

21/01/2003

**REPORT BY THE COMMISSION'S SERVICES ON THE IMPLEMENTATION OF  
COUNCIL DIRECTIVE 97/81/EC OF 17 DECEMBER 1997 CONCERNING THE  
FRAMEWORK AGREEMENT ON PART-TIME WORK CONCLUDED BY UNICE,  
CEEP AND THE ETUC.**

## CONTENTS

<b>INTRODUCTION.....</b>	<b>3</b>
<b>I. NATIONAL LEGISLATION TRANSPOSING DIRECTIVE 97/81/EC (PART-TIME WORK) .....</b>	<b>3</b>
<b>II. ANALYSIS OF TRANSPOSITION MEASURES</b>	
<b>CLAUSE 1. : Purpose .....</b>	<b>7</b>
<b>CLAUSE 2. : Scope .....</b>	<b>8</b>
<b>CLAUSE 3. : Definitions .....</b>	<b>12</b>
<b>CLAUSE 4. : Principle of non-discrimination .....</b>	<b>16</b>
<b>CLAUSE 5. : Opportunities for part-time work .....</b>	<b>24</b>
<b>CLAUSE 6. : Provisions on implementation .....</b>	<b>38</b>
<b>III. GENERAL CONCLUSIONS .....</b>	<b>39</b>

## INTRODUCTION

On 15 December 1997 the Council adopted Directive 97/81/EC implementing the Framework Agreement on part-time work concluded by the social partners. The Directive was extended to the United Kingdom of Great Britain and Northern Ireland by Council Directive 98/23/EC of 7 April 1998. Directive 97/81/EC entered into force on 20 January 1998.

The general cross-industry organisations (Union of Industrial and Employers' Confederations of Europe (UNICE), European Centre of Enterprises with Public Participation (CEEP) and European Trade Union Confederation (ETUC)) concluded, on 6 June 1997, a Framework Agreement on part-time work and forwarded to the Commission their joint request to implement this Framework Agreement, in accordance with Article 4(2) of the Agreement on social policy.

According to the Preamble and Clause 1, the aim of the social partners' Framework Agreement is to provide for the removal of discrimination against part-time workers, improve the quality of part-time work, facilitate the development of part-time work on a voluntary basis and to contribute to the flexible organisation of working time in a manner which takes into account the needs of employers and workers. The Framework Agreement also contributes to the overall European strategy on employment.

Recognising the diverse situations in Member States and acknowledging that part-time work is a very common category of employment in certain sectors and activities, the Agreement signed by the social partners at European level sets out the general principles and minimum requirements relating to part-time work. It illustrates the willingness of the social partners to establish a general framework for the elimination of discrimination against part-time workers (Clause 4) and to assist the development of opportunities for part-time working on a basis acceptable to employers and workers (Clause 5).

The Agreement relates to employment conditions of part-time workers, recognising that matters concerning statutory social security are for decision by the Member States.

The ETUC, UNICE and CEEP have requested the Commission to submit their Framework Agreement to the Council for a decision making these requirements binding in the Member States.

### **I. NATIONAL LEGISLATION TRANSPOSING DIRECTIVE 97/81/EC (PART-TIME WORK).**

#### ***GERMANY***

In Germany, the *Gesetz über Teilzeitarbeit und befristete Arbeitsverträge und zur Änderung und Aufhebung arbeitsrechtlicher Bestimmungen (Teilzeit- und Befristungsgesetz (TzBfG)* – Part-time Working and Fixed-Term Employment Contracts Act) applies to all workers employed on the basis of a private-law employment contract, including those who work in the public service under such an employment contract.

## **AUSTRIA**

Directive 97/81/EC has not resulted in any changes to Austrian law because part-time working was already regulated by the following legislation:

The *Gleichbehandlungsgesetz (GleichbG - Equal Treatment Act)* applies to all workers. § 2 of the Act prohibits any kind of discrimination, in particular with regard to appointment and other conditions of employment.

The *Arbeitszeitgesetz* of 1969 (*AZG - Law on Working Time*), a section of which concerns “*Teilzeitarbeit*” (part-time work). This law stipulates in particular that it is possible to arrange to work part-time, and also prohibits discrimination against part-time workers (§ 19 C, D, E).

The *Arbeitsvertragsrechtsanpassungsgesetz (AVRAG - Employment Contract Law Amendment Act)* - offers the possibility of a reduction in working hours for certain workers, mainly older workers (§ 14). If they meet the conditions for a '*Gleitpension*' (gradual retirement scheme), this Article makes a reduction in working hours compulsory before the courts.

## **BELGIUM**

The Directive has been transposed by the following legislation:

The Act relating to the principle of non-discrimination against part-time workers, which entered into force on 23 March 2002.

Collective Labour Agreement No 35a of 9 February 2000 entered into force on 2 February 2000.

Opinion No 1302 of the National Labour Council "Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC – Transposition into Belgian law" was issued on 9 February 2000.

Opinion No 1317 of the National Labour Council "Implementation of the intersectoral agreement of 8 December 1998: part-time work" was issued on 18 July 2000.

Opinion No 1334 of the National Labour Council "Paid training leave – Draft Royal Decrees extending this to part-time workers" was issued on 19 December 2000.

The Royal Decree of 27 March 2001 "amending various financial provisions" entered into force on 1 May 2001.

Opinion No 1367 of the National Labour Council "Implementation of the inter-sectoral agreement of 22 December 2000: paid training leave" was issued on 17 July 2001.

Some provisions transposing the Directive, including Collective Labour Agreement No 35a came into force before 20 January 2000 or 20 January 2001, taking into account the additional year requested.

## ***DENMARK***

The Directive has been transposed by the following legislation:

Act No 443 of 7 June 2001 relating to part-time work;

Act No 444 of 7 June amending the Salaried Employees Act (Statutory Notice No 622 of 20 July 1999);

The Act relating to leave for military service (Statutory Notice No 981 of 14 December 1993) and

The Collective Agreement of 9 January 2001 concluded by LO (General Confederation of Danish Workers) and DA (Danish Employers' Confederation).

## ***SPAIN***

In Spain, Royal Legislative Decree 15/1998 on urgent measures to improve the labour market, relating to part-time work and the promotion of stability, entered into force on 29 November 1998. Royal Legislative Decree 5/2001 of 2 March 2001 and Act 12/2001 of 9 July 2001 amend certain aspects of part-time work in the *Estatuto de los Trabajadores* (*LET* – Workers' Statute Act).

## ***FINLAND***

Act 55/2001, amending the *Arbetsavtalslag* (*ArbavtL* - Contracts of Employment Act), entered into force on 1 June 2001 and transposes the Directive. The Act contains special provisions concerning, for example, the prohibition of discrimination against part-time and fixed-term workers.

## **FRANCE**

Act No 2000-37 of 19 January 2000 relating to the negotiated reduction of working time, which transposes the Directive, entered into force on 1 February 2000. This Act amends Article L-212-4-2 of the Labour Code by introducing a legal definition of "part-time worker". The principle of non-discrimination against part-time workers is introduced. The amendment also facilitates a free choice with regard to part-time.

## **GREECE**

Article 2 of Act No 2369 of 1 September 1998 on part-time work transposes the Directive.

## **IRELAND**

Ireland has transposed the Directive through the Protection of Employees (Part-time Work) Act, 2001 (PtWA). The Act entered into force on 20 December 2001.

## **ITALY**

The Directive was implemented in February 2000 by *decreto legislativo delegato* No° 61 of 25 February 2000, amended by *decreto legislativo* No 100 of 26 February 2001.

## **LUXEMBOURG**

No specific measures to transpose the Directive were considered necessary by the Luxembourg authorities.

The main provisions concerning part-time work are contained in the Act of 26 February 1993 "concerning voluntary part-time work". The Act includes a definition of "part-time worker", the principle of non-discrimination, the voluntary nature of part-time work and its promotion.

The National Employment Plan implemented by the Act of 12 February 1999, amends the Act of 26 February 1993 without making any significant changes; in addition, it makes provision for social security contributions to be covered by the Employment Fund if transferring a full-time worker to part-time employment leads to the recruitment of a jobseeker.

## **NETHERLANDS**

In the Netherlands, the regulations applicable to part-time work are derived from several sources: the *Wet verbod van onderscheid naar arbeidsduur* (WOA - Act prohibiting discrimination based on working time).

The *Wet aanpassing arbeidsduur* (WAA - Working Hours Adjustment Act) entered into force on 1 July 2000. The purpose of the WAA is to create conditions that allow men and women to combine work and care by making available appropriate forms of leave. The work Hours Act, which entered into force in 1996, provides more flexibility for employers and employees to come to an agreement regarding working hours, in consultation and within certain limits.

## **PORTUGAL**

Act 103 of 26 July, concerning the regulations governing part-time work and encouraging its promotion, which entered into force on 27 July 1999, transposes the Directive.

## **UNITED KINGDOM**

The United Kingdom transposed the Directive on part-time work through the SI 2000/1551 *Part-time Workers (Prevention of less favourable treatment) Regulations* (PtWR) of 2000, and Statutory Rule 2000/219 *(Prevention of less favourable treatment (Northern Ireland) Regulations 2000*.

## **SWEDEN**

The Directive has been transposed by the "Lag om förbud mot diskriminering av deltid arbetande arbetstagare och arbetstagare med tidsbegränsad anställning" entered into force on 1 July 2002; SFS 2002:293 (*Prohibition of Discrimination of Part-time Workers and Workers with Fixed-term Employment Act*).

