

**PRESS RELEASE**

**10237/93 (Presse 199)**

**1708th Council meeting**

**LABOUR AND SOCIAL AFFAIRS**

**Brussels, 23 November 1993**

**President: Ms Miet SMET**

**Minister for Employment, Labour and  
Policy on Equal Opportunities of the  
Kingdom of Belgium**

The Governments of the Member States and the European Commission were represented as follows:

Belgium:

Ms Miet SMET

Minister for Employment, Labour and Policy on Equal Opportunities

Mr F. WILLOCKX  
Ms Laurette ONKELINX

Minister for Pensions  
Chairwoman of the French-speaking Community and Minister with responsibility for Social Affairs, Public Health and Tourism

Denmark:

Ms Jytte ANDERSEN  
Mr Henrik HASSENKAM

Minister for Labour  
State Secretary for Labour

Germany:

Mr Horst GÜNTHER

Parliamentary State Secretary, Federal Ministry of Labour and Social Affairs

Greece:

Mr Evangelos YIANNOPOULOS

Minister for Labour

Spain:

Mr José Antonio GRIÑAN  
Ms Cristina ALBERDI ALONSO

Minister for Labour and Social Security  
Minister for Social Affairs

France:

Mr Michel GIRAUD

Minister for Labour, Employment and Vocational Training

Ireland:

Ms Mary O'ROURKE  
Mr Mervyn TAYLOR

Minister of State (Labour Affairs)  
Minister for Equality and Law Reform

Italy:

Mr Gino GIUGNI

Minister for Employment and Social Security

Luxembourg:

Mr Jean-Claude JUNCKER  
Ms Mady DELVAUX-STEHRÉS

Minister for Labour  
Secretary of State for Social Security

Netherlands:

Mr Bert DE VRIES

Minister for Employment and Social Security

Portugal:

Mr José DA SILVA PENEDA

Minister for Employment and Social Security

United Kingdom:

Mr David HUNT  
Mr Michael FORSYTH

Secretary of State for Employment  
Minister of State for Employment

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Commission :

Mr Pádraig FLYNN

Member

At this meeting, the Council:

- adopted two Directives, namely
  - = a Directive on the organization of working time (see p. 7)
  - = a Directive on the protection of workers on fishing vessels (see pp. I and II);
  
- adopted its common position on the proposal for a Directive on the protection of young people at work (see pp. 4 to 6);
  
- approved a Declaration of Principles concerning future policy to help the elderly (see p. 10);
  
- reached broad agreement on two other proposals for Directives, namely
  - = a Directive on parental leave (see p. 8)
  - = a Directive on the burden of proof (see p. 8).

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## **PROTECTION OF YOUNG PEOPLE AT WORK**

Following the political agreement reached at its meeting on 12 October 1993, the Council adopted unanimously (Spain and Italy abstained: their explanations are given in the Annex) the common position on the Directive concerning the protection of young people at work.

The Directive provides that the Member States will:

- take the necessary measures to prohibit work by children;
- ensure that work by adolescents is strictly regulated and protected under the conditions set by the Directive.

The Directive is based on Article 118a of the EEC Treaty. It applies to anyone under the age of 18 who has 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.

The Directive defines the following groups of young people:

- child: any young person of less than 15 years of age or who is still subject to compulsory full-time schooling under national law;
- 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.

The first aim of the Directive is to prohibit work by children.

However, the Directive allows Member States, under certain conditions, to make provision to the effect that the prohibition on work by children does not apply to:

- children pursuing cultural, artistic, sports or advertising activities so long as prior authorization has been given by the competent authority in individual cases;
- 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 referred to in the first indent; light work 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.

"Light work" means all work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed:

- is not likely to be harmful to the safety, health or development of young people, and
- 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.

The Directive contains provisions concerning:

- general obligations on employers, such as protecting the health and safety of young people, assessing the hazards to young people in connection with their work, assessing and monitoring the health of young people, informing young people and the legal representatives of children about possible risks to health and safety;

- work which young people are not allowed to perform, e.g. work which is beyond their physical or psychological capacity; work involving harmful exposure to dangerous agents.

