

Protection of Young People at Work, Protection of Child Care

I. Protection of Young People at Work

International standards: UN Convention on Rights of Child (1989)

ILO conventions (prohibition of child labour, minimum age for entrance in employment)

EU law

Community Charter of Fundamental Social Rights of Workers (adopted in Strasbourg in 1989) – point 20 minimum employment age may not be lower than minimum school leaving age, in any case not lower than 15 years.

Necessity to take appropriate measures to adjust employment regulation to needs of young persons,

Limitation of duration of work,

Prohibition of night work

Council Directive 94/33/EC on Protection Young People at Work

Definitions:

Child – any person who is less than 15 or more then 15 but subjected to compulsory school attendance.

Adolescent – young person of at least 15 years of age, less than 18 who is no longer subjected to compulsory school attendance

Purpose:

Member States shall

- Take necessary measures to prohibit work by children.
- Minimum working or employment age must not be lower than age of completion of the compulsory school attendance as defined in the national law, in any case not lower than 15 years
- Work of adolescents shall be strictly regulated and protected
- Employers shall guarantee adolescents appropriate working conditions.
- Protection of young people against economic exploitation and against any work that would be dangerous for health or for physical, mental, moral or social development.

Scope of Application:

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.

Possibility of the Member State to exclude from the scope of application:

occasional work or short-term work involving:

- (a) domestic service in a private household, or
- (b) work regarded as not being harmful, damaging or dangerous to young people in a family undertaking.

Prohibition of Work by Children

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

Possibility of the Member State to provide for exceptions:

- a) children pursuing cultural or similar activities
- 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.

Cultural or similar activities (sports, artistic, advertising) is subjected to prior authorisation by competent authority In individual cases.

It may not be harmful for school attendance or vocational guidance.

Obligations of Employers

I. The employer shall adopt the measures necessary to protect the safety and health of young people, taking particular account of the specific risks.

II. The employer shall implement the measures on the basis of an assessment of the hazards to young people in connection with their work.

The assessment must be made before young people begin work and when there is any major change in working conditions and must pay particular attention to:

- (a) the fitting-out and layout of the workplace and the workstation;
- (b) the nature, degree and duration of exposure to physical, biological and chemical agents;
- (c) the form, range and use of work equipment, in particular agents, machines, apparatus and devices, and the way in which they are handled;
- (d) the arrangement of work processes and operations and the way in which these are combined (organization of work);
- (e) the level of training and instruction given to young people.

Information of young people and their legal representatives.

Prohibition of Some Types of Work

Vulnerability of young people shall be taken into account

Prohibition of work

- beyond the physical or psychological capacity of young people
- work involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affect human health;
- work involving harmful exposure to radiation;
- work involving the risk of accidents which it may be assumed cannot be recognized or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or
- work in which there is a risk to health from extreme cold or heat, or from noise or vibration.

Working Time:

Limitation of working hours of adolescents - maximum 8 hours per day, 40 hours per week.

Rest periods:

Daily rest during 24 hours child is entitled to 14 continuous hours of rest period, adolescent is entitled to 12 continuous hours of rest period

Weekly rest during each 7 days period at least 2 days for both children and adolescents.

Breaks at work after 4,5 hours of work at least 30 minutes

Night Work

Children – prohibition of work between 8 p.m. and 6 a.m.

Adolescents - prohibition between 10 p.m and 6 a..m. or 11.p.m. and 7. a.m. In any case prohibition between midnight and 5. a.m.

II Protection of Child Care

Protection of pregnant women and women who are breastfeeding, women who has recently given birth

Relation to the health and safety at work,

Council Directive 92/85/EEC concerning the implementation of measures to encourage improvements in the safety and health of pregnant workers, workers who have recently given birth and women who are breastfeeding (Tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

Purpose:

Encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or who are breastfeeding.

The Member States may not reduce the level of protection afforded by their national legislation at the moment of adoption of this Directive

Definitions:

Pregnant worker –worker who is pregnant and informs her employer of her condition

Worker who have recently given birth - worker who have recently given and informs her employer of her condition

Worker who is breastfeeding- worker who is breastfeeding and informs her employer of this fact.

Maternity Leave

Workers are entitled to a continuous period of maternity leave of a least 14 weeks allocated before and/or after confinement. Two-week maternity leave is obligatory.

Maintenance of payment: in the form of wage reimbursement or adequate allowance

Prohibition of Dismissal

It is recognized as a part of the workers' health.

Prohibition of dismissal of workers during the period from the beginning of their pregnancy to the end of the maternity leave save in exceptional cases not connected with their condition which are permitted under national legislation and/or practice and, where applicable, provided that the competent authority has given its consent;

If a worker, is dismissed during this period the employer must cite duly substantiated grounds for her dismissal in writing;

Member States shall take the necessary measures to protect workers, within from consequences of dismissal which is unlawful.

Protection of Both Parents

Parental Leave:

Directive 2010/18/EU implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC

Purpose:

Set out minimum requirements on parental leave and time off from work on grounds of force majeure as an important means of reconciling work and family life and promoting equal opportunities and treatment between men and women.

Scope of Application:

all workers, men and women, who have an employment contract or employment relationship as defined by the law, collective agreements or practices in force in each Member State.

Parental Leave:

Men and women workers are entitled to parental leave on the grounds of the birth or adoption of a child to enable them to take care of that child, for at least four months, until a given age up to 8 years to be defined by Member States and/or management and labour.

Member States shall take the necessary measures to protect workers against less favourable treatment on the grounds of an application for, or the taking of, parental leave in accordance with national law, collective agreements or practices.

At the end of parental leave, workers shall have the right to return to the same job or, if that is not possible, to an equivalent or similar job consistent with their employment contract or employment relationship.

Time off from Work on Grounds of Force Majeure:

For urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable

