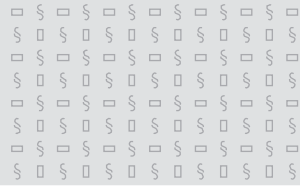




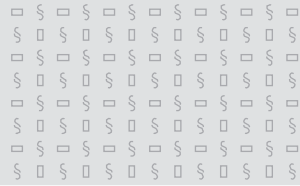
# MASARYK UNIVERSITY FACULTY OF LAW

## Protection of Young People at Work Protection of Child Care



# Protection of Young People

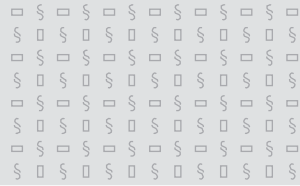
- International standards
  - UN Convention on Rights of Child (1989)
  - ILO conventions
  - prohibition of child labour
  - Minimum age for entrance in employment
- European Social Charter
  - Art. 7



# Protection of Young People

## EU Law:

- Community Charter of Fundamental Social Rights of Workers – Art. 20
  - necessity to take appropriate measures to adjust employment regulation to needs of young persons
  - limitation of duration of work
  - prohibition of night work



# Protection of Young People

## Directive 94/33/EC

- Directive on the protection of young people at work
- Adopted pursuant to Art. 154 TFEU (Health and Safety)
- UK was granted the right to refrain from implementing certain provisions for a given period of time.



# Protection of Young People

- 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.



# Protection of Young People

## Definitions:

- **Child** – any young person of less than 15 years of age or who is still subject to compulsory full-time schooling under national law
- **Young person** - any person under 18 years of age having an employment contract or an employment relationship
- **Adolescent** - 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



# Protection of Young People

- Member States shall take necessary measures to prohibit work by children.
- Possibility of the Member State to provide for exceptions:
  - children pursuing cultural or similar activities
  - 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;
  - 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.



# Protection of Young People

- The employer shall adopt the measures necessary to protect the safety and health of young people:
  - the fitting-out and layout of the workplace and the workstation;
  - the nature, degree and duration of exposure to physical, biological and chemical agents;
  - the form, range and use of work equipment, in particular agents, machines, apparatus and devices, and the way in which they are handled;
  - the arrangement of work processes and operations and the way in which these are combined (organization of work);
  - the level of training and instruction given to young people.





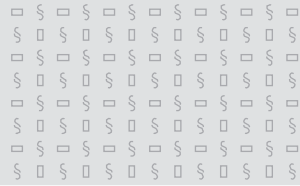
# Protection of Young People

- 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.



# Protection of Young People

- Working time must be limited to:
  - 8 hours a day
  - 40 hours a week
- Night work:
  - Work by adolescents is prohibited from 10 p.m. to 6 a.m./11 p.m. – 7 a.m.
  - Exceptions in specific areas of activity; between midnight and 4 a.m. the night work is still prohibited



# Protection of Young People

- Rest period for children:
  - 2 days a week
  - 14 hours in a day
- Rest period for adolescents:
  - 12 hours a day
  - 2 days a week



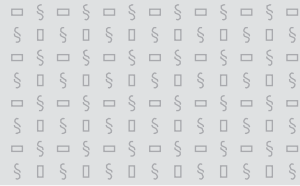
# Protection of Motherhood

- Directive 92/85/EEC
  - Directive 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
  - Adopted pursuant to Art. 154 TFEU (Health and Safety)



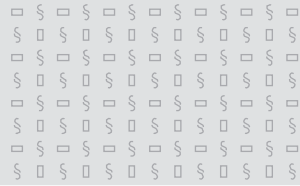
# Protection of Motherhood

- Protective measures:
  - Assessment of the nature, degree and duration of exposure to the agents, processes or working conditions causing risks to the safety or health or any possible effect on the pregnancy or breastfeeding
  - Alternative to night work
  - Continuous period of maternity leave
  - Prohibition of dismissal



# Protection of Motherhood

- Prohibition of dismissal:
  - Dismissal of workers under the scope of the directive during the period from the beginning of their pregnancy to the end of the maternity leave is prohibited, 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, the employer must cite duly substantiated grounds for her dismissal in writing;
  - Workers are protected from consequences of dismissal which is unlawful by virtue of point 1.
- C-460/06 Nadine Paquay
- C-506/06 Sabine Mayr



# Protection of Motherhood

- 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.



# Protection of Motherhood

- Member States shall take the necessary measures to ensure that workers under the scope of the directive are not obliged to perform night work during their pregnancy and for a period following childbirth which shall be determined by the national authority competent for safety and health, subject to submission, in accordance with the procedures laid down by the Member States, of a medical certificate stating that this is necessary for the safety or health of the worker concerned.





# Parental Leave

- Directive 96/34/EC:
  - Directive on the Framework Agreement on Parental Leave concluded by UNICE, CEEP and the ETUC
  - Extended to UK by the Directive 97/75
  - Revised by the Framework agreement on Parental Leave 18 June 2009
- 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



# Parental Leave

- Directive applies to all workers, men and women, who have an employment contract or employment relationship
- Workers are entitled an individual right to parental leave on the grounds of the birth or adoption of a child to take care of that child until a given age up to eight years.
- The leave shall be granted for at least a period of four months.
  
- Case C - 222/14 Konstantinos Maïstrellis
- Case C - 149/10 Zoi Chatzi



# Parental Leave

- In order to ensure that workers can exercise their right to parental leave, Member States and/or management and labour shall take the necessary measures to protect workers against dismissal 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.



# Parental Leave

- All matters regarding social security in relation to this agreement are for consideration and determination by Member States and/or social partners according to national law and/or collective agreements, taking into account the importance of the continuity of the entitlements to social security cover under the different schemes, in particular health care.
- Member States and/or social partners shall take the necessary measures to entitle workers to time off from work, in accordance with national legislation, collective agreements and/or practice, on grounds of force majeure for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable.