.

Amendment No 6

The words "and/or after consultation with both sides of industry" are added to Article 4(2)(b) after the phrase "provided that such work is done in accordance with the conditions laid down by the competent authority".

Comment:

It is up to the Member States to establish the mechanisms for the formulation of standards. Nevertheless, as regards implementation of the provisions of the Directive, the two sides of industry are expressly involved under Article 18(1)(a), and their views are taken into account in the Member States' reports to the Commission as provided for in Article 18(4).

Amendment No 7

Removes the possibility of authorising light work in certain categories from the age of 13 onwards (Article 4(2)(c)).

Comment:

Article 4(2)(c), which in principle sets a minimum age limit of 14 for taking up light work, clearly improves on the level of protection provided for initially. This principle has to allow for flexibility in specific cases covered by national legislation. To this end, the age of 13 remains a socially acceptable threshold.

Amendment No 8

Addition of a reference to Articles 6, 7, 10 and 12 of the framework Directive 89/391/EEC.

Comment:

Insofar as these Articles apply fully to the protection of young people at work, the addition in question is not necessary.

Amendment No 10

Specifies that information on possible risks is to be provided in writing to the parents or guardians of young people.

Comment:

The requirement to provide written information might constitute an excessive administrative burden for small businesses and might be counterproductive in terms of getting the message over.

Amendment No 15

New period of time (20.00 hours to 08.00 hours) during which night work by children under the age of 14 is to be prohibited.

Comment:

Children are given a daily rest period of 14 hours. The prohibited period laid down in the common position (20.00 - 06.00), combined with the preceding provision, satisfactorily addresses the major concern of protecting children.

Amendment No 17

Deletion, from Article 9(2)(b), of the possibility of derogation from the ban on night work (between 00.00 and 04.00) in respect of the police and hospitals.

Comment:

The possibility of derogation in such instances is justified in view of the specific requirements of activities performed in occupations which serve the public good.

Amendment No 18

Addition of a new paragraph in Article 9 providing, in the event of derogation from the prohibition on night work, for supervision by an adult worker.

Comment:

Appropriate supervision is provided for in connection with risk assessment under Article 6(4).

Amendment No 19 (1)

Removal of the scope for flexibility in respect of the minimum weekly rest period for children undergoing vocational training or performing light work.

Comment:

A degree of flexibility is reasonable, particularly as regards vocational training activities or light work involving services to the public.

Amendment No 20

Deletion of paragraph 3 from Article 10, providing for interrupted rest periods in cases where work is split up over the day or is of short duration.

Comment:

This paragraph deals with specific forms of work which, despite being split up or of short duration, are not detrimental to the health and safety of young people, whereas they could be jeopardised by the deletion of this paragraph.

Amendment No 22

Removal, from Article 10(4), of the scope for derogation from rest periods in respect of the police, agriculture, tourism and the hotel and catering industry.

Comment:

As regards this point, see comments relating to amendments 17 and 20.

Amendment No 24

Inclusion of a new subparagraph in Article 8(5), entitling young people to unemployment benefits comparable to those granted to adults.

Comment:

This provision does not fall within the context of the Community initiative.

Amendment No 27

In Article 18(1)(b), replacement of the three-year transitional period for applying Article 12 (annual leave) by a maximum period of two years.

Comment:

The adaptation period provided for is reasonable and is in line with that provided for in the Directive on the organisation of working time.

Amendment No 34

Extension of the annual rest arrangements to all categories of children referred to in Article 4(2).

Comment:

The category of children referred to in Article 4(2)(a) is, as regards working conditions, covered by unilateral arrangements. These arrangements, to be determined by the Member States, are nevertheless subject to the condition that the children's attendance at school is not affected (Article 5(2)(ii)).