It also contains detailed provisions on the following points:

- working time;
- night work;
- rest periods;
- annual rest;
- annual holidays;
- breaks.

The United Kingdom will have the option of not applying certain provisions of the Directive concerning adolescents for a period of four years from the date on which the Directive takes effect. The Commission will submit a report on the effects of this transitional provision, and on the basis of that report the Council will decide, by the procedures laid down in the Treaty, whether the provision should be extended.

**ORGANIZATION OF WORKING TIME**

Following the agreement achieved on the common position on 1 June 1993 (see Press Release 6710/93 - Presse 88), the Council adopted, with the United Kingdom delegation abstaining, the Directive concerning certain aspects of the organization of working time.

The Directive lays down minimum health and safety provisions in the following areas:

- maximum weekly working time (48 hours including overtime);
- daily rest (11 hours);
- breaks;
- weekly rest (24 hours);
- annual paid leave (four weeks);
- nighttime working hours (8 hours).

It also includes a provision for the protection of night workers.

The Directive provides for the possibility of fixing:

- reference periods for weekly rest, maximum weekly working time and nighttime working hours;
- derogations from some of its Articles.

## **GREEN PAPER ON SOCIAL POLICY AND WHITE PAPER ON GROWTH, COMPETITIVENESS AND EMPLOYMENT**

The Council heard an oral statement by Commissioner FLYNN about the main points of:

- the Commission's Green Paper on the future of social policy in the Community - Options for the Union;
- the White Paper to be submitted by the Commission to the European Council meeting on 10 and 11 December 1993.

## **PARENTAL LEAVE AND BURDEN OF PROOF**

On the basis of compromise texts from the Presidency, the Council examined the final points outstanding, and established broad agreement on most of them. A number of other points will still have to be examined by the Permanent Representatives Committee.

It may be noted that:

- the proposed Directive on parental leave provides, among other things, that Member States shall take the necessary measures
  - = to entitle employees to parental leave on grounds of the birth or adoption of a child so that they can care for it until a given age
  - = to protect employees against dismissal on grounds of an application for and/or the taking of parental leave;
- the proposed Directive on the burden of proof seeks to ensure the genuine effectiveness of national measures taken pursuant to the principle of equality between men and women which enable all persons who consider themselves wronged by a failure to apply that principle to them to pursue their claims by judicial process after possible recourse to other competent authorities.



**PROGRESS CONCERNING**

- **European Works Councils**
- **Posting of workers**
- **Non-standard employment**
- **Combating social exclusion**

The Council noted the progress that had been made on these issues.

Regarding the proposal for a Council Directive on European Works Councils, Commissioner FLYNN informed the Council that on 18 November 1993 the Commission had sent a consultation document to representatives of management and labour in accordance with the procedure laid down in the Social Protocol annexed to the Treaty on European Union. He said the social partners now had six weeks to comment on the possible direction of any Community action in this area.

The Council instructed the Permanent Representatives Committee to continue the examination of the other three dossiers with a view to a Council meeting in the near future, although the Decision on the programme to combat social exclusion ought to be adopted at the earliest opportunity - in February 1994 if at all possible.

**THE ELDERLY**

The Council and the Social Affairs Ministers agreed to a Declaration of Principles to be made at the ceremony to mark the end of the European Year of the Elderly and of Solidarity between Generations (1993) which would be held in Brussels at the beginning of December.

The Declaration sets out certain guidelines for future policy on the elderly, who make up a very significant and ever-increasing proportion of the citizens of the European Union.

It covers the following aspects, among others:

- level of income and standard of living;
- housing and mobility;
- the provision of care and services;
- the employment of elderly workers and preparation for retirement;
- the participation of the elderly in the life of the community.

The Council charged the Permanent Representatives Committee with the finalization of the text for adoption without further discussion at a meeting in the near future.

**EXPLANATIONS OF VOTING ON THE COMMON POSITION CONCERNING THE PROTECTION OF YOUNG PEOPLE AT WORK****SPANISH DELEGATION**

"The Spanish delegation thinks that there needs to be a Directive to protect the health and safety of young people by prohibiting child labour.