## **II. ANALYSIS OF TRANSPOSITION MEASURES**

### ***Clause 1: Purpose***

**The purpose of this Framework Agreement is:**

- a) to provide for the removal of discrimination against part-time workers and to improve the quality of part-time work;**
- b) to facilitate the development of part-time work on a voluntary basis and to contribute to the flexible organisation of working time in a manner which takes into account the needs of employers and workers.**

The aims are not expressed explicitly in the legal texts transposing the Directives in most Member States. However, they are present in the spirit of the laws and their overall structure, and there is a clear indication that the purpose is to improve the quality of part-time work and to facilitate the development of part-time work. The agreement between the Danish LO-DA contains a specific reference to the purpose in Article 2. The objectives listed in Clause 1(a) of the Framework Agreement are found in the Dutch legislation (Art. 7: 648 BW).

### **Clause 2: Scope**

- 1. This Agreement applies to part-time workers who have an employment contract or employment relationship as defined by the law, collective agreement or practice in force in each Member State.**
- 2. Member States, after consultation with the social partners in accordance with national law, collective agreements or practice, and/or the social partners at the appropriate level in conformity with national industrial relations practice may, for objective reasons, exclude wholly or partly from the terms of this Agreement part-time workers who work on a casual basis. Such exclusions should be reviewed periodically to establish if the objective reasons for making them remain valid.**

### **GERMANY**

Under § 2 (1) of the TzBfG, the scope of the German TzBfG is extended to ‘*Arbeitnehmer*’, i.e. employees. Employees are recruited on the basis of a private-law contract and may carry out their activities in an enterprise in the private sector or in a public service. The law places no restrictions on employees; ‘*leitende Angestellte*’ (managers) are not excluded from the right to part-time work.

German legislation does not make use of the possibility offered by the Directive of excluding part-time workers who work only on a casual basis.

### **AUSTRIA**

Legislation relating to part-time work applies in principle to all workers (even those who carry out their activities only on a casual basis). A number of categories constitute an exception to this rule and are listed in § 19 b (1) AZG – in particular workers employed by a public authority or an association of local authorities. Other exceptions include: workers covered by the *Landarbeitsgesetz*, workers subject to the *Hausbesorgergesetz*, managerial staff with important operational responsibilities and home workers within the meaning of the *Heimarbeitsgesetz*.

Austrian legislation does not exclude workers who work only on a casual basis; there are no provisions on this subject.



## ***BELGIUM***

The fact that the Directive applies specifically to part-time workers poses no problems under Belgian legislation (Art. 2 of the Act of 5 March 2002).

Collective Labour Agreement No 35 of 27 February 1981 concerning certain provisions of labour law relating to part-time work, Collective Agreement No 35a of 9 February 2000 and the Act relating to the principle of non-discrimination against part-time workers of 5 March 2002 do not provide for the exclusion of casual workers.

## ***DENMARK***

The agreement concluded by the LO and DA relating to the implementation of the Directive concerning the Framework Agreement on part-time work lays down in Article 1, under the heading "Scope", that the agreement is applicable to part-time workers who have an employment contract or relationship in the field covered by the DA and LO, are covered by a collective agreement concluded in this field, and do not benefit from the rights derived from the Directive or are unlikely to do so under an existing agreement.

Denmark makes use of the right to exclude seasonal workers only in the public sector (Art. 2 of the agreement concluded by the State concerning the implementation of the Directive on part-time work). There is an equivalent provision at local authority level.

## ***SPAIN***

Clause 2(1) of the Framework Agreement is transposed correctly in Spain to workers with an employment contract.

## ***FINLAND***

The Finnish Contracts of Employment Act is applicable to any contract on the basis of which a worker undertakes to personally perform a job for an employer, under the latter's management and supervision, in exchange for a salary or other type of remuneration. The Act is general and is applied uniformly to all workers, whether they work full-time or part-time.

Certain categories have been excluded from the scope of the Act. It does not apply to ordinary leisure activities nor to contracts excluded from the scope of the Contracts of Employment Act by specific legal provisions (ArbavtL, chapter 1, article 2).

No exception has been made on the basis of Clause 2(2) for part-time workers who work on a casual basis.

## ***FRANCE***

Act No 2000-37 of 19 January amended the Labour Code, adapting it to the Framework Agreement.

Article L212-4-11 of the Labour Code also provides for the possibility of laying down by Order methods of implementing the legal provisions relating to part-time work, either for all professions or sectors of activity or for a specific profession or sector, and provides that "if in a sector or profession, the introduction of part-time working has caused a serious, persistent imbalance in conditions of employment, Orders may be issued, after consulting representative organisations of the employers and workers concerned, imposing restrictions on the use of part-time labour in the sector or profession concerned."

## **GREECE**

The material scope of the legislation extends to the whole private sector. Furthermore, the new Act extends the scope to employment relations with public enterprises and other public sector bodies. The Greek Act does not provide for total or partial exclusion of casual workers. In all cases it should be taken into account that there is a general clause referring to labour legislation, according to which these regulations are applicable without restriction to part-time workers (Article 38, paragraph 14).

## **IRELAND**

The Irish Act is applicable to "employees". An "employee" means a person of any age who has entered into or worked under a contract of employment.

Ireland has excluded part-time workers who work on a casual basis from the protection of the PtWA, an exclusion which is authorised under Clause 2 (2) of the Framework Agreement. Consequently, a part-time employee who works on a casual basis who has worked for an employer for a period of less than 13 weeks of consecutive service (as laid down in section 11(4)), whose employment cannot be reasonably regarded as regular or seasonal employment and who does not fall within a class of employee excluded by Ministerial Order (section 11 (7)), is not entitled to application of the principle of non-discrimination if the exclusion of this principle can be justified on objective grounds.

## **ITALY**

There are no limitations on the material scope of the legislation; however, there are some specific provisions intended for the agricultural sector and the public administration. With regard to the agricultural sector, the *decreto legislativo* refers to the collective agreement for the definition of implementing provisions (Art. 7). Italian legislation includes in part-time work all employment relations where the working time is less than full time. This is in keeping with a general principle, which is apparent in all legal texts, regulating the various types of full-time and indefinite employment. In so far as it coincides with previous regulations (Act No 863/1984) and consolidates a general principle found in Italian legislation, *decreto legislativo* No 61/2000 does not contain any provisions which seek to limit the material scope of the legislation, either directly or by reference to future laws or collective agreements. Italy has therefore not made use of the exclusion option provided for in the Directive.

## ***LUXEMBOURG***

The scope of the Directive on part-time work poses no problems in Luxembourg legislation (Article 1 of the Act of 26 February 1993 and Article 1 of the Act of 24 May 1989). The legislation is applicable to workers in both private and public sectors.

National legislation makes no use of the facility to exclude part-time workers who work on a casual basis from the provisions relating to part-time workers.

## ***NETHERLANDS***

The employer and the worker are defined in Art. 1, points a and b of the WAA. An employer means a person who has work carried out by a third party on the basis of a civil law employment contract or a public law appointment. The Act defines the worker as the third party referred to above. Military personnel in the defence sector are an exception to this rule. Art. 2, paragraph 2 of the WAA stipulates that the right to adapt working time will be governed by regulation of the public administration, on a proposal from the Minister of Defence and the Minister of Social Affairs and Employment, using unpaid leave in relation to part-time work.

Dutch legislation does not make use of the possibility of exclusion provided for in Clause 2(2).

## ***PORTUGAL***

Act 103/99 of 26 July 1999 on part-time work applies to all workers.

## ***UNITED KINGDOM***

In transposing the Directive, the United Kingdom uses the standard definition of "worker" (Regulation 1(2) Employment Rights Act - ERA). The definition of "worker" includes employees employed under a contract of service, but it also covers those who perform a personal service for another.

British legislation expressly extends the scope of the Regulations to Crown employees (Regulation 12), House of Lords staff (Regulation 14), House of Commons staff (Regulation 15) and the police service (Regulation 16), but not to holders of judicial office remunerated on a daily fee basis (Regulation 17). In respect of the armed forces, the Regulations do apply, but with a modified procedure in respect of remedies, but they do not apply to service as a member of the reserve forces (Regulation 13).

Finally, the PtWR prohibits employers from contracting out of the provisions of the Regulations.

British legislation has not made use of the exclusion facility provided for in Clause 2(2).

## **SWEDEN**

Swedish legislation is based on the assumption that a part-time worker must be treated in the same manner as other workers. All employment legislation applies to part-time workers.

The concept of worker used is the same as in the rest of Swedish employment legislation (cf. Clause 2(1)).

Swedish legislation has not made use of the exclusion facility provided for in Clause 2(2), which wholly or partly exclude part-time workers working on a casual basis.

### **Clause 3: Definitions**

**For the purpose of this agreement:**

- 1) The term 'part-time worker' refers to an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable full-time worker.**
- 2) The term 'comparable full-time worker' means a full-time worker in the same establishment having the same type of employment contract or relationship, who is engaged in the same or a similar work/occupation, due regard being given to other considerations which may include seniority and qualification/skills.**

**Where there is no comparable full-time worker in the same establishment, the comparison shall be made by reference to the applicable collective agreement or, where there is no applicable collective agreement, in accordance with national law, collective agreements or practice.**

## **GERMANY**

§ 2 (1) of the TzBfG refers to the definition given in the Directive. More specifically, it uses the criterion of the normal working week. The German system describes exactly what is meant by "comparable full-time worker" and where there is no comparable full-time worker in the establishment, the comparable full-time worker must be defined on the basis of the applicable collective agreement; in all other cases, reference should be made to individuals generally considered as comparable full-time workers in the sector of activity concerned.

## **AUSTRIA**

The Austrian definition in § 19d (1) of the AZG does not make a comparison with the number of hours worked by a comparable full-time worker.

According to the AZG, part-time work is defined as follows: "where the average agreed weekly working hours are less than the normal legal working hours or less than the shorter normal working hours laid down in collective case law". A comparison is therefore drawn between

normal legal working hours and the collective labour agreement. In Austria, normal working hours are usually laid down in legislation or in the collective labour agreement.

