

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 830 final

Brussels, 17 December 1982

Amended proposal for a
COUNCIL DIRECTIVE
on voluntary part-time work

(Presented by the Commission to the Council, pursuant to the
second paragraph of Article 149 of the EEC Treaty)

COM(82) 830 final

EXPLANATORY MEMORANDUM

Second recital

Stresses the importance of the work carried out by Parliament in this field.

Third and fourth recitals :

Changes are largely a matter of wording

Article 1

The addition to the first indent of Article 1 is designed to cover those Member States where working hours are fixed neither by legislation nor by collective agreement. The other changes are largely a matter of rewording.

Articles 2 and 4

The intention in amalgamating these two Articles is to clarify the scope of the principle of non-discrimination. The new Article 2 is founded on the thesis that full-time and part-time workers should receive the same treatment in all areas where the two categories can be said to be in the same situation but that certain differences of treatment (e.g. as regards remuneration) may be objectively justified by the differences in hours work.

For this reason, the Commission has not followed Parliament's suggestion that "remuneration" be included amongst the fields in respect of which equal treatment will be compulsory.

In the Commission's view, "vocational training" also covers "industrial training" which Parliament suggested as an addition.

The purpose of other changes is to define the terms used. The definition of "remuneration" is taken over from Article 119 of the EEC Treaty.

Article 3

In paragraph 1, the requirement that part-time workers be covered by social security schemes has been reformulated in positive terms, as suggested by Parliament.

The Commission has not incorporated Parliament's amendment limiting the exemption from paragraph 1 to a period of one year following the adoption of the Directive. Such a limitation would have the effect of requiring Member States to introduce very substantial and complex changes in their social security systems within a wholly unrealistic time limit.

Article 4

The Commission has not followed Parliament's suggestion that the principle of proportionality be applied to all benefits enjoyed by part-time workers. Paragraphs 3 and 4 of the new Article 2 require compliance with the principle of proportionality, but only in respect of certain benefits.

Paragraph 2 of the former Article 4, which referred to paragraph 1 of that Article is now to be found in Article 9.

Article 5

Parliament amendment to the effect that the "written agreement" referred to in this Article should be based on collective agreements, has been disregarded on the grounds that very few collective agreements actually make any reference to the hours of part-time workers. As regards Parliament's amendment stipulating that the written agreement must also lay down "how the time is to be divided up among the days of the week and the conditions governing changes to this arrangement", the Commission takes the view that these matters are already covered by the phrase "arrangements for the distribution of these hours".

Article 8

The purpose of the change is to make clear the point at which information, consultation and participation procedures should be applied. As suggested by Parliament, the amended text also includes such procedures for the participation of workers' representatives as are in force for full-time workers.

Parliament's amendment limiting the application of the Directive to persons working more than 12 hours a week has not been incorporated. The introduction of such a threshold would in the Commission's opinion accentuate the segmentation of the labour market, forcing those workers excluded from the scope of the Directive into the situation of a marginal group and encouraging discrimination against them.

Parliament's amendment requiring employers to present reports on part-time work at least once a year has been disregarded on the grounds that employers are under no such obligation with regard to their full-time workforce.

Article 9

The changes to paragraph 1 are largely a matter of rewording. The purpose of this paragraph is to incorporate in the Directive provisions analogous to those included in the Directive on equal treatment for men and women.

The new paragraph 2, which is in line with an amendment proposed by Parliament, allows Member States to apply provisions more favourable to part-time workers. Paragraph 2 of the former Article 4, which was designed to achieve the same objective, has therefore been dropped.

Article 10

The change in paragraph 1 introduced at the instigation of Parliament sets a deadline for the implementation of the Directive by Member States, reflecting the urgency of action in this matter.

Article 11

The changes introduced here, in line with amendments proposed by the Parliament, are designed to formulate explicitly the obligation on the part of Member States to report on how the Directive is working in practice.

Amended proposal for a Council Directive on
voluntary part-time work

(Submitted to the Council by the Commission in accordance with
the second paragraph of Article 149 of the EEC Treaty)

Preamble and first recital
unchanged

Whereas the European Parliament, in its
resolution of 11 February 1981, on the situation
of women in the European Community, dealt with
the various aspects of part-time work, setting
the latter out in paragraphs 16 to 18 of the
resolution and laying down a number of criteria;

Second recital unchanged - becomes third recital

Whereas although part-time work has become a feature of the labour market, measures have yet to be taken to guarantee part-time workers the same rights as full-time employees while taking into account the special features of part-time work;

Whereas although part-time work has become a feature of the labour market and the number of part-time workers is increasing, measures have yet to be taken to guarantee part-time workers the same rights as full-time employees while taking into account the special features of part-time work;

Whereas this measure is designed to complement in the field of part-time work existing legislation on the realization of equal treatment for men and women;

Whereas this measure is therefore designed to complement, in the field of part-time work, existing legislation on the realization of equal treatment for men and women;

Fifth and sixth recitals unchanged - become sixth and seventh recitals

Article 1

This Directive covers part-time work.
For the purposes of this Directive, the following definitions shall apply:

