Council Directive of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (91/533/EEC)

COUNCIL DIRECTIVE

of 14 October 1991

on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship

(91/533/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

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

Having regard to the opinion of the European Parliament[(2)],

Having regard to the opinion of the Economic and Social Committee[(3)],

Whereas the development, in the Member States, of new forms of work has led to an increase in the number of types of employment relationship;

Whereas, faced with this development, certain Member States have considered it necessary to subject employment relationships to formal requirements; whereas these provisions are designed to provide employees with improved protection against possible infringements of their rights and to create greater transparency on the labour market;

Whereas the relevant legislation of the Member States differs considerably on such fundamental points as the requirement to inform employees in writing of the main terms of the contract or employment relationship;

Whereas differences in the legislation of Member States may have a direct effect on the operation of the common market:

Whereas Article 117 of the Treaty provides for the Member States to agree upon the need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonization while the improvement is being maintained;

Whereas point 9 of the Community Charter of Fundamental Social Rights for Workers, adopted at the Strasbourg European Council on 9 December 1989 by the Heads of State and Government of 11 Member States, states:

> The conditions of employment of every worker of the European Community shall be stipulated in laws, a collective agreement or a contract of employment, according to arrangements applying in each country.;

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Whereas it is necessary to establish at Community level the general requirement that every employee must be provided with a document containing information on the essential elements of his contract or employment relationship;

Whereas, in view of the need to maintain a certain degree of flexibility in employment relationships, Member States should be able to exclude certain limited cases of employment relationship from this Directive's scope of application;

Whereas the obligation to provide information may be met by means of a written contract, a letter of appointment or one or more other documents or, if they are lacking, a written statement signed by the employer;

Whereas, in the case of expatriation of the employee, the latter must, in addition to the main terms of his contract or employment relationship, be supplied with relevant information connected with his secondment;

Whereas, in order to protect the interests of employees with regard to obtaining a document, any change in the main terms of the contract or employment relationship must be communicated to them in writing;

Whereas it is necessary for Member States to guarantee that employees can claim the rights conferred on them by this Directive;

Whereas Member States are to adopt the laws, regulations and legislative provisions necessary to comply with this Directive or are to ensure that both sides of industry set up the necessary provisions by agreement, with Member States being obliged to take the necessary steps enabling them at all times to guarantee the results imposed by this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Scope

1 This Directive shall apply to every paid employee having a contract or 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 provide that this Directive shall not apply to employees having a contract or employment relationship:

a — with a total duration not exceeding one month, and/or
— with a working week not exceeding eight hours; or

b of a casual and/or specific nature provided, in these cases, that its non-application is justified by objective considerations.

Article 2

Obligation to provide information

1 An employer shall be obliged to notify an employee to whom this Directive applies, hereinafter referred to as 'the employee', of the essential aspects of the contract or employment relationship.

2 The information referred to in paragraph 1 shall cover at least the following:

a the identities of the parties;

b the place of work; where there is no fixed or main place of work, the principle that the employee is employed at various places and the registered place of business or, where appropriate, the domicile of the employer;

c (i) the title, grade, nature or category of the work for which the employee is employed; or

(ii) a brief specification or description of the work;

d the date of commencement of the contract or employment relationship;

e in the case of a temporary contract or employment relationship, the expected duration thereof;

f the amount of paid leave to which the employee is entitled or, where this cannot be indicated when the information is given, the procedures for allocating and determining such leave;

g the length of the periods of notice to be observed by the employer and the employee should their contract or employment relationship be terminated or, where this cannot be indicated when the information is given, the method for determining such periods of notice;

h the initial basic amount, the other component elements and the frequency of payment of the remuneration to which the employee is entitled;

i the length of the employee's normal working day or week;

j where appropriate;

(i) the collective agreements governing the employee's conditions of work;

or

(ii) in the case of collective agreements concluded outside the business by special joint bodies or institutions, the name of the competent body or joint institution within which the agreements were concluded.

3 The information referred to in paragraph 2 (f), (g), (h) and (i) may, where appropriate, be given in the form of a reference to the laws, regulations and administrative or statutory provisions or collective agreements governing those particular points.

Article 3

Means of information

1 The information referred to in Article 2 (2) may be given to the employee, not later than two months after the commencement of employment, in the form of:

a a written contract of employment; and/or