There is no definition of a comparable full-time worker in Austrian legislation.

### ***BELGIUM***

The Act relating to the principle of non-discrimination against part-time workers of 5 March 2002 provides for definitions of "part-time workers" and "comparable full-time workers", transposing the Directive.

Normal working hours refers to the duration of the services carried out while performing the contract and not the duration of the contract itself.

### ***DENMARK***

Article 3 of the LO-DA agreement contains definitions of "part-time workers" and "comparable full-time workers".

The definitions used by Denmark follow exactly the wording used in the agreement concluded by UNICE, CEEP and the ETUC. Article 3 of the Act relating to part-time work provides that, where there is no comparable full-time worker in the same establishment or, where there is no applicable collective agreement, the comparison shall be made by reference to the collective agreements generally applicable in the occupational sector concerned or in a similar sector. Where appropriate, the pro rata principal is applied to the remuneration and rights of a part-time worker not covered by a collective agreement.

### ***SPAIN***

Royal Legislative Decree 5/2001 considers as part-time work any working hours which are less than those of a "comparable full-time worker", and follows the wording of Community legislation. Periods taken into consideration for the calculation of working hours vary much more than in the Directive because it is possible to use different units such as a day, week, month or year to perform the calculation.

### ***FINLAND***

The Finnish Contracts of Employment Act considers that anyone whose normal working hours are less than the ordinary working hours laid down for a full-time worker by law or by an agreement, must be considered to work part-time.

### ***FRANCE***

Article L 212-4-2 §2 of the Labour Code, amended by Act No 2000-37 of 19 January 2000 lays down the definition of part-time employees, which corresponds essentially to the Community

definition of shorter working hours over a period of up to one year, although the terminology is not identical.

## ***GREECE***

Article 38, paragraph 1 of Act No 2369 of 1 September 1989 defines part-time work as a relationship, the purpose of which is to provide services for a definite or indefinite period, where the working hours are less than normal working hours. The concept of "comparable full-time worker" is not used.

The fact that the text refers to an occupational activity limited in relation to a day, week and month, suggest that it is also possible to organise the relationship so as to work full time only for pre-determined periods of the week and month. The assumption that the working relationship may vary according to day, week or month is also referred to in the following paragraph (Article 38, paragraph 2), although this provision seems difficult to reconcile with the following provision, according to which the work to be provided which is the subject of the agreement with part-time workers "must be continuous and carried out once a day" (Article 38, paragraph 5).

There is a special provision concerning the seasonal hotel and supply sector, in which the duration of part-time contracts is on a daily or weekly basis (Article 38, paragraph 2, final part).

Conclusion of the part-time contract must be notified within fifteen days to the competent Labour Inspectorate; if not, the relationship is considered as a full-time employment contract.

## ***IRELAND***

A part-time worker is defined in section 7 (1) of the PtWA in the same manner as in the Directive. A comparable full-time worker is defined in section 7(2).

## ***ITALY***

Italian legislation uses the concept of "part-time worker" contained in the Directive, and considers that in every case part-time working hours are less than full-time working hours. Full-time working hours mean normal working hours, equivalent to forty hours a week, or less, as laid down in the collective agreement, which may reduce normal working hours to average working hours over a period of not more than a year (Article 30, paragraph 1,1. No 196 of 1997). The result is that in Italy also, the calculation of a part-time worker's hours may be based on the more flexible criterion of average working hours.

It should be added that the Act, by establishing that "in the paid employment relationship, full-time or part-time workers may be appointed" (Article 1, paragraph 1), renders the two types of work equivalent. Italian legislation provides for three "types" of part-time work:

a) *horizontal*, where the reduction of working time in relation to full time is provided for with reference to normal daily working hours;

b) *vertical*, where the work is carried out on a full-time basis, but only during predetermined periods during the week, month or year;

c) *mixed*, where the employment relationship is a combination of the previous two types (added by Legislative Decree No 11, 2001).

## ***LUXEMBOURG***

The definition of part-time worker in Article 1 of the Act of 26 February 1993 concerning voluntary part-time work has essentially the main features of the Community definition, i.e. reduced working hours and weekly basis, though the wording is not identical.

There is no specific definition of "comparable full-time worker" in Luxembourg legislation. The elements in Article 8 of the Act of 26 February 1993 concerning voluntary part-time work which correspond to the definition, i.e. "equal qualifications" and "equivalent job in the enterprise or establishment" or "same work or work of equal value", with regard to remuneration, correspond to the main elements of the Community definition.

## ***NETHERLANDS***

The Dutch legislation does not use the definition "part-time worker" contained in the Directive. According to the recitals of the WOA, the system applied must not obstruct the trend towards greater differentiation and flexibility. A consequence of this trend will be a blurring of the distinction between full time and part-time employment. In most cases, the "traditional" full-time worker will probably be taken as a reference for a worker with different working hours; given the desire for greater differentiation, workers who assume they are being treated in a less favourable manner on account of their working hours will, however, no longer always have a comparable full-time worker to serve as a "reference", but will probably have a comparable colleague who has different working hours.

Dutch legislation does not use the definition "comparable full-time worker" as contained in the Directive.

## ***PORTUGAL***

Act 103/99 defines part-time work as being less than or equal to 75% of the normal weekly working hours of a full-time worker in a comparable situation, with the possibility of increasing this limit by collective agreement. The Act in fact sets a limit where there was previously only a reference to working hours less than the legal working hours.

The above-mentioned Act contains a definition of a comparable full-time worker. The definition does not take into account normal working hours laid down by the applicable collective agreement or by national agreements or practice, but exclusively the working hours of the same or identical (sic) category of worker in the same establishment or in another establishment of the same enterprise carrying out the same activity or in an establishment belonging to the same

sector of activity and identical in size, or, finally, in an establishment belonging to the same sector of activity.

With regard to the calculation of part-time working hours, the Act does this on a weekly basis, as laid down specifically in the Directive, and on the basis of a four-month average "or any other period laid down by collective agreement" (Art. 1.6).

### ***UNITED KINGDOM***

As in the Framework Agreement, part-time workers are defined in relation to the hours worked by full-time workers (Regulation 2(2), SI 2000/1551 and SR 2000/219).

Comparable full-time workers are defined as those employed by the same employer under the same type of contract doing the same or broadly similar work (Regulation 2(4)). Full-time workers who change to part-time work, or return to work part-time after an absence of not more than 12 months, can in addition compare their part-time terms and conditions with their former full-time terms and conditions (Regulation 3 and 4). This does not affect their right to compare themselves to another worker under Regulation 2(4).

### ***SWEDEN***

Swedish legislation defines a part-time worker as a worker whose normal working hours, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the working hours of a worker who, in accordance with the law or applicable collective agreement, is considered a full-time worker (Article 2). In order to determine whether someone works part-time, a comparison should be made with a full-time worker. For the purpose of establishing whether a worker may be considered to work full-time, reference should be made in principle to the provisions on working hours contained in collective agreements and the *Arbetstidslagen* (SFS 1982:673 - Working Hours Act).

#### ***Clause 4: Principle of non-discrimination***

- 1. In respect of employment conditions, part-time workers shall not be treated in a less favourable manner than comparable full-time workers solely because they work part time unless different treatment is justified on objective grounds.**
- 2. Where appropriate, the principle of pro rata temporis shall apply.**
- 3. The arrangements for the application of this clause shall be defined by the Member States and/or social partners, having regard to European legislation, national law, collective agreements and practice.**
- 4. Where justified by objective reasons, Member States after consultation of the social partners in accordance with national law, collective agreements or practice and/or social partners may, where appropriate, make access to particular conditions of**



**employment subject to a period of service, time worked or earnings qualification. Qualifications relating to access by part-time workers to particular conditions of employment should be reviewed periodically having regard to the principle of non-discrimination as expressed in Clause 4.1.**

## ***GERMANY***

The principle of non-discrimination is transposed into German legislation in § 4 (1) of the TzBfG, first sentence. Different treatment is justified only on objective, urgent grounds.

In Germany, the principle of pro rata temporis is to be found in § 4 (1) TzBfG, second sentence. § 4 (1) TzBfG stipulates that part-time workers may not be treated in a less favourable manner than comparable full-time workers, unless different treatment is justified on objective grounds.

German law does not define access criteria (Clause 4(4) of the Framework Agreement) applicable to part-time workers.

## ***AUSTRIA***

First of all, in accordance with § 2 *GleichbG*, there must be no discrimination against employees. § 19d (6) AZG also specifically prohibits discrimination against part-time workers. This provision is the key element of Austrian legislation on part-time employment. § 19d (6) AZG, first sentence, stipulates that, in respect of employment conditions, part-time workers may not be treated in a less favourable manner than full-time workers solely because they work part time, unless different treatment is justified on objective grounds. The burden of proof rests with the employer. In the event of legal proceedings, the employer must prove that there has been no discrimination on grounds of part-time work.

Austria also applies the principle of pro rata temporis. Finally, Austria does not define any access criteria relating to a period of service, time worked or specific conditions of earnings.

## ***BELGIUM***

The Act relating to the principle of non-discrimination of 5 March 2002, which is generally applicable and the Collective Labour Agreement No 35a of 9 February 2000, both refer to the general principle of non-discrimination. They stipulate that, in respect of employment conditions, part-time workers may not be treated in a less favourable manner than comparable full-time workers solely because they work part time, unless different treatment is justified on objective grounds.

The Act of 5 March 2002 relating to the principle of non-discrimination incorporates the principle of pro rata temporis (Article 4(2)).

Article 4 (3) of the same Act defines criteria for access to part-time work in accordance with Clause 4(4) of the Framework Agreement.

