Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work

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on the protection of young people at work

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 118a thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the opinion of the Economic and Social Committee[(2)],

Acting in accordance with the procedure referred to in Article 189c of the Treaty[(3)],

Whereas Article 118a of the Treaty provides that the Council shall adopt, by means of directives, minimum requirements to encourage improvements, especially in the working environment, as regards the health and safety of workers;

Whereas, under that Article, such directives must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

Whereas points 20 and 22 of the Community Charter of the Fundamental Social Rights of Workers, adopted by the European Council in Strasbourg on 9 December 1989, state that:

20. Without prejudice to such rules as may be more favourable to young people, in particular those ensuring their preparation for work through vocational training, and subject to derogations limited to certain light work, the minimum employment age must not be lower than the minimum school-leaving age and, in any case, not lower than 15 years;

22. Appropriate measures must be taken to adjust labour regulations applicable to young workers so that their specific development and vocational training and access to employment needs are met.

The duration of work must, in particular, be limited — without it being possible to circumvent this limitation through recourse to overtime — and night work prohibited in the case of workers of under eighteen years of age, save in the case of certain jobs laid down in national legislation or regulations.;

Whereas account should be taken of the principles of the International Labour Organization regarding the protection of young people at work, including those relating to the minimum age for access to employment or work;

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Whereas, in this Resolution on child labour[4], the European Parliament summarized the various aspects of work by young people and stressed its effects on their health, safety and physical and intellectual development, and pointed to the need to adopt a Directive harmonizing national legislation in the field;

Whereas Article 15 of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work[5] provides that particularly sensitive risk groups must be protected against the dangers which specifically affect them;

Whereas children and adolescents must be considered specific risk groups, and measures must be taken with regard to their safety and health;

Whereas the vulnerability of children calls for Member States to prohibit their employment and ensure that the minimum working or employment age is not lower than the minimum age at which compulsory schooling as imposed by national law ends or 15 years in any event; whereas derogations from the prohibition on child labour may be admitted only in special cases and under the conditions stipulated in this Directive; whereas, under no circumstances, may such derogations be detrimental to regular school attendance or prevent children benefiting fully from their education;

Whereas, in view of the nature of the transition from childhood to adult life, work by adolescents should be strictly regulated and protected;

Whereas every employer should guarantee young people working conditions appropriate to their age;

Whereas employers should implement the measures necessary to protect the safety and health of young people on the basis on an assessment of work-related hazards to the young;

Whereas Member States should protect young people against any specific risks arising from their lack of experience, absence of awareness of existing or potential risks, or from their immaturity;

Whereas Member States should therefore prohibit the employment of young people for the work specified by this Directive;

Whereas the adoption of specific minimal requirements in respect of the organization of working time is likely to improve working conditions for young people;

Whereas the maximum working time of young people should be strictly limited and night work by young people should be prohibited, with the exception of certain jobs specified by national legislation or rules;

Whereas Member States should take the appropriate measures to ensure that the working time of adolescents receiving school education does not adversely affect their ability to benefit from that education;

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Whereas time spent on training by young persons working under a theoretical and/or practical combined work/training scheme or an in-plant work-experience should be counted as working time;

Whereas, in order to ensure the safety and health of young people, the latter should be granted minimum daily, weekly and annual periods of rest and adequate breaks;

Whereas, with respect to the weekly rest period, due account should be taken of the diversity of cultural, ethnic, religious and other factors prevailing in the Member States; whereas in particular, it is ultimately for each Member State to decide whether Sunday should be included in the weekly rest period, and if so to what extent;

Whereas appropriate work experience may contribute to the aim of preparing young people for adult working and social life, provided it is ensured that any harm to their safety, health and development is avoided;

Whereas, although derogations from the bans and limitations imposed by this Directive would appear indispensable for certain activities or particular situations, applications thereof must not prejudice the principles underlying the established protection system;

Whereas this Directive constitutes a tangible step towards developing the social dimension of the internal market;

