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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2062/94

of 18 July 1994

establishing a European Agency for Safety and Health at Work

THE COUNCIL OF THE EUROPEAN UNION,

machinery to study the repercussions at national level of Community measures in this field;

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Whereas that Resolution also called for intensified cooperation with and between bodies active in this field;

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

Whereas the Council also stressed the fundamental importance of employers and workers being aware of the issues involved and having access to information if the measures advocated in the Commission's programme were to prove successful;

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

Whereas collection, treatment and analysis of detailed, reliable and objective scientific, technical and economic data are necessary in order to provide the Community bodies, the Member States and those involved in the field with the information to enable them to respond to all the requests addressed to them, to introduce essential measures for the protection of the health and safety of workers and to provide the persons concerned with adequate information;

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

Whereas there are already organizations in the Community and the Member States which provide this type of information and services;

Whereas safety, hygiene and health at work are among the priorities of an effective social policy;

Whereas the Commission has described the measures which it intends to take in this area in its programme concerning safety, hygiene and health at work ⁽⁴⁾, and in its action programme concerning the implementation of the Community Charter of Fundamental Social Rights for Workers;

Whereas, in order to obtain the maximum benefit at Community level from work already carried out by these organizations, it is appropriate to establish a network to form a European monitoring system for collecting information on health and safety at work, to be coordinated at Community level by a European Agency for Safety and Health at Work;

Whereas, in its Resolution of 21 December 1987 on safety, hygiene and health at work ⁽⁵⁾, the Council welcomed the Commission communication on its programme concerning safety, hygiene and health at work and, *inter alia*, called on the Commission to examine ways of improving the exchange of information and experience in the field covered by the Resolution, particularly as regards the gathering and dissemination of data and the advisability of setting up Community

Whereas, in order to be able to respond more effectively to requests addressed to them, Community bodies, the Member States and those involved in the field should be

⁽¹⁾ OJ No C 271, 16. 10. 1991, p. 3.

⁽²⁾ OJ No C 128, 9. 5. 1994.

⁽³⁾ OJ No C 169, 6. 7. 1992, p. 44.

⁽⁴⁾ OJ No C 28, 3. 2. 1988, p. 3.

⁽⁵⁾ OJ No C 28, 3. 2. 1988, p. 1.

able to have recourse to an Agency in order to obtain technical, scientific and economic data of use in the field of health and safety at work;

Whereas it is therefore appropriate to establish a European Agency for Safety and Health at Work responsible for assisting, *inter alia*, the Commission in carrying out tasks in the field of safety and health at work and, in that context, for contributing to the development of future Community action programmes relating to the protection of safety and health at work, without prejudice to the Commission's sphere of competence;

Whereas the Decision taken by common agreement between the Representatives of the Governments of the Member States, meeting at Head of State and Government level on 29 October 1993, on the location of the seats of certain bodies and departments of the European Communities and of Europol ⁽¹⁾ stipulated that the Agency for Health and Safety at Work was to have its seat in Spain, in a town to be determined by the Spanish Government; whereas the Spanish Government has designated the city of Bilbao for that purpose;

Whereas the rules and structure of the Agency must be geared towards the objective nature of the results desired and should be such that it can carry out its work in cooperation with existing national Community and international bodies;

Whereas the Agency must be able to invite as observers representatives of third countries, of Community institutions and bodies and of international organizations which share the interests of the Community and the Member States in the aim of the Agency;

Whereas the Agency should have legal personality while maintaining close links with existing Community bodies and programmes, in particular with the European Foundation for the Improvement of Living and Working Conditions, in order to avoid any duplication;

Whereas it is important that the Agency have very close functional links with the Commission and the Advisory Committee on Safety, Hygiene and Health Protection at Work;

Whereas, with regard to its translations, the Agency will use the Translation Centre for the bodies of the European Union once the Centre becomes operational;

Whereas the general budget of the European Communities should contribute to the operation of the Agency; whereas the amounts deemed necessary are to be

laid down under the annual budget procedure, in accordance with the financial estimates;

Whereas, for the adoption of this Regulation, the Treaty does not provide for powers other than those referred to in Article 235,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment of the Agency

A European Agency for Safety and Health at Work, hereinafter referred to as the 'Agency', is hereby established.

Article 2

Objective

In order to encourage improvements, especially in the working environment, as regards the protection of the safety and health of workers as provided for in the Treaty and successive action programmes concerning health and safety at the workplace, the aim of the Agency shall be to provide the Community bodies, the Member States and those involved in the field with the technical, scientific and economic information of use in the field of safety and health at work.

Article 3

Role

1. For the purpose of achieving the aim described in Article 2, the Agency's role shall be to:
 - (a) collect and disseminate technical, scientific and economic information in the Member States in order to pass it on to the Community bodies, Member States and interested parties; this collection shall take place to identify existing national priorities and programmes and provide the necessary input to the priorities and programmes of the Community;
 - (b) collect technical, scientific and economic information on research into safety and health at work and on other research activities which involve aspects connected with safety and health at work and disseminate the results of the research and research activities;
 - (c) promote and support cooperation and exchange of information and experience amongst the Member States in the field of safety and health at work, including information on training programmes;

⁽¹⁾ OJ No C 323, 30. 11. 1993, p. 1.