## ***DENMARK***

Article 4 of the LO-DA agreement lays down the principle of non-discrimination, the principle of pro rata temporis and refers to access criteria in accordance with Clause 4(4) of the Framework Agreement.

In respect of employment conditions, part-time workers may not be treated in a less favourable manner than comparable full-time workers solely because they work part time, unless different treatment is justified on objective grounds. The principle of pro rata temporis applies to rights determined by collective agreements.

Where justified by objective reasons, the parties to a collective agreement may, where appropriate, make access to particular conditions of employment subject to a period of service, time worked or earnings qualification.

The criteria for part-time workers' access to particular working conditions must be regularly re-examined in the light of the principle of non-discrimination in paragraph 1.

## ***SPAIN***

Article 12 of the LET lays down that part-time workers shall be treated in the same manner than comparable full time workers.

Article 12 of the LET formally satisfies the requirement for the principle of pro rata temporis.

Spanish legislation does not provide for the possibility offered by the Directive of making access to particular conditions of employment subject to certain requirements relating to period of service, time worked or earnings conditions, where justified for objective reasons.

## ***FINLAND***

The Finnish Contracts of Employment Act contains the principle of non-discrimination in Chapter 2, paragraph 2, second indent.

The principle of pro rata temporis may apply where appropriate (HE 157/2000 rd. 73).

According to paragraph 3 of Section 3 of the Annual Holidays Act (272/1973), a calendar month during which a worker has worked for the same employer at least 14 days, carries an entitlement to holiday irrespective of the number of hours worked. However, if the worker, according to the contract of employment, works less than 14 days per calendar month, the 35 - hour rule applies: a calendar month during which a part-time worker has worked for at least for 35 hours carries entitlement to holiday leave. Depending on the content of the contract of employment, a part-time worker's entitlement to holiday is defined in accordance with either 14-day rule or 35 hour rule.

If the 14-day rule is not applied, under paragraph 3 of Section 3 of the Annual Holidays Act (272/1973), a calendar month during which a part-time worker has worked for under 35 hours does not carry entitlement to holiday (but does carry entitlement to financial compensation ("holiday compensation")).

Section 4 of Act 273/1979 on study leave provides that a worker must have had a job as their principal activity with the same employer for a certain period of time before being entitled to study leave.

The "job alternation" described in Act 1995/1663 is a system under which a worker is relieved, for a fixed term, of "the duties of his employment relationship", so that the employer can engage, as a replacement during that period, an unemployed job seeker. The Act, which is designed to promote employment policy, applies to full-time employees and employees whose working hours amount to over 75% of the working hours of full-time employees in the field. Promotion of employment policy, which is the objective of the Act, should constitute an objective reason for applying the Act to a certain category of part-time workers only.

## ***FRANCE***

There are no explicit regulations regarding the principle of non-discrimination in French legislation. However, the numerous regulations of the Labour Code establish that the part-time worker is entitled, as far as basic working conditions are concerned, to the same rights as a full-time worker (L212-4-4, L212-4-5, L212-4-6, L212-4-9, L433-4, L433-5, L433-7, L433-8, L513-1, L513-2 of the Labour Code).

This applies to the principle of pro rata temporis (L212-1, L212-4-5 Labour Code).

Article L212-4-5 §1 of the Labour Code stipulates in general terms that part-time workers have the same entitlements as full-time workers, under the law and the collective agreements and accords of companies and establishments, subject to the specific terms of a collective agreement or accord in the case of entitlements under collective agreements. The following paragraphs of

Article L212-4-5 of the Labour Code specify these entitlements in terms of probation period, earnings, length of service, severance grant and dismissal.

Case law has applied this principle of equal entitlement to remuneration (Soc. 13 April 1999), dismissal (Soc. 3 March 1998) and redundancy plans (Soc. 10 November 1992). Where annual leave is concerned, a part-time worker is entitled to leave, which is not reduced in proportion to working time, equal in duration to that of a full-time worker, with remuneration equal to one tenth of the total remuneration he has received during the reference period or, if this is more advantageous to him, the remuneration he would have received if he had gone on working (Soc. 22 February 2000).

Where representation is concerned, part-time workers are electors and eligible for the elections of staff delegates (Articles L423-7 and L423-8 of the Labour Code), members of the works council (Articles L433-4 and L433-5 of the Labour Code) and industrial tribunals (Articles L513-1 and L513-2 of the Labour Code).

The term "objective grounds" justifying different treatment of part-time workers with regard to entitlements under collective agreements is not referred to specifically in the legislation.

## **GREECE**

The principle of non-discrimination is raised with regard to pay, which must not be less than that of a full-time worker on the basis of *pro rata temporis* (Article 38, paragraph 7).

Equal treatment in relation to full-time workers and those on an indefinite contract also exists with regard to access to vocational training initiatives.

Finally, there is a general clause with general reference to labour law legislation (Article 38, paragraph 14).

The principle of *pro rata temporis* is applied only to remuneration when the remuneration of part-time workers is meant to correspond to the number of hours worked (Article 2/7).

There are no provisions making access to part-time work subject to particular conditions of employment.

## **IRELAND**

The principle of non-discrimination is set out in section 9 (1) PtWA 2001. Section 3 (1) PtWA 2001 explains that conditions of employment include conditions in respect of remuneration and matters related thereto.

The principle of *pro rata temporis* is found in section 10 PtWA 2001. Ireland has made use of the possibility of "making access to particular conditions of employment subject to a period of service, time worked or earnings qualification", authorised in Clause 4(4) of the Framework Agreement (section 9 (4) PtWA 2001). The principle of objective grounds is set out in section 9(2) and section 12 PtWA 2001. The principle of non-discrimination does not apply to a part-time worker whose normal working hours are less than 20 per cent of the normal hours of a

comparable full-time employee in the case of a pension scheme or award of a pension - but this is the only instance where it does not apply.

## ***ITALY***

Italian legislation applies the principle of non-discrimination, firstly in general, by laying down that part-time workers must not be treated in a less favourable manner than comparable full-time workers, and by also referring to the prohibition of direct and indirect discrimination provided for in the legislation in force (Article 4, paragraph 1 of decreto legislativo No 61).

Secondly, reference is made analytically to factors which it is impossible to adapt to part-time work, given that they exist regardless of the fact that work is carried out on a part-time basis, and in respect of which the part-time worker must be treated in the same manner as a comparable full-time worker (Article 4, paragraph 2 (a) of decreto legislativo No 61): the hourly wage, duration of probation period and annual leave, duration of compulsory and non-compulsory maternity leave, length of time it is possible to keep one's job in the event of illness, occupational accidents and diseases, the application of health and safety standards at the workplace, possibility of access to vocational training organised by the employer, access to the companies' social services, criteria for calculating the indirect and deferred payments provided for in collective labour agreements, trade union rights.

*Decreto legislativo* No 61 refers to the principle of pro rata temporis with regard to the remuneration of part-time workers, in particular for pay as a whole and for the individual items which make up the overall wage, for the payment of paid leave, payment received in the event of illness or accident at the workplace, occupational disease and maternity. Collective agreements provide the opportunity to move away from strict application of the abovementioned criterion, but only if this will improve the part-time worker's situation (Article 4/2 (b)).

There are no provisions in the legislation making access to part-time work subject to particular conditions of employment.

## ***LUXEMBOURG***

Article 7 of the Act of 26 February 1993 on voluntary part-time work stipulates in general that part-time workers are entitled to the rights afforded to full-time workers by law and under collective agreements applicable to the establishment, subject to, as far as rights under agreements are concerned, special arrangements regarding their implementation provided for in the applicable collective agreement.

Articles 8 and 9 of the Act of 26 February 1993 on voluntary part-time work specify these rights in the field of remuneration, length of service, severance pay and probation period.

With regard to political leave, entitlements proportionate to the actual hours worked are granted to part-time workers, under the municipal law of 13 December 1988 and the Grand-Ducal Regulation of 6 December 1989 on political leave for mayors, aldermen and municipal councillors, amended by the Grand-Ducal Regulation of 19 April 1994.

With regard to staff representation, there are no specific provisions aimed at part-time workers concerning the right to vote and eligibility except where workers occupy a part-time job simultaneously in several enterprises, and eligibility is restricted to the enterprise in which the number of hours worked or length of service is the longest.

With regard to payment in lieu of leave, part-time workers have, in proportion to their working time, the same entitlements as fulltimers. Payment in lieu of study leave, cultural leave, sport leave is carried out on the same basis as for paid leave.

With regard to remuneration and severance pay, Article 8 of the Act of 26 February 1993 concerning voluntary part-time work provides for the application of the principle of pro rata temporis.

Certain arrangements for transfer to part-time work are restricted to full-time employees or civil servants (gradual early retirement, leave for part-time work and transfer to part-time work at the age of over 49).

## ***NETHERLANDS***

The principle of non-discrimination is laid down in Article 7:648, paragraph 1, of the BW. This Article has been incorporated into the Civil Code via the WOA. Article 7: 648, paragraph 1 of the BW goes further and stipulates that termination of the employment contract by the employer may be declared invalid if it is contrary to the principle of non-discrimination or if it is due to the fact that the worker has invoked this principle.

The principle of pro rata temporis is not contained in the legislation.

Dutch legislation does not define access criteria (Clause 4(4) of the Framework Agreement) for part-time workers.

## ***PORTUGAL***

Article 2.1 of Act 103/99 is an almost literal translation of Clause 2(1) of the Framework Agreement. Article 2.2 goes on to say that the objective reasons justifying different treatment will be defined in collective agreements. In any event, the Act guarantees that such workers will be entitled to statutory schemes and those provided for in collective agreements where the nature of their employment is not full-time (Article 2.1).

With regard to the principle of pro rata temporis, Article 5.1 of Act 103 states that the earnings of a part-time worker will be proportionate to the amount earned during a normal working week and that the part-time worker is entitled to other payments provided for in collective regulations, under the terms provided for in the latter or, in the absence of such regulations, to the pro rata paid for normal weekly working hours. Meal benefits are normally provided to part-time workers who work more than five hours a day or are calculated proportionally to the number of hours worked in a week.

## ***UNITED KINGDOM***

In the United Kingdom the principle of non-discrimination is contained in Regulation 5 of the PtWR 2000.

The pro rata principal is defined in Regulation 1 (2) of the PtWR 2000.

The British Regulations also give effect to the principle laid down in the Court of Justice's decision in *Helmig*. There the Court ruled that there was no discrimination when part-timers, who were predominantly women, did not receive overtime rates for hours worked over their normal contractual hours but less than the full-time hours.

The UK has not taken advantage in its Regulations of the possibility envisaged by Clause 4(4) to make access to particular conditions of employment subject to "a period of service, time worked or earnings qualifications".

## ***SWEDEN***

Swedish legislation proposes that there should be no discrimination against part-time workers. It is targeted at both direct and indirect discrimination and applies regardless of whether or not the discrimination is known to be intentional.

The prohibition of direct discrimination applies when a part-time worker is placed at a disadvantage because the conditions of pay or other conditions of employment applied by the employer are less favourable than those which the employer applies or should have applied to a worker in a similar situation working full time. The fact that the prohibition also applies to situations in which the employer "should have treated" a comparable full-time worker more favourably means that a hypothetical comparison is sufficient. The prohibition is not applicable if the employer can prove that the unfavourable treatment has no link whatsoever with the fact that the worker works part time. Nor does it apply to direct discrimination if the different treatment is justified on objective grounds.

The prohibition of indirect discrimination applies when a part-time worker is placed at a disadvantage because the employer applies an apparently neutral measure, criterion or procedure, but which in practice has a detrimental effect on conditions of pay or other conditions of employment of part-time or fixed-term contract workers. The prohibition is not justified if the application of the measure, criterion or procedure are based on objective grounds.

In the Swedish legislation, it is stated that the prohibition of discrimination must relate to conditions of pay and other conditions of employment.

Sweden has not taken advantage in its Regulations of the possibility envisaged by Clause 4(4) to make access to particular conditions of employment subject to "a period of service, time worked or earnings qualifications".

### ***Clause 5: Opportunities for part-time work***

1. **In the context of Clause 1 of this Agreement and of the principle of non-discrimination between part-time and full-time workers:**
  - a) **Member States, following consultations with the social partners in accordance with national law or practice, should identify and review obstacles of a legal or administrative nature which may limit the opportunities for part-time work and, where appropriate, eliminate them;**
  - b) **the social partners, acting within their sphere of competence and through the procedures set out in collective agreements, should identify and review obstacles which may limit opportunities for part-time work and, where appropriate, eliminate them.**
2. **A worker's refusal to transfer from full-time to part-time work or vice-versa should not in itself constitute a valid reason for termination of employment, without prejudice to termination in accordance with national law, collective agreements and practice, for other reasons such as may arise from the operational requirements of the establishment concerned.**
3. **As far as possible, employers should give consideration to:**
  - a) **requests by workers to transfer from full-time to part-time work that becomes available in the establishment;**
  - b) **requests by workers to transfer from part-time to full-time work or to increase their working time should the opportunity arise;**
  - c) **the provision of timely information on the availability of part-time and full-time positions in the establishment in order to facilitate transfers from full-time to part-time or vice versa;**
  - d) **measures to facilitate access to part-time work at all levels of the enterprise, including skilled and managerial positions, and where appropriate, to facilitate access by part-time workers to vocational training to enhance career opportunities and occupational mobility;**
  - e) **the provision of appropriate information to existing bodies representing workers about part-time working in the enterprise.**

## **GERMANY**

It is apparent from national legislation that Germany has removed all obstacles to part-time work by adopting the TzBfG. In accordance with Clause 5(2) of the Directive, § 11 of the TzBfG provides that the dismissal of a worker who refuses to transfer from full-time to part-time work is invalid. § 8 (4) of the TzBfG exceeds the provisions of the Directive and stipulates that the employer must examine a full-time worker's request to transfer to part-time work and comply with that request, unless reasons relating to the operational requirements of the enterprise make this impossible. § 9 of the TzBfG also provides that employers must take into consideration part-time workers who have indicated their wish to work full-time (again) when there are job vacancies.

The employer must give consideration to the request of a part-time worker to increase his contractual working time when a corresponding job vacancy arises for a person with the same



qualifications, unless reasons relating to the operational requirements of the company or the wishes of other part-time workers in respect of working time make this impossible.

In accordance with the Directive, employers must, under § 7 (2) of the TzBfG, provide information on the opportunities for part-time work to workers who have requested part-time work. Employers must also inform workers' representatives about the opportunities for part-time work in the enterprise (§ 7 (3) TzBfG). There are several measures in Germany encouraging employers to take action to facilitate access to part-time work and to provide greater opportunities for part-time workers to enhance their career prospects.

## **AUSTRIA**

The existing Austrian legislation has not been amended following the introduction of the Directive. Legal provisions cannot define action taken by the social partners. § 105 of the ArbVG concerning appeals against dismissals applies to both full-time and part-time workers. Article 3, point 1 of the above Act gives a non-exhaustive list of the reasons for dismissal which can be contested before a judge.

Under § 19d (2) of the AZG, the employer and worker must jointly define agreements relating to part-time work, if none have already been defined in a collective agreement. The worker is therefore not given a specific right, which must be claimed from the employer, since, according to the legislation, the employer and worker must conclude agreements relating to part-time work.

§ 14 of the AVRAG offers the opportunity for part-time work to those aged over fifty and to those who have to care for close relatives over a relatively long period of time. § 14 (3) of the AVRAG applies where the worker has agreed with the employer to work part-time because the worker is obliged to provide care to someone; the worker may ask to return to normal working hours two months at the earliest and four months at the latest after the obligation to provide care ceases to exist. This must be the subject of an agreement between the employer and the employee. Finally, reference should be made also to the gradual retirement scheme, which may be granted under § 253c of the ASVG in enterprises with more than 10 workers. These regulations which are applicable to workers with a private law contract are in accordance with the Directive, which stipulates that as far as possible, employers should give consideration to requests by workers to transfer to part-time work. In Austria's case it is even possible to bring an action before a judge where a request based on this provision is not honoured by the employer.

There are no provisions in Austrian legislation which stipulate that employers must provide timely information on the availability of part-time and full-time positions in the establishment in order to facilitate transfers from full-time to part-time or vice versa.

There are also no provisions in Austrian legislation which stipulate that employers must take measures to facilitate access to part-time work at all levels of the enterprise, including skilled and managerial positions, and, where appropriate, to facilitate access by part-time workers to vocational training to enhance career opportunities and occupational mobility.

## ***BELGIUM***

There are no specific provisions in Belgian law concerning the dismissal of a worker who refuses to transfer from full-time to part-time work and vice versa.

In general, any clause in which the employer reserves the right to unilaterally modify the conditions of the employment contract is invalid, under Article 25 of the Act of 3 July 1978. Such modification thus requires the agreement of the parties.

If the employer unilaterally substantially modifies an essential part of the contract, such as working time, this implies a willingness on the part of the employer to discontinue the contract and leads to a breach of the contract. If the modification is minor (or if it relates to an insignificant aspect), it does not lead to a breach of contract.

Any modification of the working time provided for in the contract in the event of additional hours worked on a regular basis is done at the request of the part-time worker, if no collective labour agreements have been concluded within a joint committee (CCT No 35 of 27 February 1981, Article 6).

The career break system enables full-time (or  $\frac{3}{4}$ -time) workers to reduce their activities ( $\frac{4}{5}$ ,  $\frac{3}{4}$ ,  $\frac{2}{3}$ ,  $\frac{1}{2}$ , as they wish) for a certain period and then to return to their former job in the establishment.

This is the right, subject to certain conditions in the context of half-time parental leave (6 months), to take leave to give palliative care (2 months) or care for a family member suffering from a serious illness (2 years), granted to workers of at least 50 years of age or up to a maximum of 3% of the workforce (maximum of 5 years).

At the end of a career break with a reduction in working hours for 5 years, the worker is entitled to transfer to a part-time employment contract under the same conditions of employment as before the career break.

The system has been replaced 1 January 2002 by the time-credit system:

- the time-credit system for a career break of one year at full time or half time;
- systems of leave for specific purposes (palliative care, leave to care for a family member suffering from a serious illness, parental leave);
- entitlement to reduced working hours (half-time or  $\frac{4}{5}$ ) for workers over 50 years of age;
- a career break system of up to  $\frac{1}{5}$  per week for 5 years.

A priority system for obtaining full-time work is applicable under Article 4 of Collective Labour Agreement No 35 of 27 February 1981.

The employer is also obliged to inform the regional unemployment office of the National Employment Office if a part-time worker who is in receipt of unemployment benefit for unemployed hours does not accept a job after having been notified of the vacancy.

Information on full-time job vacancies is provided for in Article 4 §2 of Collective Labour Agreement No 35 of 27 February 1981. No information on part-time job vacancies is provided for.

The trade union delegation is competent in the field of labour relations, control of implementation of legislation and contractual rules. It has the right to be informed of changes, which are likely to modify working conditions (CNT framework agreement No 5 of 21 May 1971 and specific provisions through collective agreements concluded within joint committees).

## ***DENMARK***

The Act relating to part-time work does not establish the right to part-time work. In the fields covered by a collective agreement, the possibility for the employer of taking on part-time workers depends on the collective agreement. If the collective agreement contains no provisions to this effect, this lack of provision is usually interpreted as meaning that the employer is unable to employ workers on anything other than a full-time basis. Where it is possible for employers to take on part-time workers, they are free to make use of this opportunity as they consider appropriate in the interests of the company.

Where parties to the agreement identify obstacles which may limit the opportunities for part-time work, these must be examined with a view to their possible removal (Article 5 of the framework agreement concluded by the LO and DA).

A worker's refusal to be transferred from full-time work to part-time work or vice versa should not in itself constitute valid grounds for dismissal but this does not affect the possibility of dismissal for other reasons, such as the operational needs of the establishment concerned, in accordance with legislation, collective agreements and national practice.

The framework agreement concluded by the LO and DA is a virtually literal transposition of the text of Clause 5(3), points a) – e) of the Directive.

## ***SPAIN***

The Directive states that a worker's refusal to transfer from full-time to part-time work or vice versa should not in itself constitute a valid reason for termination of employment. Extending the principle contained in the Directive and rendering it obligatory, Article 12 paragraph 4.e of the LET provides that such a transfer must never be done against the wishes of the worker concerned and that it must not be imposed unilaterally or as a consequence of substantial modifications to conditions of employment, nor can the worker be dismissed or subjected to any other type of penalty or infringement of rights because of his or her refusal to transfer.

On the subject of consideration by the employer of requests by workers to transfer from part-time to full-time work, Article 12 of the LET, in the same paragraph 4.e, provides that priority be given to workers who, having transferred to part-time work voluntarily, wish to return to full-time work, and to those who were initially employed part-time, and who have at least three years'

service in the company. The Act goes on to say that the reasons for refusing to grant the worker this right must be stated and notified in writing to the worker.

With regard to the provision of information on the availability of job vacancies in the enterprise, Article 12 of the LET provides that all the staff within the enterprise must be informed of such posts and the possibility of extending part-time working hours. All these informative measures must be taken in accordance with the procedures laid down in collective agreements.

Spanish legislation guarantees that workers' representatives will be informed of the part-time contracts concluded by the enterprise: representatives are supposed to receive a basic copy of all contracts concluded in written form (Art. 8.3.a of the LET), and part-time contracts must be published officially (Art. 8.2 of the LET). Any employment contract not in written form will be presumed to relate to full-time employment unless there is proof confirming that the contract is part-time.

Spanish legislation makes no provision for measures to facilitate access to part-time work in skilled and managerial positions. With regard to access to vocational training, the legislation states only that the measures to be taken in this area will be determined by collective agreement "in order to enhance career opportunities and occupational mobility" (Art. 12.4.f of the LET).

## ***FINLAND***

The Contracts of Employment Act, which entered into force in 2001, also includes a provision which reinforces the position of part-time workers by stating that where an employer requires several workers to perform tasks which are suited to workers already working part-time, the employer must propose these tasks to the part-time workers (Art.5).

The purpose is to offer extra work to all part-time workers considered capable of carrying out the outstanding tasks. If, however, the employment contract was concluded part-time at the worker's initiative or in accordance with his request, or if the worker has somehow made it known to the employer that he/she is not interested in an increase in working hours, the employer is not under the obligation to offer additional work, provided for in this Article.

Additional work must be offered to a part-time worker, even though, in accordance with the reengagement obligation in the Contracts of Employment Act, the employer is obliged to offer work to a worker who has recently been dismissed. Part-time workers working in an enterprise are given priority in respect of the work available over workers affected by the employer's reengagement obligation. The employer is also obliged to organise the necessary training for part-time workers enabling them to accept a new job.

Under Article 6 of the Contracts of Employment Act, the employer must, in accordance with existing practices in the enterprise or establishment, provide general information on job vacancies which become available, and also on new jobs, in order to ensure that part-time and fixed-term workers are also given the same opportunities to apply for these jobs as ordinary workers and full-time workers.

According to Chapter 7, Article 11 of the Finnish Contracts of Employment Act, employers are entitled to unilaterally modify the employment relationship into a part-time employment

relationship on the grounds of collective redundancy or a production-linked reason. A worker who does not wish to be transferred to part-time work may therefore be dismissed in this particular case.

## **FRANCE**

With regard to Clause 5(1) of the Framework Agreement, the Act of 19 January 2000 implements measures which make it possible to eliminate the obstacles identified which are likely to restrict equal opportunities for part-time work. In particular, collective negotiation plays a central role in introducing and promoting part-time working.

Article L 212-4-9 of the Labour Code transposes Clause 5(2) of the Framework Agreement, stipulating that a worker's refusal to carry out part-time work does not constitute an error or grounds for dismissal.

With regard to part-time workers, extra hours cannot lead to the level of working time of a full time employee as set out by legislation or collective agreement. A refusal to transfer to full-time work by working extra hours must not lead to dismissal, in accordance with Article L 212-4-3 3rd and 4th § of the Labour Code.

The refusal to accept the modification of the distribution of working hours cannot constitute grounds for redundancy, if this change is not compatible with urgent family obligations, following an educational course, or working for another employer with a fixed time schedule or another professional activity. The same is true in the event of a change of the daily working hours layed down in the employment contract (article L 212-4-3 §6).

In the event of regular overtime, a part-time worker may oppose a modification of the working hours provided for in the contract (Art. L 212-4-3 last § and L. 212-4-6. last §).

Specific provisions apply to various types of leave taken by part-time workers and in the event of a temporary transfer to part-time work.

An entitlement to priority is provided for in Article L 212-4-9 of the Labour Code on procedures for transferring between full-time and part-time work at the workers' request. These procedures are defined by agreement or, in the absence of collective agreements, by legislation.

There are various specific opportunities for transfer to part-time work:

- part-time work for family reasons, established by Act No 2000-37 of 19 January 2000, at the worker's request and for family reasons: employees are entitled to reduced working hours in the form of unworked periods of at least a week. Their working hours are thus determined with reference to annual working hours (Article L 212-4-7 of the Labour Code);

- parental leave for the purposes of child care may be taken by part-time workers, where the working hours are 16 hours a week or more and are reduced by at least a fifth of those applied in the establishment. Leave is initially for a maximum of one year and is renewable twice until the child is 3 years of age. The conditions of work, full-time or part-time, may be changed at the time of renewal. At the end of the leave, the employee must be reinstated in their previous job or

in a similar job with more or less equivalent pay (Article L 122-28 to L122-28-7 of the Labour Code);

- parental leave in the event of illness, accident or serious disability of a dependent child may be taken by part-time workers. Initially for 4 months, it may be renewed twice, but may not exceed 12 months. At the end of the leave, the employee must be reinstated in their previous job or in a similar job with more or less equivalent pay (Article L 122-28-8 and L122-28-9 of the Labour Code);

- leave to care for a terminally ill person (Article L 225-15 of the Labour Code);

- education leave or research/innovation leave (Article L931-28 of the Labour Code);

- aid towards the temporary transfer to part-time work is financial compensation for the loss of pay experienced by a worker who accepts a transfer from full-time to part-time work for a maximum of two years. This provision is the subject of an agreement concluded between the National Employment Fund, which refunds 20-80% of the compensation, and the enterprise, with the aim of avoiding or limiting redundancies (Art. L322-4 of the Labour Code);

- the gradual retirement scheme enables employees aged between 55 and 65 years to transfer from full-time to part-time employment and is the subject of an allowance (30% of the gross wage) under an agreement between the National Employment Fund and the enterprise for the purpose of recruiting job-seekers and avoiding or limiting redundancies (Art. L322-4 of the Labour Code);

- the introduction of new methods of building up time credits and using them to pay for a chosen transfer to part-time work, parental leave or gradual termination of activity for employees over 50 years of age (Article L227-1 of the Labour Code),

Act No 2000-37 of 19 January 2000 promotes transfers between part-time and full-time on a voluntary basis by means of:

- possibilities of increasing working time given to part-time workers, in particular through compensatory recruitment when there is a collective reduction in working time;

- the obligation to incorporate "measures to facilitate access from part-time work to full-time work and vice versa (...)" in the enterprise's or establishment's agreements which grant entitlement to a reduction in the context of reduced working hours, measures which must be recorded in an annual monitoring report (Act No 2000-37 of 19 January 2000, Article 19, III- 2. 2nd § and IV).

Part-time workers, like full-time workers, are entitled to the various provisions relating to vocational training. More favourable provisions of agreements relating to part-time workers may be introduced for the remuneration of employees on training leave, set by the joint body at a percentage of the wage they would have received if they had remained in their job, regardless of the length of training (Article L931-8-2 of the Labour Code).

An employee may undergo training during parental leave, which may be taken by a part-time worker (Article L 122-28-7 of the Labour Code).

A part-time worker may oppose any changes to his contract in respect of working hours if it prevents him from following a training course.

With regard to rights contained in agreements, collective agreements or accords, must, unless otherwise provided for in agreements, give proportionate advantages to part-time workers (Soc. 4 February 1987); however, a clause increasing the length of service required for promotion in the case of part-time workers is permissible (Soc. 9 April 1996).

The compulsory annual negotiation in the enterprise provided for in Article L 132-27 to L132-29 of the Labour Code includes "the effective duration and organisation of working time, in particular the introduction of part-time at the request of workers". The information provided by the employer "must enable a comparative analysis of the situation of men and women with regard to employment and qualifications, the wages paid, the hours worked and the organisation of working time".

Article L. 212-4-4 2nd § of the Labour Code provides that extended accords and agreements which make it possible to reduce periods of notice for part-time workers must contain guarantees relating to promotion, career development and training.

Workers' representative bodies in the enterprise must be informed and consulted on all these matters.

## ***GREECE***

Greek legislation has set out to eliminate certain limitations, which were apparent in previous part-time regulations. In particular, one very important innovation is the extension of this type of work to the public sector; in addition, the concept of part-time work now also covers full-time work on alternate days.

A worker's refusal to accept his employer's proposal to transfer from full-time work to part-time work (Article 38, paragraph 6) is not a valid reason for termination of employment.

Where new full-time job vacancies arise, priority is given to part-time workers in the same category in equivalent conditions of employment within the same firm.

It is possible for part-time workers to have access to vocational training initiatives organised by the enterprise under the same conditions as full-time workers and workers on indefinite employment contracts. Similarly, part-time workers are given access to the social services made available to the firm's workers.

The employer must inform trade union delegates within the company of the number of part-time workers in relation to the total number of workers and the prospects of full-time work.

## ***IRELAND***

In Ireland, the Labour Relations Commission is legally responsible for studying obstacles likely to limit opportunities for part-time work. Obstacles are described in section 13(7) as "obstacles arising by virtue of any enactment and the following of any practice". Part-time work is defined in section 13(7) as "work, which, if it were performed, would result in the person performing it being regarded as a part-time employee for the purposes of this Act." Article 13 stipulates that the Commission may, and at the request of the Minister shall, study every industry and sector of employment for the purposes of identifying obstacles that may exist in that industry or sector to persons being able to perform part-time work in that industry or sector and make recommendations as to how any such obstacles so identified could be eliminated. The Commission shall report to the Minister in relation to any study and recommendations made by it and shall publish, in such manner, as it thinks appropriate, that study and those recommendations.

Any such publication may include such practical guidance for the industries and sectors of employment concerned with regard to the steps that may be taken to implement the recommendations of the Commission, as the Commission thinks appropriate.

In formulating recommendations, the Commission invites organisations representative of employers, organisations representative of employees, and such other bodies as the Commission considers appropriate, to make submissions, whether orally or in writing, to it in relation to the proposed recommendations, and considers any submissions made to it, in response to the invitation, by such organisations or bodies.

Although the Commission is legally obliged to carry out a study, the results are non-binding legal acts, i.e. studies and recommendations.

A worker's refusal to transfer from full-time to part-time work or vice versa does not constitute a valid reason for termination of employment (section 15(1)(c) in conjunction with section 15(2) of the PtWA).

## ***ITALY***

The system of incentives in terms of social security contributions aimed at promoting the use of part-time work has been confirmed and consolidated in the new regulations (see Article 5(5) of *decreto legislativo* No 61/2000, which provides for incentives relating to social security contributions for private employers who recruit staff under indefinite and part-time contracts to increase existing staff).

It is established that a worker's refusal to transfer from full-time to part-time work or vice versa does not constitute a valid reason for termination of employment. Furthermore, transforming a full-time into a part-time job involves special guarantees. There must be a written agreement between the parties; if he wishes, the worker may be given assistance with the wording of the agreement by a trade union delegate appointed by the worker himself; if there is no trade union representation within the company, the agreement is validated by the labour authorities (Article 5, paragraph 1).



Part-time workers are given priority when there are vacancies for full-time workers, i.e. priority is given to workers employed in production units within a 50-km radius of the establishment in which there are vacancies; the job vacancies must also involve the same duties or equivalent duties. Priority is given to those who have already transferred from a full-time to a part-time job and who wish to return to full-time work. Where there is equal priority, preference is first given to workers with the highest family expenses; length of service is of secondary importance (Article 5, paragraph 2).

An employer intending to recruit part-time workers must rapidly inform full-time staff working within the same district. The employer must also give consideration to requests by workers to transfer from full-time to part-time work: there must be appropriate reasons for refusal (Article 5, paragraph 3).

Part-time workers must enjoy the same right to training as full-time workers, even with regard to access to vocational training initiatives taken by the employer [Article 4/2, letter a)].

The employer must inform trade union delegates within the enterprise annually of the number of workers taken on part-time, the type of part-time work (vertical, horizontal, mixed) and recourse to additional work (Article 2, paragraph 5).

## ***LUXEMBOURG***

In connection with preparations for the national action plan for employment in 1998, the tripartite co-ordination committee:

- noted the slow growth of part-time work in Luxembourg;
- listened to employers who attributed the shortage of part-time jobs to the insufficiently flexible arrangements for the organisation of part-time work.

The Act of 12 February 1999 relating to the implementation of the National Action Plan for Employment 1998 (NAP 1998) therefore includes:

- measures to promote new opportunities for part-time work (compensation for gradual early retirement, parental leave, transfer to part-time work for employees over 49 years of age);
- measures rendering the organisation of part-time work more flexible, with the introduction of a four-week reference period identical to full-time work;
- obligatory collective negotiation with regard to the organisation of work and part-time work.

The Act also provides that the impact of the provisions in question on part-time employment rates and part-time job vacancies will be evaluated by 31 July 2003, the date on which some of the provisions cease to be valid.

Article 4 of the Act of 26 February 1993 concerning voluntary part-time work contains in principle the same provisions as Clause 5(2) of the Framework Agreement. However, where part-time workers registered as full-time job seekers with the public employment service refuse to accept a full-time job offered by their employer which corresponds to their skills, knowledge,

capacities and occupational experience, and is in accordance with the criteria for suitable employment referred to in Article 13(e) of the amended Act of 30 June 1976 (1) creating an employment fund, and (2) regulating the granting of benefit to the wholly unemployed, this may constitute a valid reason for dismissal if it is not justified by real, genuine reasons.

Article 3 of the Act of 26 February 1993 concerning voluntary part-time work provides that workers in an establishment who have expressed a wish either to take up or return to a part-time job, or to take up or return to a full-time job, must be informed as a priority of full-time or part-time jobs available in the establishment which correspond to their skills or occupational experience.

In addition, specific arrangements have been introduced for the transfer to part-time work:

- for parental leave, the parent may take part-time parental leave for twice as long (normally 12 months) as full-time parental leave; this requires the agreement of the employer (Article XXIV NAP 1998);

- for gradual early retirement: under Article 16-2 of the amended Act of 24 December 1990 on early retirement, a worker of at least 57 years of age, occupying a full-time post in an eligible enterprise, who agrees to his full-time job being transformed into a part-time job (between 40% and 60% of full-time working hours), is entitled to gradual early retirement for a maximum of three years prior to becoming entitled to an old age pension. The Employment Fund refunds the employer the costs arising from payment of the early retirement pension if a replacement worker is taken on.

- for workers aged over 49 years: the new Article 44 inserted by the Act of 12 February 1999 into the amended Act of 30 June 1976 (1. creating an employment fund; 2. regulating the granting of benefit to the wholly unemployed) provides for payment to the employer for a maximum of 7 years of a subsidy from the employment fund if a replacement jobseeker is taken on for more than 18 months when an employee aged over 49 years decides, by mutual agreement with his employer, to transfer from full-time to part-time work. The subsidy covers the employer's share of social security contributions for the employee transferring to part-time work and all these social security contributions if an indefinite or full-time job is created or if it relates to a jobseeker of the under-represented sex in the sector of activity or profession in question;

- for retired persons: under the Act of 24 December 1977 authorising the Government to take measures to promote economic growth and maintain full employment, an authorisation to work may be granted under certain conditions by the Minister of Labour to persons receiving old-age pensions who wish to take up or continue to work, provided that the working hours do not exceed 16 hours a week.

A right to return to work full-time exists after:

- parental leave on a part-time basis: the employment contract is suspended during the period of parental leave and the employer is obliged to retain the employee's job, or where this is not possible, a similar job with pay of at least an equivalent level (Article XXIV NAP 1998).

With regard to vocational training implemented through training plans or projects, the Act of 22 June 1999 provides that persons who take leave of any kind, or who have left the enterprise temporarily for personal reasons, are also entitled to be included in training measures.

Education leave is open without distinction to part-time workers under the Act of 4 October 1973 concerning the introduction of education leave, amended by the Acts of 24 February 1984 and 1 June 1989 and the Grand-Ducal Regulation of 22 February 1974 concerning the granting of training leave. The leave lasts for 60 days and is targeted at young people and people following official adult-education courses.

## ***NETHERLANDS***

The Netherlands has satisfied the obligation to eliminate any obstacles to part-time work. This was already the case, however, prior to the adoption of the Directive.

Article 3 of the WAA stipulates that the employer cannot terminate an employment relation with a worker because the latter has requested a change in working hours, judicially or extra-judicially. Where a worker requests a change in working hours (Art. 2 WAA), the employer is obliged to comply with this request, unless important interests relating to the enterprise or the service oppose this.

The employer is obliged to provide information on full-time or part-time jobs available (Article 7:611 BW ("good employer")).

Finally, there are no specific rules concerning the provision of information regarding full-time and part-time work by the employer to workers' representatives bodies. Article 31 WOR stipulates that the employer must provide the Works Council with all the information the latter considers necessary to accomplish its task.

## ***PORTUGAL***

Portuguese legislation (Art. 16 of Act 103/99) provides that the freedom to conclude part-time contracts must not be excluded from collective regulations existing at the time of entry into force of the Act. Collective regulations mean Decree-Law 519-C1/79 of 29 December (Art. 2) on collective agreements, settlement of disputes, membership agreements and Ministerial renewal orders. The Act disapproves of the prohibition or restriction imposed through the recruitment of a maximum percentage of part-time workers, but refers to this rule in the final provision and points out that it relates only to previous regulations.

Articles 7 to 15 of Act 103 concern incentive measures for recruiting staff part-time. The Act provides that the transformation of a full-time contract into a part-time contract will lead to reduced social security contributions for workers, and also provides for incentives for employers where the reduction in working time is accompanied by the recruitment of young people seeking their first job, or the long-term unemployed, in which case the reward is particularly generous: employers do not have to pay any social security contributions for 3 years if they conclude an indefinite contract with them, and 50 % if it is a fixed-term contract. The latter percentage is the same as that applied when an employer takes on other groups of unemployed for an indefinite period; it is reduced to 25 % when the contract concluded with these other groups is a fixed-term

contract. Advantages of the same duration and percentage as those above are provided for in Article 9 where part-time posts are created (but not shared). As an alternative to exemption from social security contributions, Article 10 offers the financial support provided for in Decree-Law 34/96 of 18 April. The following articles regulate the conditions necessary in order to benefit from the above-mentioned incentives, their incompatibility with other available measures and replacement arrangements.