Articles 4 and 8 of the draft Directive still fail to define the derogation for light work in sufficient detail, allowing a longer working day than is appropriate for such work. Specifically, the Spanish delegation considers that young people under the age of fifteen should under no circumstances be authorized to work for more than two hours per day and twelve hours per week.

For the reasons already described, the Spanish delegation does not share the position of the majority of Governments of the Member States which are in favour of the draft Directive as it stands, but it considers that prolonging examination of the draft will not help achieve the goal of securing appropriate Community legislation.

On the other hand, since it considers there to be insufficient objective reasons justifying the United Kingdom's exemption from compliance with Articles 8 and 9, Spain opts to abstain when the common position is adopted."

**ITALIAN DELEGATION**

"The Italian delegation deplores the Council's decision to extend further the derogation that was allowed to a Member State at the previous meeting in October with regard to certain important provisions of this Directive.

It is therefore abstaining from the vote on the text of the common position put before the Council."

**DECISION IN THE FIELD OF LABOUR AND SOCIAL AFFAIRS**

(adopted without discussion)

**Protection of workers on board fishing vessels**

Following the adoption of the common position on 30 June 1993 and the completion of the co-operation procedure with the European Parliament, the Council (with France and the United Kingdom abstaining) adopted a Directive on the minimum safety and health requirements for work on board fishing vessels.

This is the thirteenth individual Directive within the meaning of Article 16(1) of Framework Directive 89/391/EEC of 12 June 1989, which provides for the implementation of measures to promote the improvement of workers' health and safety at the workplace.

The Directive applies to:

- new vessels 15 or more metres in length;
- existing vessels 18 or more metres in length.

The common position provides inter alia that:

- owners must ensure that their vessels are used without endangering the safety and health of workers;
- any occurrences at sea which affect or could affect the health and safety of the workers on board must be described in a report to be forwarded to the competent authorities;
- to verify their compliance with the Directive vessels must be subject to regular checks by authorities specifically empowered to carry out such checks;
- owners must ensure that any defects likely to affect the safety and health of workers are rectified;
- owners must ensure that the vessels are cleaned regularly and that life-saving and survival equipment is in good working order and take account of personal protective equipment specifications.

The Directive also contains provisions on the information, training, consultation and participation of workers.

It contains four Annexes laying down:

- minimum health and safety requirements for new vessels;
- minimum health and safety requirements for existing vessels;
- minimum health and safety requirements concerning life-saving and survival equipment;
- minimum health and safety requirements concerning personal protective equipment.

### **MISCELLANEOUS DECISIONS**

#### **Agreements with Bulgaria, Hungary and Romania on wine**

The Council adopted Decisions concerning the conclusion and signature of Agreements with Bulgaria, Hungary and Romania on wine. These Agreements concern:

- the reciprocal establishment of import tariff quotas;
- reciprocal protection and control of wine names.

The Decisions concerning Bulgaria were adopted unanimously; those for Hungary and Romania by a qualified majority, with Italy voting against in the case of Hungary and Portugal voting against in the case of Romania.

With regard to the tariff quotas, the mutual concessions are based on recent patterns of trade, and gradual increases are scheduled over an initial period of five years. In the context of the relevant quotas, the Community will reduce tariffs more quickly than its partners.

On the protection and control of registered designations of origin for wine, the Agreements provide that the Parties will grant each other reciprocal protection in respect of the names used for the designation and presentation of wines originating in the territory of the other Party, in particular against unfair competition.

The Agreement with Hungary contains specific provisions on the protection of the Hungarian name "Tokay", including a 13-year period for phasing out the names "Tokay" and "Tocai" in France and Italy.

Ref: BIO/93/283

DATE DOCUMENT : 93/11/22

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PREPARATION SOCIAL AFFAIRS COUNCIL OF 23 NOVEMBER 1993

The Social Affairs Council will commence at 10.00 hrs. on Tuesday, 23 November. The agenda (provisional) is as follows :

- Protection of young people at work
- Organisation of working time
- Fishing vessels
- Parental leave
- Burden of proof
- Commission Green Paper on the future of European Social Policy
- Commission White Paper on Competitiveness, Employment and Growth
- Works Councils
- Posting of workers
- Atypical work
- Programme to combat exclusion and to promote solidarity
- Declaration on older people

Protection of young people at work

On 12 October 1993 the Council reached an agreement on the proposal for a Directive on the protection of young people at work.

The text of the agreement contains a provision allowing the United Kingdom to suspend temporarily the implementation of certain obligations provided for in the Directive in relation to adolescents.

While expressing its reservations at the time on the nature of this derogation the Commission was ready to accept this solution in the event of unanimous vote in support of it.

The Commission is concerned that the text of the common position to be discussed in the Council does not accurately reflect what was agreed on 12 October. In particular the text now provides that the derogation for the United Kingdom should be extended to children; even though paradoxically they are entitled to greater protection under Article 1 of the Directive. The Commission considers that this position is a step backwards and would cause enormous difficulties particularly with the European Parliament.

Organisation of working time

The Commission expects that the Directive on the organisation of working time will be adopted unanimously by the Council.

Fishing vessels

This proposal aims to ensure better working and living conditions for fishermen by laying down minimum health and safety requirements for work

on board fishing vessels, which due to their particular characteristics as particular workplaces were excluded from the scope of Council Directive 89/645/EEC.

On 28.10.1993 the European Parliament accepted the Council's common position with eight amendments of which the Commission accepted four. The Commission is optimistic that progress will be made towards approving this Directive.

#### Parental leave and leave for family reasons

This proposal was tabled 10 years ago and has been blocked in the Council of Ministers since 1985. To give fresh impetus to discussions on the question of parental leave the Belgian presidency tabled a new proposal in July. The Commission hopes that progress can be made towards adopting the Directive.

#### Burden of proof

The proposed Directive on the burden of proof, which has been blocked in the Council since 1988, was tabled again by the Belgian Presidency in July 1993.

The Commission hopes that progress can be made towards adopting the Directive.

#### Green Paper on the future of European Social Policy

Commissioner Flynn will present to the Council the Commission's 'Green Paper on European Social Policy - options for the Union'. The aim of the Green Paper is to stimulate a wide ranging and intensive debate within all Member States. It is being issued to coincide with the ratification of the Maastricht Treaty, an opportune time to take stock and consider the different options for the future. The document covers the full spectrum of social policy issues, those which are priority to Member States and those which are priority to the Union.

#### Commission white paper on Growth, Competitiveness and Employment

The Council intends to have an exchange of views on the preparation of the White Paper.

#### Works Councils

The discussion in the Council of 12 October 1993 about the Commission's proposal for a Directive on the establishment of a European Works Council in community-scale undertakings or groups of undertakings for the purposes of informing and consulting employees did not reach a unanimous decision. The Council did acknowledge the existence of a large consensus between most of the delegations on the text. The Council also took note of the Commission's intention to consider the initiation from 1 November

1993 of the procedure laid down in the Agreement on Social Policy annexed to the Social Protocol on the basis of both the draft Directive submitted

by the Presidency and the considerations made in the course of the Council debate. The Commission has now initiated the first stage of consultations with the social partners on the issue in question.

#### Posting of workers

The amended proposal for a Council Directive concerning the posting of workers in the framework of the provision of services has not yet been fully discussed within the Working Group on Social Questions under the Belgian Presidency. The positions of the various delegations on this draft Directive has not yet been established.

#### A-typical work

Many problems rest outstanding on the two remaining draft directives. It is important that the Council makes progress on this dossier to cater for the rapid increase in non-standard labour contracts or 'new forms of work'.

#### Commission's proposal for a Medium Term Action Programme (1994-99) to Combat Exclusion and Promote Solidarity

This proposal was presented by the Commission to the Council on 12 October 1993. The Commission is aiming for its adoption by the end of this year.