- (d) organize conferences and seminars and exchanges of experts from the Member States in the field of safety and health at work;
- (e) supply the Community bodies and the Member States with the objective available technical, scientific and economic information they require to formulate and implement judicious and effective policies designed to protect the safety and health of workers; to that end, provide the Commission in particular with the technical, scientific and economic information it requires to fulfil its tasks of identifying, preparing and evaluating legislation and measures in the area of the protection of the safety and health of workers, notably as regards the impact of legislation on enterprises, with particular reference to small and medium-sized enterprises;
- (f) establish, in cooperation with the Member States, and coordinate the network referred to in Article 4, taking into account the national, Community and international bodies and organizations which provide this type of information and services;
- (g) collect and make available information on safety and health matters from and to third countries and international organizations (WHO, ILO, PAHO, IMO, etc.);
- (h) provide technical, scientific and economic information on methods and tools for implementing preventive activities, paying particular attention to the specific problems of small and medium-sized enterprises;
- (i) contribute to the development of future Community action programmes relating to the protection of safety and health at work, without prejudice to the Commission's sphere of competence.

2. The Agency shall work as closely as possible with the existing institutions, foundations, specialist bodies and programmes at Community level in order to avoid any duplication.

Article 4

Network

1. The Agency shall set up a network comprising:
- the main component elements of the national information networks;
 - the national focal points;
 - any future topic centres.
2. To enable the network to be set up as rapidly and as efficiently as possible, the Member States shall, within six

months of the entry into force of this Regulation, inform the Agency of the main component elements of their national health and safety at work information networks, including any institution which in their judgment could contribute to the work of the Agency, taking into account the need to ensure the fullest possible geographical coverage of their territory.

The competent national authorities or an institution designated by them shall coordinate and/or transmit the information to be supplied at national level to the Agency.

3. The national authorities shall inform the Agency of the names of institutions established in their national territory which are able to cooperate with it on certain topics of particular interest and thus to act as topic centres of the network. The Agency shall have the power to conclude agreements with such institutions.

4. Topic centres for special tasks may form part of the network.

They shall be designated by the Administrative Board referred to in Article 8 for a limited and agreed period of time.

5. Topics of particular interest identified as well as the specific tasks of the topic centres shall be listed in the Agency's annual work programme.

6. In the light of experience gained, the Agency shall periodically re-examine the main component elements of the network as referred to in paragraph 2 and shall make such changes as may be decided on by the Administrative Board, taking account of any new designations made by the Member States.

Article 5

Arrangements

1. In order to facilitate the operation of the network referred to in Article 4, the Agency may agree with the institutions designated by the Administrative Board pursuant to Article 4(4) upon the necessary arrangements, in particular contracts, for successfully carrying out the tasks which it may entrust to them.

2. Member States may provide, as regards the national institutions or organizations established in its territory, that such arrangements with the Agency shall be made in agreement with the national focal point.

Article 6

Information

The information and data supplied to or emanating from the Agency may be published and shall be made

accessible to the public, in accordance with guidelines laid down by the Administrative Board, subject to compliance with the rules of the Community and the Member States on the dissemination of information, particularly as regards confidentiality.

Article 7

Legal personality

1. The Agency shall have legal personality.
2. It shall enjoy in all the Member States the most extensive legal capacity accorded to legal persons under their laws.

Article 8

Administrative Board

1. The Agency shall have an Administrative Board consisting of 27 members, of whom:
 - (a) 12 members shall represent the Governments of the Member States;
 - (b) six members shall represent the employers' organizations;
 - (c) six members shall represent the employees' organizations;
 - (d) three members shall represent the Commission.
2. The members referred to in paragraph 1 (a), (b) and (c) shall be appointed by the Council.

The members referred to in paragraph 1 (a) shall be appointed on a proposal from the Member States, on the basis of one member for each Member State.

The members referred to in paragraph 1 (b) and (c) shall be appointed according to a system of rotation from the members representing the employers' and employees' organizations on the Advisory Committee on Safety, Hygiene and Health Protection at Work set up by Council Decision 74/325/EEC ⁽¹⁾, on a proposal from the groups of those members on the Committee, on the basis of one member for each Member State.

The Council shall at the same time appoint under the same conditions as for the member an alternate to attend meetings of the Administrative Board only in the absence of the member or as laid down in the rules of procedure.

The Commission shall appoint the members and alternates who are to represent it.

3. The term of office of members of the Administrative Board shall be three years. It shall be renewable except for the members referred to in paragraph 1 (b) and (c).

Upon expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.

4. The Administrative Board shall elect its chairman and three vice-chairman from among its members, to serve for a period of one year.

5. The Chairman shall convene the Administrative Board at least twice a year and at the request of at least one third of its members.

6. Decisions by the Administrative Board shall be taken by a majority of two thirds of its members.

Each member of the Administrative Board shall have one vote.

Alternates shall not have the right to vote unless the member is absent.

7. The Chairman of the Administrative Board and Director of the European Foundation for the Improvement of Living and Working Conditions shall have the option of attending meetings of the Administrative Board as observers.

8. The Administrative Board shall adopt its rules of procedure, which shall enter into force after being approved by the Council, following consultation of the Commission.

Article 9

Observers

The Administrative Board may, after consulting the Commission, invite representatives of non-member countries, of Community institutions and bodies and of international organizations as observers.

Article 10

Annual work programme — Annual general report

1. The Administrative Board shall adopt the Agency's annual work programme on the basis of a draft drawn up by the Director referred to in Article 11, after consultation of the Commission and of the Advisory Committee on Safety, Hygiene and Health Protection at Work.

The programme may be adapted during the year using the same procedure.

The programme shall be adopted in accordance with the foregoing procedure and shall form part of a four-year rolling programme.

The first annual work programme must be adopted within nine months of entry into force of this Regulation.