Act 103 gives the worker the right to oppose a change in his working hours within two working days (unless he has entered into a contract which has been certified in the presence of a notary or a labour inspector) and the right to return to full-time employment if the change provided for in the agreement is for less than three years, a period which may also be extended by collective negotiation (Art. 3.3 and 3.4). The employer may impose penalties for refusal if this occurs after the above-mentioned period of two days or if the changes are for a period of more than three years or have been certified in the presence of a notary or the labour inspector. There must be a justified reason for dismissal (Decree-Law 64-A/89 of 27 February, Art. 3.1). Consequently, the employer may validly dismiss workers for disobedience or for seriously undermining financial interests, amongst other things, and he is therefore entitled to punish refusal.

The requirements of Clause 5(3) of the Framework Agreement are contained in Act 103.

- Thus, as far as possible, employers must give consideration to requests by workers to transfer from full-time to part-time work that becomes available in the establishment (Art. 6.1).
- Requests by workers to transfer from part-time to full-time work or to increase their working time will be accepted wherever possible.
  
- Employers will also give consideration to measures to facilitate access to part-time work at all levels of the enterprise, including skilled and managerial positions, and also to measures to facilitate access by part-time workers to vocational training.
  
- They must provide timely information on the availability of part-time and full-time positions in the establishment in order to facilitate the above mentioned transfers (Art. 6.2).
  
- They must inform workers' representatives about part-time working in the enterprise.

## ***UNITED KINGDOM***

In respect of discrimination in these areas the Sex Discrimination Act 1975 (SDA) and the Equal Pay Act 1970 (EqPA) will continue to be important in conferring legally enforceable rights. In addition to this, from 6 April 2003 a new right to request flexible working will be introduced for parents of children aged under six or under eighteen in the case of disabled children (as first discussed in the Green Paper "Work and Parents: competitiveness and choice", which examined issues such as maternity leave and pay, paternity leave, parental leave and flexible working) Employers will have a duty to consider such requests seriously and may refuse them only on certain business grounds (as laid down in the Employment Act 2002).

In respect of Clause 5(3), the second part of the Guidance Notes, headed “Best Practice Guidance”, does, however, offer some indications as to good practice. The Best Practice falls under two headings. The first heading, entitled widening access to part-time work covers: recruitment; making a wider range of jobs available part-time; jobsharing; requests to increase and decrease hours and to transfer between full-time and part-time employment; refusal by workers to change from full-time to part-time employment or vice versa; providing information to workers and to representative bodies.

The second heading concerns making part-time work more accessible. This covers: considering requests to work part-time; considering a request to increase hours or work full-time; training.

It is in respect of discrimination in these areas that the Sex Discrimination Act 1975 (SDA) and the Equal Pay Act 1970 (EqPA) will continue to be important in conferring legally enforceable rights. Yet, the legislation is not straightforward. For example, since there is no obligation to create part-time jobs or job shares, women who want to return to part-time employment after confinement will, therefore, continue to have to rely on indirect sex discrimination, which may be justified where part-time work or a job share is costly or administratively inefficient.

## ***SWEDEN***

A worker's refusal to transfer from full-time to part-time work or vice versa does not constitute a valid reason for termination of employment.

Under Article 7 of the Employment Protection Act (1982:80), there must be an objective reason for any dismissal. If there is no objective reason, the dismissal may be declared null and void. The worker also has the possibility of claiming damages. These are intended to compensate for the financial loss suffered by the worker and for infringement of the law. The employer is not entitled to unilaterally increase or decrease the worker's normal working hours. Such a unilateral measure is considered as a dismissal in legal terms, and the Employment Protection Act is applicable in this case.

With regard to the obligation for employers to consider requests by workers to transfer from full-time to part-time work that becomes available in the establishment, the Act (1995:584) on parental leave contains provisions entitling parents of young children to a reduction in working time. Both the mother and father are entitled to a 25% reduction in normal working time to look after a child under 8 years of age or over 8 years which has not yet completed the first year of schooling.

There are no other legal provisions concerning the possibility of transferring from full-time to part-time work.

Under Article 25a of the Employment Protection Act, a part-time worker who has informed his employer that he would like to increase his working time, without however exceeding full-time working hours, is given priority when such posts are to be filled.

Swedish legislation does not guarantee the provision of information on the availability of part-time and full-time positions in the establishment in order to facilitate transfers from full-time to part-time or vice versa.

There are no provisions in Swedish legislation directly obliging the employer to facilitate access to part-time work within the enterprise or to facilitate access by part-time workers to vocational training.

Swedish legislation does not contain any regulations specifically obliging employers to provide information to workers' representatives about part-time working in the enterprise.

However, general provisions concerning the information of workers' representatives are contained mainly in Act (1976:580) on industrial co-determination (MBL Act). Article 19 of this Act provides that the employer must keep the workers' representative body, with which he is involved by collective agreement, informed of the main features of staff policy.

#### **Clause 6 : Provisions on implementation**

- 1. Member States and/or social partners may maintain or introduce more favourable provisions than set out in this agreement.**
- 2. Implementation of the provisions of this Agreement shall not constitute valid grounds for reducing the general level of protection afforded to workers in the field of this agreement. This does not prejudice the right of Member States and/or social partners to develop different legislative, regulatory or contractual provisions, in the light of changing circumstances, and does not prejudice the application of Clause 5.1 as long as the principle of non-discrimination as expressed in Clause 4.1 is complied with.**
- 3. This Agreement does not prejudice the right of the social partners to conclude, at the appropriate level, including European level, agreements adapting and/or complementing the provisions of this Agreement in a manner which will take account of the specific needs of the social partners concerned.**
- 4. This Agreement shall be without prejudice to any more specific Community provisions, and in particular Community provisions concerning equal treatment or opportunities for men and women.**
- 5. The prevention and settlement of disputes and grievances arising from the application of this Agreement shall be dealt with in accordance with national law, collective agreements and practice.**
- 6. The signatory parties shall review this Agreement, five years after the date of the Council decision, if requested by one of the parties to this Agreement.**

There are in general no problems in implementing these provisions. The principle of "more favourable treatment" already exists in most Member States.

### **III. GENERAL CONCLUSIONS**

#### Implementation measures :

Part-time work was an established phenomenon and was already legislated for in some Member States before the Directive was adopted.

Thus many Member States (Spain, Finland, France, Greece, Italy, Netherlands) have transposed the Directive by means of changes to existing legislation. Two Member States (Belgium and Denmark) have combined legislation with collective agreements to implement the Directive. In two others (Austria and Luxembourg) the authorities did not consider specific transposition measures necessary. Five Member States (Portugal, Germany, Ireland, Sweden and United Kingdom) actually took the advantage of the opportunity to draft new and specific legislation concerning part-time work with a view to encouraging its promotion.

#### Implementation of the provisions of the framework agreement:

In general, it could be considered that Member States have correctly transposed the provisions of the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC but the following remarks should be emphasised.

#### Clause 1

The general objectives set out in Clause 1 are not explicitly incorporated in the legal texts transposing the Directives in most Member States. However, they are present in spirit in the overall structure of the laws . In Denmark the social partners agreement between the Danish LO-DA contains a specific reference to its purpose and in the Netherlands the objectives listed in Clause 1a) are found in the transposition legislation.

#### Clause 2

As regards the scope of the Framework Agreement some Member States (France, Ireland and Spain) make use of the right to exclude workers who work on a casual basis. In Denmark such an exclusion can only be used in the public sector.

### Clause 3

With regard to the definitions of part-time worker and comparable full-time worker, some Member States (Austria, Greece, Luxembourg and Netherlands) have not used exactly the same definitions referred to in the agreement between the social partners. However, the provisions in force guarantee an equivalent level of protection.

### Clause 4

Most of the Member States have implemented the two main principles of non-discrimination and pro-rata temporis. In France and Spain, there are no specific regulations establishing the principle of non-discrimination in national legislation. However, the regulations in question show that, as far as basic working conditions are concerned, part-time workers enjoy the same rights as full-time workers. In France the numerous regulations of the labour code establish that, for the basic working conditions, part-timers are entitled the same rights as a full-time workers. This also applies to the principle of pro-rata temporis. In Greece and Portugal the principle of pro-rata temporis is explicitly mentioned only with regard to pay.

Several Member States (Belgium, Denmark, Greece and Ireland) took advantage of the possibility offered by Clause 4 to make access to particular conditions of employment subject to certain requirements relating to period of service, time worked or earnings conditions, where justified for objective reasons.

### Clause 5

In spite of its nature there is a wide range of legal and non-legal measures taken by Member States to fulfil this clause. In Belgium, France and Germany legal measures were taken to identify and eliminate obstacles to part-time work and to facilitate the transfer between full-time and part-time workers. In Denmark there are regulations in collective agreements. The United Kingdom has the implementation law accompanied by a guide to best practice. Ireland followed the same mechanism whereby the Labour Relations Commission will prepare a Code of Practice to deal with the issue of full-time workers transferring to part-time and vice versa. Belgium created a special time-credit system offering a career break of one year or specific leave as well as entitlements to reduce working hours. The procedure for providing information on the availability of part-time and full-time posts provided for in Clause 5 of the Framework Agreement has been transposed in Belgium, Denmark, Germany, Netherlands, Portugal, Spain and Sweden.