#### Declaration on Older People

Since the beginning of 1993 work has been under way to examine the possibility of closing the European Year for Older People and Solidarity between Generations with a declaration by the Council of Ministers in the field of ageing. A text has yet to be agreed.

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Ref: BIO/93/283/1

DATE DOCUMENT : 93/11/24

SOCIAL AFFAIRS COUNCIL OF 23 NOVEMBER 1993

The Council reached agreement on three Directives :

- Protection of Young People at Work

The Council unanimously adopted a common position on this Directive with Italy and Spain abstaining due to disagreement with the derogation for the United Kingdom. The Commission also expressed reservations and concerns about the provision which allows the U.K. to suspend temporarily the implementation of certain obligations in the Directive in relation to children for a period of 4 years. The Commission has reserved its position with regard to the amendments which the European Parliament may adopt.

- Organisation of Working Time

This Directive was adopted unanimously by the Council. The key provisions are as follows :

- a maximum working week of 48 hours on average including overtime;
- that night work must not exceed 8 hours a night on average and that employees throughout the Community will normally have a right to :
  - a minimum daily rest period of 11 consecutive hours a day;
  - a rest break where the working day is longer than 6 hours;
  - a minimum rest period of 1 day a week;
  - 4 weeks' annual paid holiday.

- Minimum health and safety requirements for work on board fishing vessels

This Directive was adopted as an A point.

Parental leave and leave for family reasons

The Council came close to agreeing a final text on this Directive. The United Kingdom however, would only agree to the text if it included a derogation to limit the scope of the Directive to mothers of new born children only. Some Member States and the Commission could not accept a waiver which would undermine the basic principle of the directive which is parental leave.

The Presidency urged the United Kingdom to try to reach an agreement on the text under the Greek Presidency.

Burden of Proof

Ministers had a detailed exchange of views on Article 4 of the proposed Directive which describes how the burden of proof should be used in sex discrimination cases i.e. the main point of the Directive.

Some Member States expressed scrutiny reservations only - the United Kingdom however remains opposed to this Directive.

#### Works Councils

The Commission outlined to the Council that on 18 November 1993 it initiated the first stage of the procedure laid down in the Agreement on Social Policy annexed to the Social Protocol. A consultation paper has been sent to the Social Partners on the possible direction of Community action in this field. The Social Partners have been asked to forward their opinions within six weeks after receipt.

Mr Flynn stated that the Commission will keep the Council of Ministers as well as the European Parliament fully informed on the development of the consultation process on this issue.

#### Posting of workers

The Commission reported on the current status of this dossier and welcomed the common declaration made by FIEC and the FETBB on the proposal.

#### A-Typical work

The Council agreed to continue to try to reach agreement under the Greek Presidency to resolve the problems outstanding for the two remaining draft directives.

#### Green Paper on the future of European Social Policy

Commissioner Flynn presented to the Council the Commission's 'Green Paper on European Social Policy - options for the Union'.

Ministers congratulated the Commission on producing a quality document and expressed the wish to have a detailed discussion on the document in the near future - possibly by way of an informal Council under the Greek Presidency. In the meantime it was agreed that the Commission will launch the debate on the Paper throughout the Community.

#### White Paper

Mr Flynn introduced the Council to the note on 'Growth, Competitiveness and Employment' which was discussed in the ECOFIN Council on 22 November. Mr Flynn outlined the main labour market problems which Member States are facing. In particular he spoke on five key elements :

- Work Sharing and Active Employment Policies
- Improving the way our Labour Markets work
- the issue of labour costs

- new jobs and new needs  
and  
education and training policies

Draft declaration on older people

Ministers agreed a draft text. This will be refined by COREPER and adopted as an A point at a future Council meeting. The Commission welcomed the Presidency's initiative in this area and pronounced it a fitting conclusion to the European Year of Older People and Solidarity between Generations.

Programme to combat exclusion and to promote solidarity (1994-99)

The Commission confirmed that a Council decision is required by February 1994 at the latest in order to avoid a break between the current Poverty Programme and the new programme. Ministers exchanged views on the Commission's proposal but a decision was postponed until the next Social Affairs Council.

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