⁽¹⁾ OJ No L 185, 9. 7. 1974, p. 15.

2. By 31 January each year at the latest, the Administrative Board shall adopt an annual general report on the Agency's activities, drawn up in all the official languages of the Community.

The annual general report shall in particular compare the results obtained with the objectives of the annual work programme.

The Director shall forward the annual general report to the European Parliament, the Council, the Commission, the Court of Auditors, the Economic and Social Committee, the Member States and the Advisory Committee on Safety, Hygiene and Health Protection at Work.

Article 11

The Director

1. The Agency shall be headed by a Director appointed by the Administrative Board on a proposal from the Commission for a period of five years, which shall be renewable.

2. The Director shall be the official representative of the Agency.

He shall be responsible for:

- the proper preparation and execution of the decisions and programmes adopted by the Administrative Board,
- the day-to-day administration of the Agency,
- the preparation and publication of the report referred to in Article 10(2),
- the performance of the tasks prescribed,
- all staff matters,
- the preparation of Administrative Board meetings.

3. The Director shall be accountable to the Administrative Board for his activities.

Article 12

Budget

1. Estimates shall be drawn up of all the Agency's revenue and expenditure for each financial year, which shall correspond to the calendar year, and shall be entered in the Agency's budget.

2. The revenue and expenditure shown in the budget shall be in balance.

3. The revenue of the Agency shall, without prejudice to other resources obtained from payments for services rendered by the Agency, consist of a subsidy from the Community entered in the general budget of the European Communities.

4. The expenditure of the Agency shall include, *inter alia*, staff remuneration, administrative and infrastructure expenses, operating costs and expenditure relating to contracts concluded with institutions or bodies in implementation of the work programme.

Article 13

Draft estimate — Adoption of the budget

1. By 15 February each year at the latest, the Director shall draw up a preliminary draft budget for the Agency for the following financial year and shall forward it, together with an establishment plan, to the Administrative Board.

2. The Administrative Board shall prepare the draft budget together with the establishment plan and forward them no later than 31 March to the Commission. On this basis the Commission shall determine the corresponding subsidy estimates to be entered in the preliminary draft general budget of the European Communities which it places before the Council pursuant to Article 203 of the Treaty.

3. The Administrative Board shall adopt the Agency's budget, together with the establishment plan, before the beginning of the financial year, adjusting it where necessary to the Community subsidy and the Agency's other resources.

Article 14

Implementation of the budget

1. The Director shall implement the budget of the Agency.

2. Monitoring of the commitment and payment of all the Agency's expenditure and of the establishment and recovery of all the Agency's revenue shall be carried out by the Commission's financial controller.

3. By 31 March each year at the latest the Director shall send the Commission, the Administrative Board and the Court of Auditors the accounts for all the Agency's revenue and expenditure in respect of the preceding financial year.

The Court of Auditors shall examine these accounts in accordance with Article 188c of the Treaty.

4. The Administrative Board shall give a discharge to the Director in respect of the implementation of the budget.

Article 15

Internal financial provisions

After the Commission and the Court of Auditors have delivered their opinions, the Administrative Board shall

adopt the internal financial provisions, specifying in particular the procedure for establishing and implementing the Agency's budget.

Article 16

Professional Secrecy

Members of the Administrative Board, the Director, the staff and all other persons participating in the activities of the Agency shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

Article 17

Language arrangements

The language arrangements of the institutions of the Community shall apply to the Agency.

Article 18

Translation services

The translation services needed for the operation of the Agency shall be provided by the translation centre for the bodies of the Union once that centre becomes operational.

Article 19

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Agency.

Article 20

Staff

1. The staff of the Agency shall be subject to the Rules and Regulations applicable to officials and other servants of the European Communities.
2. The Agency shall exercise in respect of its staff the powers devolved to the Appointing Authority.
3. The Administrative Board shall, in agreement with the Commission, adopt the appropriate implementing rules.

Article 21

Liability

1. The Agency's contractual liability shall be governed by the law applicable to the contract in question.

The Court of Justice of the European Communities shall have jurisdiction to give judgment pursuant to an arbitration clause contained in a contract concluded by the Agency.

2. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by the Agency or its servants in the performance of their duties.

The Court of Justice shall have jurisdiction in disputes relating to compensation for any such damage.

3. The personal liability of servants towards the Agency shall be governed by the provisions applying to the staff of the Agency.

Article 22

Examination of legality

Member States, members of the Administrative Board and third parties directly and personally involved may refer to the Commission any act of the Agency, whether express or implied, for the Commission to examine the legality of that act.

Referral shall be made to the Commission within fifteen days of the day on which the party concerned first became aware of the act in question.

The Commission shall take a decision within one month. If no decision has been taken within this period, the case shall be deemed to have been dismissed.

Article 23

Review clause

No later than five years after the entry into force of this Regulation, on the basis of a Commission report, accompanied as appropriate by a proposal, the Council, having consulted the European Parliament, shall review this Regulation and any new assignment for the Agency that proves necessary.

Article 24

Entry into force of the Regulation

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 July 1994.