- normal hours of work: the normal working hours for any particular category of worker established by legislation, by collective agreement or by agreement concluded at the level of the individual establishment or undertaking;

This Directive covers part-time work.
For the purposes of this Directive, the following definitions shall apply:

- normal hours of work: the normal working hours established by legislation, collective agreement or customary practice for any particular category of worker in the Member States;

- full-time work: work performed on a regular basis for the normal hours of work;
- part-time work: work performed on a regular basis in respect of which an employer and a worker agree to shorter working hours than the normal hours of work;
- full-time (part-time) worker: a worker who agrees with his or her employer to carry out full-time (part-time) work.
- full-time work: work performed on a regular basis for hours equal to the normal hours of work;
- part-time work: work performed on a regular basis in respect of which an employer and an employee agree to shorter working hours than the normal hours of work;
- full-time (part-time) worker: an employee who agrees with his or her employer to carry out full-time (part-time) work.

Article 2

Part-time workers shall not be discriminated against as compared with full-time workers in respect of working conditions, rules governing dismissal, entitlement to participate actively or passively in bodies representing employees and access to vocational training, promotion, social facilities and medical care. This is hereinafter referred to as the "principle of non-discrimination".

1. Part-time workers shall receive the same treatment as full-time workers in the same situation, except where the difference in hours of work itself objectively justifies differences in treatment.
2. The fact that a worker is employed part-time shall not of itself justify differences in treatment as regards:
 - working conditions, insofar as these relate to the content and arduousness of the work, safety and health protection in the workplace, the organization and conduct of work and the working environment, including arrangements for the establishment of work schedules and the payment of remuneration;
 - rules concerning dismissal established by legislation and collective agreements;
 - eligibility to vote and stand as a candidate in elections to the bodies representing workers within the undertaking or establishment;

- access to vocational training;
- access to promotion;
- access to social facilities.

(Article 4)

1. The remuneration, holiday pay, redundancy pay and retirement benefits of part-time workers shall, taking account of the hours of work, be in proportion to those of full time workers doing an equivalent job.
2. Paragraph 1 shall be without prejudice to the ability of the Member States to allow more favourable treatment to be given to part-time workers by means of laws, regulations and administrative provisions, collective agreements or other agreements.
3. The remuneration, holiday pay and redundancy and retirement payments of part-time workers shall be calculated on the same basis as and in proportion to those of full-time workers in the same situation.
4. For the purposes of this Directive, "remuneration" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Article 3

1. Part-time workers shall not be excluded from statutory or occupational social security schemes. Their contributions to and benefits from such schemes shall be made on the same basis as for full-time workers, taking account of the hours worked by the part-time workers and/or the remuneration received.
2. Member States shall be exempt from applying the provisions of paragraph 1 to part-time workers whose working hours and/or remuneration are below the threshold of eligibility for statutory or occupational social security schemes.
1. Part-time workers shall be covered by statutory or occupational social security schemes. Their contributions to and benefits from such schemes shall be made on the same basis as for full-time workers, taking into account the hours of work of the part-time workers and/or the remuneration received.
2. Member States shall be exempt from applying the provisions of paragraph 1 to part-time workers whose working hours and/or remuneration are below the threshold for eligibility for statutory or occupational social security schemes.

Article 4

See Article 2(3) and Article 9(2).

Article 5

The nature of the part-time work, the hours of work and the arrangements for the distribution of these hours shall be specified in a written agreement between the employer and the worker.

Should the worker concerned so request, the nature of the part-time work, the hours of work and the arrangements for the distribution of these hours shall be agreed in writing between the employer and the worker.

Article 6 - unchanged

Article 7 - unchanged

Article 8

Recourse to part-time work shall come within the scope of the procedures for the information and consultation of workers' representatives as are in force for full-time workers in the Member States.

Before the introduction of part-time work, such procedures for the information, consultation and participation of workers' representatives as are in force for full-time workers in the Member States shall be applied.

Article 9

1. Any provisions in breach of the preceding Articles which are included in collective agreements or individual contracts of employment shall be, or may be declared, null and void.

1. Member States shall take the measures necessary to ensure that

- any laws, regulations and administrative provisions in breach of the preceding Articles are repealed;
- any provisions in breach of the preceding Articles which are included in collective agreements or individual contracts of employment are null and void or capable of being declared so or amended.
- Member States may allow more favourable treatment to be given to part-time workers by means of laws, regulations or administrative provisions.

Article 10

1. Member States shall implement the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1984 and shall notify them to the Commission without delay.
2. Member States shall communicate to the Commission the texts of the laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

1. Member States shall implement the laws, regulations and administrative provisions necessary to comply with this Directive within one year from the date of its adoption and shall notify them to the Commission without delay.
2. Member States shall communicate to the Commission the texts of the laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

Article 11

Within two years of the expiry of the period referred to in Article 10, Member States shall forward to the Commission all necessary information to enable it to draw up a report on the application of this Directive for submission to the Council.

Not later than three years after the entry into force of the Directive, Member States shall submit a report on how the Directive is working in practice to the Commission in order to enable it to draw up a report on the application of this Directive for submission to the Council.

Article 12 - unchanged