Re-examined proposal for a
Council Directive
on the protection of young people at work

COMMON POSITION	AMENDED TEXT
Citations and recitals 1 to 3	Unchanged
	<u>Recital 3a (new)</u>
	<u>Whereas it would be appropriate to observe the principles of the International Labour Organization with regard to protection of young people at work, including those relating to the minimum employment age;</u>
Recitals 4 to 21	Unchanged
Recital 22	
Whereas the implementation of some provisions of this Directive poses particular problems for one Member State with regard to its system of protection for <u>young people</u> at work; whereas that Member State should therefore be allowed to refrain from implementing the relevant provisions for a suitable period.	Whereas the implementation of some provisions of this Directive poses particular problems for one Member State with regard to its system of protection for <u>adolescents</u> at work; whereas that Member State should therefore be allowed to refrain from implementing the relevant provisions for a suitable period.
<u>Article 1</u>	
1. Member States shall take the necessary measures to prohibit work by children.	1. Member States shall take the necessary measures to prohibit work by children.
They shall ensure, under the conditions laid down in this Directive, that the minimum working or employment age is not lower than the minimum age at which compulsory full-time schooling as imposed by national law ends or 15 years.	They shall ensure, under the conditions laid down in this Directive, that the minimum working or employment age is not lower than the age of completion of compulsory full-time schooling as imposed by national law <u>and, in any case, not less than 15 years.</u>
Paragraph 2	Unchanged
Paragraph 3	Unchanged
<u>Articles 2 to 7</u>	Unchanged

Article 8

Paragraph 1

Unchanged

2. Member States shall adopt the measures necessary to limit the working time of adolescents to 8 hours a day and 40 hours a week.

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Member States shall take the necessary steps to ensure that the working time of adolescents who are receiving education at school is on no account detrimental to their capacity to benefit from the instruction given at school.

Paragraph 3

Unchanged

Paragraph 4

Unchanged

Paragraph 5

Unchanged

Article 9

Paragraph 1

Unchanged

Paragraph 2

a) Member States may, by legislative or regulatory provision, authorize work by adolescents in specific areas of activity during the period in which night work is prohibited as referred to in paragraph 1(b).

a) Member States may, by legislative or regulatory provision, authorize work by adolescents during the period in which night work is prohibited as referred to in paragraph 1(b), in specific areas of activity where night work forms an integral part of the activity.

In such cases, the young person must work under the supervision of an adult worker.

b) If point (a) is applied, work shall continue to be prohibited between 0.00 hours and 04.00 hours.

Unchanged

However, Member States may, by legislative or regulatory provision, authorize work by adolescents during the period in which night work is prohibited in the following cases, where there are objective grounds for so doing and provided that adolescents are allowed suitable compensatory rest time and that the objectives set out in Article 1 are not called into question:

- work performed in the shipping or fisheries sectors;
- work performed in the context of the armed forces or the police;
- work performed in hospitals or similar establishments;
- cultural, artistic, sports or advertising activities.

Paragraph 3

Unchanged

Articles 10 to 16

Unchanged

Article 16a (new)

Without prejudice to the right of Member States to develop, in the light of changing circumstances, different provisions in the field of protection of young people, as long as the minimum requirements laid down in this Directive are complied with, implementation of this Directive shall not have the effect of reducing the overall level of protection afforded to young people in each Member State.

Article 17

Unchanged

Article 18

Paragraph 1

1. (a) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than or ensure, by that date at the latest, that the two sides of industry introduce the requisite provisions by means of collective agreements, with Member States being required to make all the necessary provisions to enable them at all times to guarantee the results laid down by this Directive.

(b) However, Member States shall have the option, when applying Article 12, of making use of a maximum transitional period of three years following the date referred to in subparagraph (a), provided that during the transitional period:

- young people are entitled to annual holiday of three weeks, determined and paid in accordance with the conditions governing the receipt and granting of holiday laid down by national laws and/or practice, and
- the period of three weeks may not be replaced by financial compensation except where the employment relationship is terminated.

1. (a) Unchanged

(b) Unchanged

(c) The United Kingdom may refrain from implementing Article 8(1)(b) first subparagraph with regard to the provision relating to the maximum weekly working time, and also Article 8(2) and Article 9(1)(b) and (2) for a period of four years from the date specified in subparagraph (a).

(c) The United Kingdom may refrain from implementing Article 8(2) and Article 9(1)(b) and (2) for a period of four years from the date specified in subparagraph (a).

The Commission shall submit a report on the effects of this provision.

The Commission shall submit a report on the effects of this provision.

The Council, acting in accordance with the conditions laid down in the Treaty, shall decide whether this period should be extended.

(d) Member States shall forthwith inform the Commission thereof.

(d) Unchanged

Paragraph 2

Unchanged

Paragraph 3

Unchanged

Paragraph 4

Unchanged

Paragraph 5

Unchanged

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