For the Council

The President

K. KINKEL

Statement by Council and the Commission concerning the seat of the European Agency for Safety and Health at Work

On the occasion of the adoption of the Regulation establishing a European Agency for Safety and Health at Work, the Council and the Commission note that:

- the Representatives of the Member States, meeting at Head of State and Government level on 29 October 1993, decided that the European Agency for Safety and Health at Work was to have its seat in Spain, in a town to be determined by the Spanish Government;
 - the Spanish Government has designated Bilbao as the seat of the Agency.
-

COUNCIL REGULATION (EC) No 2063/94

of 27 July 1994

amending Regulation (EEC) No 1360/90 establishing a European Training Foundation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 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 European Council meeting in Strasbourg on 8 and 9 December 1989 called upon the Council, acting on a proposal from the Commission, to adopt the necessary decisions for the establishment of a European Training Foundation for Central and Eastern Europe; whereas to that end on 7 May 1990 the Council adopted Regulation (EEC) No 1360/90 ⁽⁴⁾ which established the said Foundation;

Whereas Article 19 of Regulation (EEC) No 1360/90 stipulates that Regulation shall enter into force on the day following that on which the competent authorities have decided on the seat of the Foundation;

Whereas pursuant to a decision taken by common agreement between the representatives of the governments of the Member States meeting at Head of State and Government level in Brussels on 29 October 1993 ⁽⁵⁾, the Foundation is to have its seat in Turin;

Whereas, pursuant to Regulation 1360/90, the countries eligible for the Foundation's programmes are the countries eligible for economic aid under Regulation (EEC) No 3906/89 ⁽⁶⁾ ('Phare' programme),

Whereas on 19 July 1993 the Council adopted Regulation (Euratom, EEC) No 2053/93 concerning the provision of technical assistance to economic reform and recovery in the independent States of the former Soviet Union and Mongolia ⁽⁷⁾ referred to as the 'Tacis' programme;

Whereas the States receiving assistance under Tacis and those countries designated as eligible under Phare are making efforts to achieve economic and social reform, and whereas the development of human resources in all those States is the basis of the reforms in progress in order to ensure the switch to a market economy and in order to strengthen democracy;

Whereas the consistency of the Community's policy of economic assistance to the independent States of the former Soviet Union and to Mongolia will be enhanced by extending the Foundation's field of action to those States;

Whereas the Foundation provides an appropriate institutional framework whereby the Community's experience can be put at the disposal of all those States in order to cater for their requests — as expressed in the programming of Phare and Tacis assistance — in terms of development and of restructuring in the area of vocational training;

Whereas Article 14 of Regulation (EEC) No 1360/90 stipulates that the rules and regulations governing the statutory personnel of the Foundation shall be analogous to those laid down in Council Regulation (ECSC, EEC, Euratom) No 1859/76 of 29 June 1976 laying down the conditions of employment of staff of the European Centre for the Development of Vocational Training ⁽⁸⁾;

Whereas there is a need to ensure consistency at the Community level as regards managing the staff of the different decentralized bodies and, in particular, to allow for full application of the rules and regulations applicable to the officials and other servants of the European Communities;

Whereas the Communication made by the Commission to the budgetary authority on 17 December 1992 concerning internal financial control states that the case

⁽¹⁾ OJ No C 82, 19. 3. 1994, p. 11.

⁽²⁾ OJ No C 205, 25. 7. 1994.

⁽³⁾ OJ No C 195, 18. 7. 1994.

⁽⁴⁾ OJ No L 131, 23. 5. 1990, p. 1.

⁽⁵⁾ OJ No C 323, 30. 11. 1993, p. 1.

⁽⁶⁾ OJ No L 375, 23. 12. 1989, p. 11. Regulation as last amended by Regulation (EEC) No 1764/93 (OJ No L 162, 3. 7. 1993, p. 1).

⁽⁷⁾ OJ No L 187, 29. 7. 1993, p. 1.

⁽⁸⁾ OJ No L 214, 6. 8. 1976, p. 1. Regulation as last amended by Regulation (ECSC, EEC, Euratom) No 679/87 (OJ No L 72, 14. 3. 1987, p. 1).

for appointing the Financial Controller to exercise this function rests on pragmatic grounds and considerations of efficiency;

Whereas Article 206a of the Treaty has been repealed by the Treaty on European Union and the new provision on the subject is Article 188c;

Whereas, since Regulation (EEC) No 1360/90 did not come into force until 30 October 1993, the preliminary findings of the procedure for the monitoring and evaluation of the experience acquired in the work of the Foundation could not be submitted to the European Parliament, the Council and the Economic and Social Committee by 31 December 1992, as was required in Article 17 thereof,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1360/90 is amended as follows:

1. The first paragraph of Article 1 shall be replaced by the following:

'This Regulation hereby establishes the European Training Foundation (hereinafter referred to as the "Foundation") whose objective shall be to contribute to the development of the vocational training systems:

- of the countries of Central and Eastern Europe designated as eligible for economic aid by the Council in Regulation (EEC) No 3906/89 or in any subsequent relevant legal act; and
- the independent States of the former Soviet Union and Mongolia which are the beneficiaries of the programme to assist economic reform and recovery under Regulation (Euratom, EEC) No 2053/93 or in any subsequent relevant legal act.

