

# **European Framework Agreement on Part-Time Work**

## **Preamble**

This framework agreement is a contribution to the overall European strategy on employment. Part-time work has had an important impact on employment in recent years. For this reason, the parties to this agreement have given priority attention to this form of work. It is the intention of the parties to consider the need for similar agreements relating to other forms of flexible work.

Recognising the diversity of situations in Member States and acknowledging that part-time work is a feature of employment in certain sectors and activities, this agreement sets out the general principles and minimum requirements relating to part-time work. It illustrates the willingness of the Social Partners to establish a general framework for the elimination of discrimination against part-time workers and to assist the development of opportunities for part-time working on a basis acceptable to employers and workers.

This agreement relates to employment conditions of part-time workers recognising that matters concerning statutory social security are for decision by the Member States. In the context of the principle of non-discrimination, the parties to this agreement have noted the Employment declaration of the Dublin European Council of December 1996, wherein the Council inter alia emphasised the need to make social security systems more employment friendly, by "developing social protection systems capable of adapting to new patterns of work and of providing appropriate protection to people engaged in such work". The parties to this agreement consider that effect should be given to this declaration.

ETUC, UNICE and CEEP request the Commission to submit this framework agreement to the Council for a decision making these requirements binding in the Member States which are party to the Agreement on social policy annexed to the Protocol on social policy annexed to the Treaty establishing the European Community.

The parties to this agreement ask the Commission, in its proposal to implement this agreement, to request Member States to adopt the laws, regulations and administrative provisions necessary to comply with the Council decision within a period of 2 years from its adoption or ensure that the Social Partners establish the necessary measures by way of agreement by the end of this period. Member States may if necessary to take account of particular difficulties or implementation by collective agreement, have up to a maximum of one additional year to comply with this provision.

Without prejudice to the role of national courts and the Court of Justice, the parties to this agreement request that any matter relating to the interpretation of this agreement at European level should, in the first instance, be referred by the Commission to them for an opinion.

## **I. General considerations**

1. Having regard to the Agreement on social policy annexed to the Protocol on social policy attached to the treaty establishing the European Community, and in particular article 3.4 and 4.2 thereof.
2. Whereas article 4.2 of the Agreement on social policy provides that agreements concluded at Community level may be implemented, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.
3. Whereas, in its second consultation document on flexibility of working time and security for workers, the Commission announced its intention to propose a legally binding Community measure.
4. Whereas the conclusions of the European Council meeting in Essen emphasised the need for measures to promote both employment and equal opportunities for women and men, and called for measures aimed at "increasing the employment intensiveness of growth, in particular by more flexible organisation of work in a way which fulfils both the wishes of employees and the requirements of competition".
5. Whereas the parties to this agreement attach importance to measures which would facilitate access to part-time work for men and women in order to prepare for retirement, reconcile professional and family life, and take up education and training opportunities to improve their skills and career opportunities for the mutual benefit of employers and workers and in a manner which would assist the development of enterprises.
6. Whereas this agreement refers back to Member States and Social Partners for the modalities of application of these general principles, minimum requirements and provisions, in order to take account of the situation in each Member State.
7. Whereas this agreement takes into consideration the need to improve social policy requirements, to enhance the competitiveness of the Community economy and to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.
8. Whereas the Social Partners are best placed to find solutions that correspond to the needs of both employers and workers and shall therefore be conferred a special role in the implementation and application of this agreement.

The signatory parties have agreed the following :

## **II. Content**

### **Clause 1 : Purpose**

The purpose of this framework agreement is:

- A. to provide for the removal of discrimination against part-time workers and to improve the quality of part-time work;

B. to facilitate the development of part-time work on a voluntary basis and to contribute to the flexible organisation of working time in a manner which takes into account the needs of employers and workers.

### **Clause 2 : Scope**

1. This agreement applies to part-time workers who have an employment contract or employment relationship as defined by the law, collective agreement or practice in force in each Member State.
2. Member States, after consultation with the Social Partners in accordance with national law, collective agreements or practice, and/or the Social Partners at the appropriate level in conformity with national industrial relations practice may, for objective reasons, exclude wholly or partly from the terms of this agreement part-time workers who work on a casual basis. Such exclusions should be reviewed periodically to establish if the objective reasons for making them remain valid.