Whereas the application in practice of the system of protection laid down by this Directive will require that Member States implement a system of effective and proportionate measures;

Whereas the implementation of some provisions of this Directive poses particular problems for one Member State with regard to its system of protection for young people at work; whereas that Member State should therefore be allowed to refrain from implementing the relevant provisions for a suitable period,

HAS ADOPTED THIS DIRECTIVE:

SECTION I

Article 1

Purpose

1 Member States shall take the necessary measures to prohibit work by children.

They shall ensure, under the conditions laid down by this Directive, that the minimum working or employment age is not lower than the minimum age at which compulsory full-time schooling as imposed by national law ends or 15 years in any event.

2 Member States ensure that work by adolescents is strictly regulated and protected under the conditions laid down in this Directive.

3 Member States shall ensure in general that employers guarantee that young people have working conditions which suit their age.

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They shall ensure that young people are protected against economic exploitation and against any work likely to harm their safety, health or physical, mental, moral or social development or to jeopardize their education.

Article 2

Scope

1 This Directive shall apply to any person under 18 years of age having an employment contract or an employment relationship defined by the law in force in a Member State and/or governed by the law in force in a Member State.

2 Member States may make legislative or regulatory provision for this Directive not to apply, within the limits and under the conditions which they set by legislative or regulatory provision, to occasional work or short-term work involving:

a domestic service in a privat household, or

b work regarded as not being harmful, damaging or dangerous to young people in a family undertaking.

Article 3

Definitons

For the purposes of this Directive:

(a) ‘young person’ shall mean any person under 18 years of age referred to in Article 2 (1);

(b) ‘child’ shall mean any young person of less than 15 years of age or who is still subject to compulsory full-time schooling under national law;

(c) ‘adolescent’ shall mean any young person of at least 15 years of age but less than 18 years of age who is no longer subject to compulsory full-time schooling under national law;

(d) ‘light work’ shall mean all work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed:

(i) is not likely to be harmful to the safety, health or development of children, and

(ii) is not such as to be harmful to their attendance at school, their participation in vocational guidance or training programmes approved by the competent authority or their capacity to benefit from the instruction received;

(e) ‘working time’ shall mean any period during which the young person is at work, at the employer's disposal and carrying out his activity or duties in accordance with national legislation and/or practice;

(f) ‘rest period’ shall mean any period which is not working time.

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Article 4

Prohibition of work by children

1 Member States shall adopt the measures necessary to prohibit work by children.

2 Taking into account the objectives set out in Article 1, Member States may make legislative or regulatory provision for the prohibition of work by children not to apply to:

a children pursuing the activities set out in Article 5;

b children of at least 14 years of age working under a combined work/training scheme or an in-plant work-experience scheme, provided that such work is done in accordance with the conditions laid down by the competent authority;

c children of at least 14 years of age performing light work other than that covered by Article 5; light work other than that covered by Article 5 may, however, be performed by children of 13 years of age for a limited number of hours per week in the case of categories of work determined by national legislation.

3 Member States that make use of the opinion referred to in paragraph 2 (c) shall determine, subject to the provisions of this Directive, the working conditions relating to the light work in question.

Article 5

Cultural or similar activities

1 The employment of children for the purposes of performance in cultural, artistic, sports or advertising activities shall be subject to prior authorization to be given by the competent authority in individual cases.

2 Member States shall by legislative or regulatory provision lay down the working conditions for children in the cases referred to in paragraph 1 and the details of the prior authorization procedure, on condition that the activities:

(i) are not likely to be harmful to the safety, health or development of children, and

(ii) are not such as to be harmful to their attendance at school, their participation in vocational guidance or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

3 By way of derogation from the procedure laid down in paragraph 1, in the case of children of at least 13 years of age, Member States may authorize, by legislative or regulatory provision, in accordance with conditions which they shall determine, the employment of children for the purposes of performance in cultural, artistic, sports or advertising activities.

4 The Member States which have a specific authorization system for modelling agencies with regard to the activities of children may retain that system.