These countries shall be hereinafter referred to as "the eligible countries".;

2. Point (c) of Article 3 shall be replaced by the following:

'(c) on the basis of (a) and (b);

- examine the scope for joint ventures of training assistance including pilot projects, for the setting up of specialized multinational teams for specific projects and for identifying operations which could be cofinanced,
- fund the design and the preparation of such projects, the implementation of which may be financed by contributions from one or several

countries, together with the Foundation, or, in exceptional cases, from the Foundation on its own;

- implement, at the request of the Commission or of the beneficiary countries in cooperation with the governing board, vocational training programmes agreed on by the Commission and one or more of the beneficiary countries as part of the Community policy of assistance to these countries, using multi-disciplinary teams of specialists in close collaboration with the competent authorities in the countries involved and drawing actively on the experience of Community vocational training programmes;'

3. Point (e) of Article 3 shall be replaced by the following:

'(e) confer on the governing board the power to lay down tendering procedures for projects funded or co-financed by the Foundation, taking full account of the procedures established under Regulation (EEC) No 3906/89, in particular Article 7 thereof; under Regulation (Euratom, EEC) No 2053/93, in particular Article 7 thereof, or in any subsequent relevant legal act;'

4. Article 8 shall be replaced by the following:

Article 8

Links with other Community actions

The Commission, in cooperation with the governing board and, where appropriate, in accordance with the procedures set out in Article 9 of Regulation (EEC) No 3906/89 and Article 8 of Regulation (Euratom, EEC) No 2053/93, shall ensure consistency and, where necessary, complementarity between the work of the Foundation and other actions at Community level, both within the Community and in assistance to the eligible countries, with particular reference to actions under the Tempus scheme.;

5. The second subparagraph of Article 10 (3) shall be replaced by the following:

'It shall establish on this basis, and within the proposed limits of the overall amount to be made available for economic aid to the eligible countries, the annual contribution for the budget of the Foundation to be included in the preliminary draft of the general budget of the European Communities.;

6. Article 11(2) shall be replaced by the following:

'2. The checking of the commitment and payment of all the Foundation's expenditure and the checking of the recording and collection of all its revenue shall be undertaken by the financial controller of the Commission.;

7. The second paragraph of Article 11 (3) shall be replaced by the following:

'The Court of Auditors shall examine these accounts in accordance with article 188c of the Treaty.';

8. Article 14 shall be replaced by the following:

'Article 14

Staff rules

The staff of the Foundation shall be governed by the rules and regulations applicable to the officials and other servants of the European Communities.

The Foundation shall exercise over its staff the powers devolved to the appointing authority.

The governing board shall, in agreement with the Commission, adopt the appropriate implementing rules.';

9. In the second paragraph of Article 17 the date '31 December 1992' shall be replaced by '30 June 1997'.

Article 2

This Regulation shall enter into force on the eighth day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 July 1994.

For the Council

The President

Th. WAIGEL

COUNCIL DIRECTIVE 94/33/EC
of 22 June 1994
on the protection of young people at work

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 118a thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure referred to in Article 189c of the Treaty ⁽³⁾,

Whereas Article 118a of the Treaty provides that the Council shall adopt, by means of directives, minimum requirements to encourage improvements, especially in the working environment, as regards the health and safety of workers;

Whereas, under that Article, such directives must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

Whereas points 20 and 22 of the Community Charter of the Fundamental Social Rights of Workers, adopted by the European Council in Strasbourg on 9 December 1989, state that:

'20. Without prejudice to such rules as may be more favourable to young people, in particular those ensuring their preparation for work through vocational training, and subject to derogations limited to certain light work, the minimum employment age must not be lower than the minimum school-leaving age and, in any case, not lower than 15 years;

22. Appropriate measures must be taken to adjust labour regulations applicable to young workers so

that their specific development and vocational training and access to employment needs are met.

The duration of work must, in particular, be limited — without it being possible to circumvent this limitation through recourse to overtime — and night work prohibited in the case of workers of under eighteen years of age, save in the case of certain jobs laid down in national legislation or regulations.;

Whereas account should be taken of the principles of the International Labour Organization regarding the protection of young people at work, including those relating to the minimum age for access to employment or work;

Whereas, in this Resolution on child labour ⁽⁴⁾, the European Parliament summarized the various aspects of work by young people and stressed its effects on their health, safety and physical and intellectual development, and pointed to the need to adopt a Directive harmonizing national legislation in the field;

Whereas Article 15 of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽⁵⁾ provides that particularly sensitive risk groups must be protected against the dangers which specifically affect them;

Whereas children and adolescents must be considered specific risk groups, and measures must be taken with regard to their safety and health;

Whereas the vulnerability of children calls for Member States to prohibit their employment and ensure that the minimum working or employment age is not lower than the minimum age at which compulsory schooling as imposed by national law ends or 15 years in any event; whereas derogations from the prohibition on child labour may be admitted only in special cases and under the conditions stipulated in this Directive; whereas, under no circumstances, may such derogations be detrimental to regular school attendance or prevent children benefiting fully from their education;

(1) OJ No C 84, 4. 4. 1992, p. 7.

(2) OJ No C 313, 30. 11. 1992, p. 70.

(3) Opinion of the European Parliament of 17 December 1992 (OJ No C 21, 25. 1. 1993, p. 167). Council Common Position of 23 November 1993 (not yet published in the Official Journal) and Decision of the European Parliament of 9 March 1994 (OJ No C 91, 28. 3. 1994, p. 89).

(5) OJ No C 190, 20. 7. 1987, p. 44.

(4) OJ No L 183, 29. 6. 1989, p. 1.