### **Clause 3 : Definitions**

1. For the purpose of this agreement, the term "part-time worker" refers to an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable full time worker.
2. For the purpose of this agreement, the term "comparable full-time worker" means a full time worker in the same establishment having the same type of employment contract or relationship, who is engaged in the same or a similar work/occupation, due regard being given to other considerations which may include seniority, qualification/skills.
3. Where there is no comparable full-time worker in the same establishment, the comparison shall be made by reference to the applicable collective agreement or, where there is no applicable collective agreement, in accordance with national law, collective agreements or practice.

### **Clause 4 : Principle of non-discrimination**

1. In respect of employment conditions, part-time workers shall not be treated in a less favourable manner than comparable full-time workers solely because they work part-time unless different treatment is justified on objective grounds.
2. Where appropriate, the principle of pro rata temporis shall apply.
3. The modalities of application of this clause shall be defined by the Member States and/or Social Partners, having regard to European legislation, national law, collective agreements and practice.
4. When justified by objective reasons, Member States, after consultation of the Social Partners in accordance, with national law or practice and/or Social Partners may, where appropriate, make access to particular conditions of employment subject to a period of service, time worked or earnings qualification. Qualifications relating to access by part-time workers to particular conditions of employment

should be reviewed periodically having regard to the principle of non-discrimination as expressed in clause 4.1.

### **Clause 5 : Opportunities for part-time work**

1. In the context of clause 1 of this agreement and of the principle of non-discrimination between parttime and full-time workers,
  - A. Member States, following consultations with the Social Partners in accordance with national law or practice should identify and review obstacles of a legal or administrative nature which may limit the opportunities for part-time work and, where appropriate, eliminate them;
  - B. the Social Partners, acting within their sphere of competence and through the procedures set out in collective agreements, should identify and review obstacles which may limit opportunities for parttime work and, where appropriate, eliminate them.
2. A worker's refusal to transfer from full-time to part-time work or vice-versa should not in itself constitute a valid reason for termination of employment, without prejudice to termination in accordance with national law,, collective agreements and practice, for other reasons such as may arise from the operational requirements of the establishment concerned.
3. As far as possible, employers should give consideration to :
  - A. requests by workers to transfer from full-time to part-time work that become available in the establishment;
  - B. requests by, workers to transfer from part-time to full-time work or to increase their working time should the opportunity arise;
  - C. the provision of timely information on the availability of part-time and full-time positions in the establishment in order to facilitate transfers from full-time to part-time or vice-versa;
  - D. measures to facilitate access to part-time work at all levels of the enterprise, including skilled and managerial positions, and where appropriate, to facilitate access by part-time workers to vocational training to enhance career opportunities and occupational mobility;
  - E. the provision of appropriate information to existing bodies representing workers about part-time working in the enterprise.

### **Clause 6: Provisions on implementation**

1. Member States and/or Social Partners can maintain or introduce more favourable provisions than set out in this agreement.
2. Implementation of the provisions.of this agreement shall not constitute valid grounds for reducing the general level of protection afforded to workers in the field of this agreement. This does not prejudice the right. of Member States and/or Social Partners to develop different legislative, regulatory or contractual provisions, in the light of changing circumstances, and does not prejudice the application of clause 5.1. as long as the principle of non-discrimination as expressed in clause 4. 1. is complied with.
3. The present agreement does not prejudice the right of the Social Partners to conclude, at the appropriate level, including European level, agreements adapting

- and/or complementing the provisions of this agreement in a manner which will take account of the specific needs of the Social Partners concerned .
4. This agreement shall be without prejudice to any more specific Community provisions, and in particular Community provisions concerning equal treatment or opportunities for men and women.
  5. The prevention and settlement of disputes and grievances arising from the application of this agreement shall be dealt with in accordance with national law, collective agreements and practice.
  6. The signatory parties will review this agreement, five years after the date of the Council decision, if requested by one of the parties to this agreement.

Brussels, 6 June 1997

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