Whereas, in view of the nature of the transition from childhood to adult life, work by adolescents should be strictly regulated and protected;

Whereas every employer should guarantee young people working conditions appropriate to their age;

Whereas employers should implement the measures necessary to protect the safety and health of young people on the basis on an assessment of work-related hazards to the young;

Whereas Member States should protect young people against any specific risks arising from their lack of experience, absence of awareness of existing or potential risks, or from their immaturity;

Whereas Member States should therefore prohibit the employment of young people for the work specified by this Directive;

Whereas the adoption of specific minimal requirements in respect of the organization of working time is likely to improve working conditions for young people;

Whereas the maximum working time of young people should be strictly limited and night work by young people should be prohibited, with the exception of certain jobs specified by national legislation or rules;

Whereas Member States should take the appropriate measures to ensure that the working time of adolescents receiving school education does not adversely affect their ability to benefit from that education;

Whereas time spent on training by young persons working under a theoretical and/or practical combined work/training scheme or an in-plant work-experience should be counted as working time;

Whereas, in order to ensure the safety and health of young people, the latter should be granted minimum daily, weekly and annual periods of rest and adequate breaks;

Whereas, with respect to the weekly rest period, due account should be taken of the diversity of cultural, ethnic, religious and other factors prevailing in the Member States; whereas in particular, it is ultimately for each Member State to decide whether Sunday should be included in the weekly rest period, and if so to what extent;

Whereas appropriate work experience may contribute to the aim of preparing young people for adult working and social life, provided it is ensured that any harm to their safety, health and development is avoided;

Whereas, although derogations from the bans and limitations imposed by this Directive would appear indispensable for certain activities or particular situations, applications thereof must not prejudice the principles underlying the established protection system;

Whereas this Directive constitutes a tangible step towards developing the social dimension of the internal market;

Whereas the application in practice of the system of protection laid down by this Directive will require that Member States implement a system of effective and proportionate measures;

Whereas the implementation of some provisions of this Directive poses particular problems for one Member State with regard to its system of protection for young people at work; whereas that Member State should therefore be allowed to refrain from implementing the relevant provisions for a suitable period,

HAS ADOPTED THIS DIRECTIVE:

SECTION I

Article 1

Purpose

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

They shall ensure, under the conditions laid down by this Directive, that the minimum working or employment age is not lower than the minimum age at which compulsory full-time schooling as imposed by national law ends or 15 years in any event.

2. Member States ensure that work by adolescents is strictly regulated and protected under the conditions laid down in this Directive.

3. Member States shall ensure in general that employers guarantee that young people have working conditions which suit their age.

They shall ensure that young people are protected against economic exploitation and against any work likely to harm their safety, health or physical, mental, moral or social development or to jeopardize their education.

*Article 2***Scope**

1. This Directive shall apply to 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.

2. Member States may make legislative or regulatory provision for this Directive not to apply, within the limits and under the conditions which they set by legislative or regulatory provision, to 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.

*Article 3***Definitions**

For the purposes of this Directive:

- (a) 'young person' shall mean any person under 18 years of age referred to in Article 2 (1);
- (b) 'child' shall mean any young person of less than 15 years of age or who is still subject to compulsory full-time schooling under national law;
- (c) 'adolescent' shall mean 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;
- (d) 'light work' shall mean all work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed:
 - (i) is not likely to be harmful to the safety, health or development of children, and
 - (ii) 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;
- (e) 'working time' shall mean any period during which the young person is at work, at the employer's disposal and carrying out his activity or duties in accordance with national legislation and/or practice;
- (f) 'rest period' shall mean any period which is not working time.

*Article 4***Prohibition of work by children**

- 1. Member States shall adopt the measures necessary to prohibit work by children.
- 2. Taking into account the objectives set out in Article 1, Member States may make legislative or regulatory provision for the prohibition of work by children not to apply to:

- (a) children pursuing the activities set out in Article 5;
 - (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.
3. Member States that make use of the opinion referred to in paragraph 2 (c) shall determine, subject to the provisions of this Directive, the working conditions relating to the light work in question.

*Article 5***Cultural or similar activities**

- 1. The employment of children for the purposes of performance in cultural, artistic, sports or advertising activities shall be subject to prior authorization to be given by the competent authority in individual cases.
- 2. Member States shall by legislative or regulatory provision lay down the working conditions for children in the cases referred to in paragraph 1 and the details of the prior authorization procedure, on condition that the activities:
 - (i) are not likely to be harmful to the safety, health or development of children, and
 - (ii) are 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.
- 3. By way of derogation from the procedure laid down in paragraph 1, in the case of children of at least 13 years of age, Member States may authorize, by legislative or regulatory provision, in accordance with conditions which they shall determine, the employment of children for the purposes of performance in cultural, artistic, sports or advertising activities.
- 4. The Member States which have a specific authorization system for modelling agencies with regard to the activities of children may retain that system.

SECTION II

*Article 6***General obligations on employers**

- 1. Without prejudice to Article 4 (1), the employer shall adopt the measures necessary to protect the safety and

health of young people, taking particular account of the specific risks referred to in Article 7 (1).

2. The employer shall implement the measures provided for in paragraph 1 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 the following points:

- (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.

Where this assessment shows that there is a risk to the safety, the physical or mental health or development of young people, an appropriate free assessment and monitoring of their health shall be provided at regular intervals without prejudice to Directive 89/391/EEC.

The free health assessment and monitoring may form part of a national health system.

3. The employer shall inform young people of possible risks and of all measures adopted concerning their safety and health.

Furthermore, he shall inform the legal representatives of children of possible risks and of all measures adopted concerning children's safety and health.

4. The employer shall involve the protective and preventive services referred to in Article 7 of Directive 89/391/EEC in the planning, implementation and monitoring of the safety and health conditions applicable to young people.

Article 7

Vulnerability of young people — Prohibition of work

1. Member States shall ensure that young people are protected from any specific risks to their safety, health and development which are a consequence of their lack of experience, of absence of awareness of existing or potential risks or of the fact that young people have not yet fully matured.

2. Without prejudice to Article 4 (1), Member States shall to this end prohibit the employment of young people for:

- (a) work which is objectively beyond their physical or psychological capacity;
- (b) 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;
- (c) work involving harmful exposure to radiation;
- (d) 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
- (e) work in which there is a risk to health from extreme cold or heat, or from noise or vibration.

Work which is likely to entail specific risks for young people within the meaning of paragraph 1 includes:

- work involving harmful exposure to the physical, biological and chemical agents referred to in point I of the Annex, and
- processes and work referred to in point II of the Annex.

3. Member States may, by legislative or regulatory provision, authorize derogations from paragraph 2 in the case of adolescents where such derogations are indispensable for their vocational training, provided that protection of their safety and health is ensured by the fact that the work is performed under the supervision of a competent person within the meaning of Article 7 of Directive 89/391/EEC and provided that the protection afforded by that Directive is guaranteed.

SECTION III

Article 8 .

Working time

1. Member States which make use of the option in Article 4 (2) (b) or (c) shall adopt the measures necessary to limit the working time of children to:

- (a) eight hours a day and 40 hours a week for work performed under a combined work/training scheme or an in-plant work-experience scheme;
- (b) two hours on a school day and 12 hours a week for work performed in term-time outside the hours fixed for school attendance, provided that this is not prohibited by national legislation and/or practice;

in no circumstances may the daily working time exceed seven hours; this limit may be raised to eight hours in the case of children who have reached the age of 15;

- (c) seven hours a day and 35 hours a week for work performed during a period of at least a week when school is not operating; these limits may be raised to eight hours a day and 40 hours a week in the case of children who have reached the age of 15;
- (d) seven hours a day and 35 hours a week for light work performed by children no longer subject to compulsory full-time schooling under national law.

2. Member States shall adopt the measures necessary to limit the working time of adolescents to eight hours a day and 40 hours a week.

3. The time spent on training by a young person working under a theoretical and/or practical combined work/training scheme or an in-plant work-experience scheme shall be counted as working time.

4. Where a young person is employed by more than one employer, working days and working time shall be cumulative.

5. Member States may, by legislative or regulatory provision, authorize derogations from paragraph 1 (a) and paragraph 2 either by way of exception or where there are objective grounds for so doing.

Member States shall, by legislative or regulatory provision, determine the conditions, limits and procedure for implementing such derogations.

Article 9

Night work

1. (a) Member States which make use of the option in Article 4 (2) (b) or (c) shall adopt the measures necessary to prohibit work by children between 8 p.m. and 6 a.m.

(b) Member States shall adopt the measures necessary to prohibit work by adolescents either between 10 p.m. and 6 a.m. or between 11 p.m. and 7 a.m.

2. (a) Member States may, by legislative or regulatory provision, authorize work by adolescents in specific areas of activity during the period in which night work is prohibited as referred to in paragraph 1 (b).

In that event, Member States shall take appropriate measures to ensure that the adolescent is supervised by an adult where such supervision is necessary for the adolescent's protection.

(b) If point (a) is applied, work shall continue to be prohibited between midnight and 4 a.m.

However, Member States may, by legislative or regulatory provision, authorize work by adolescents during the period in which night work is prohibited in the following cases, where there are objective grounds for so doing and provided that adolescents are allowed

suitable compensatory rest time and that the objectives set out in Article 1 are not called into question:

- work performed in the shipping or fisheries sectors;
- work performed in the context of the armed forces or the police;
- work performed in hospitals or similar establishments;
- cultural, artistic, sports or advertising activities.

3. Prior to any assignment to night work and at regular intervals thereafter, adolescents shall be entitled to a free assessment of their health and capacities, unless the work they do during the period during which work is prohibited is of an exceptional nature.

Article 10

Rest period

1. (a) Member States which make use of the option in Article 4 (2) (b) or (c) shall adopt the measures necessary to ensure that, for each 24-hour period, children are entitled to a minimum rest period of 14 consecutive hours.

(b) Member States shall adopt the measures necessary to ensure that, for each 24-hour period, adolescents are entitled to a minimum rest period of 12 consecutive hours.

2. Member States shall adopt the measures necessary to ensure that, for each seven-day period:

- children in respect of whom they have made use of the option in Article 4 (2) (b) or (c), and
- adolescents

are entitled to a minimum rest period of two days, which shall be consecutive if possible.

Where justified by technical or organization reasons, the minimum rest period may be reduced, but may in no circumstances be less than 36 consecutive hours.

The minimum rest period referred to in the first and second subparagraphs shall in principle include Sunday.

3. Member States may, by legislative or regulatory provision, provide for the minimum rest periods referred to in paragraphs 1 and 2 to be interrupted in the case of activities involving periods of work that are split up over the day or are of short duration.

4. Member States may make legislative or regulatory provision for derogations from paragraph 1 (b) and paragraph 2 in respect of adolescents in the following cases, where there are objective grounds for so doing and provided that they are granted appropriate compensatory rest time and that the objectives set out in Article 1 are not called into question:

- (a) work performed in the shipping or fisheries sectors;
- (b) work performed in the context of the armed forces or the police;
- (c) work performed in hospitals or similar establishments;

- (d) work performed in agriculture;
- (e) work performed in the tourism industry or in the hotel, restaurant and café sector;
- (f) activities involving periods of work split up over the day.

Article 11

Annual rest

Member States which make use of the option referred to in Article 4 (2) (b) or (c) shall see to it that a period free of any work is included, as far as possible, in the school holidays of children subject to compulsory full-time schooling under national law.

Article 12

Breaks

Member States shall adopt the measures necessary to ensure that, where daily working time is more than four and a half hours, young people are entitled to a break of at least 30 minutes, which shall be consecutive if possible.

Article 13

Work by adolescents in the event of *force majeure*

Member States may, by legislative or regulatory provision, authorize derogations from Article 8 (2), Article 9 (1) (b), Article 10 (1) (b) and, in the case of adolescents, Article 12, for work in the circumstances referred to in Article 5 (4) of Directive 89/391/EEC, provided that such work is of a temporary nature and must be performed immediately, that adult workers are not available and that the adolescents are allowed equivalent compensatory rest time within the following three weeks.

SECTION IV

Article 14

Measures

Each Member State shall lay down any necessary measures to be applied in the event of failure to comply with the provisions adopted in order to implement this Directive; such measures must be effective and proportionate.

Article 15

Adaptation of the Annex

Adaptations of a strictly technical nature to the Annex in the light of technical progress, changes in international rules or specifications and advances in knowledge in the field covered by this Directive shall be adopted in accordance with the procedure provided for in Article 17 of Directive 89/391/EEC.

Article 16

Non-reducing clause

Without prejudice to the right of Member States to develop, in the light of changing circumstances, different provisions on the protection of young people, as long as the minimum requirements provided for by this Directive are complied with, the implementation of this Directive shall not constitute valid grounds for reducing the general level of protection afforded to young people.

Article 17

Final provisions

1. (a) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 22 June 1996 or ensure, by that date at the latest, that the two sides of industry introduce the requisite provisions by means of collective agreements, with Member States being required to make all the necessary provisions to enable them at all times to guarantee the results laid down by this Directive.

(b) The United Kingdom may refrain from implementing the first subparagraph of Article 8 (1) (b) with regard to the provision relating to the maximum weekly working time, and also Article 8(2) and Article 9 (1) (b) and (2) for a period of four years from the date specified in subparagraph (a).

The Commission shall submit a report on the effects of this provision.

The Council, acting in accordance with the conditions laid down by the Treaty, shall decide whether this period should be extended.

(c) Member States shall forthwith inform the Commission thereof.

2. When Member States adopt the measures referred to in paragraph 1, such measures shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

3. Member States shall communicate to the Commission the texts of the main provisions of national law which they have already adopted or adopt in the field governed by this Directive.

4. Member States shall report to the Commission every five years on the practical implementation of the provisions of this Directive, indicating the viewpoints of the two sides of industry.

The Commission shall inform the European Parliament, the Council and the Economic and Social Committee thereof.

5. The Commission shall periodically submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive taking into account paragraphs 1, 2, 3 and 4.

Done at Luxembourg, 22 June 1994.

Article 18

This Directive is addressed to the Member States.

For the Council

The President

E. YIANNPOULOS

ANNEX

Non-exhaustive list of agents, processes and work

(Article 7(2), second subparagraph)

I. Agents

1. *Physical agents*

- (a) Ionizing radiation;
- (b) Work in a high-pressure atmosphere, e. g. in pressurized containers, diving.

2. *Biological agents*

- (a) Biological agents belonging to groups 3 and 4 within the meaning of Article 2 (d) of Council Directive 90/679/EEC of 26 November 1990 on the protection of workers from risks related to exposure to biological agents at work (Seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (1).

3. *Chemical agents*

- (a) Substances and preparations classified according to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (2) with amendments and Council Directive 88/379/EEC of 7 June 1988 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations (3) as toxic (T), very toxic (Tx), corrosive (C) or explosive (E);
- (b) Substances and preparations classified according to Directives 67/548/EEC and 88/379/EEC as harmful (Xn) and with one or more of the following risk phrases:
 - danger of very serious irreversible effects (R39),
 - possible risk of irreversible effects (R40),
 - may cause sensitization by inhalation (R42),
 - may cause sensitization by skin contact (R43),
 - may cause cancer (R45),
 - may cause heritable genetic damage (R46),
 - danger of serious damage to health by prolonged exposure (R48),
 - may impair fertility (R60),
 - may cause harm to the unborn child (R61);
- (c) Substances and preparations classified according to Directives 67/548/EEC and 88/379/EEC as irritant (Xi) and with one or more of the following risk phrases:
 - highly flammable (R12);
 - may cause sensitization by inhalation (R42),
 - may cause sensitization by skin contact (R43),
- (d) Substances and preparations referred to Article 2 (c) of Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (Sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC; (4)
- (e) Lead and compounds thereof, inasmuch as the agents in question are absorbable by the human organism;
- (f) Asbestos.

(1) OJ No L 374, 31. 12. 1990, p. 1.

(2) OJ No 196, 16. 8. 1967, p. 1. Directive as last amended by Directive 93/679/EEC (OJ No L 268, 29. 10. 1993, p. 71).

(3) OJ No L 187, 16. 7. 1988, p. 14. Directive as last amended by Directive 93/18/EEC (OJ No L 104, 29. 4. 1993, p. 46).

(4) OJ No L 196, 26. 7. 1990, p. 1.

II. Processes and work

1. Processes at work referred to in Annex I to Directive 90/394/EEC.
 2. Manufacture and handling of devices, fireworks or other objects containing explosives.
 3. Work with fierce or poisonous animals.
 4. Animal slaughtering on an industrial scale.
 5. Work involving the handling of equipment for the production, storage or application of compressed, liquified or dissolved gases.
 6. Work with vats, tanks, reservoirs or carboys containing chemical agents referred to in 1.3.
 7. Work involving a risk of structural collapse.
 8. Work involving high-voltage electrical hazards.
 9. Work the pace of which is determined by machinery and involving payment by results.
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