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## REPORT

drawn up on behalf of the Committee on Legal Affairs and  
Citizens' Rights

on the harmonization of the age of majority under civil  
law and the legal capacity of young people in the  
Community

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Or. Fr.



On 11 September 1984, the motion for a resolution tabled by Mrs VAN HEMELDONCK on the age of majority (Doc. 2-407/84) was referred, pursuant to Rule 47 of the Rules of Procedure, to the Committee on Legal Affairs and Citizens' Rights as the committee responsible and to the Committee on Social Affairs and Employment for an opinion.

On 16 October 1984, the Committee on Legal Affairs and Citizens' Rights decided to draw up a report and appointed Mrs FONTAINE rapporteur.

At its meeting of 19 and 20 March 1985, the Committee on Social Affairs and Employment decided not to draw up an opinion.

At its meeting of 20 and 21 March 1985, the Committee on Legal Affairs and Citizens' Rights held an exchange of views on the subject.

At its meetings of 26 and 27 June 1985 and 25 and 26 September 1985, the Committee on Legal Affairs and Citizens' Rights considered the draft report and unanimously adopted the motion for a resolution at the latter meeting.

The following took part in the vote : Mrs Vayssade, chairman; Mrs Fontaine, rapporteur; Mr Alber, Mrs Boot, Mr Hoon, Mr Megahy, Lord O'Hagan, Mr Prout and Mr Vetter.

The report was tabled on 30 September 1985.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

C O N T E N T S

	<u>Page</u>
A. MOTION FOR A RESOLUTION .....	5
B. EXPLANATORY STATEMENT .....	7
INTRODUCTION .....	7
I. LEGAL BASIS OF THE COMMUNITY'S POWER TO TAKE ACTION IN THIS FIELD .....	8
II. THE AGE OF MAJORITY UNDER CIVIL LAW .....	9
III. THE STATUS OF YOUNG PEOPLE WHO HAVE COME OF AGE .....	10
IV. THE STATUS OF YOUNG PEOPLE IN THE PERIOD BETWEEN THE END OF COMPULSORY SCHOOLING AND REACHING THE AGE OF MAJORITY..	14
V. CASUAL EMPLOYMENT OF YOUNG PEOPLE BEFORE THE END OF COMPULSORY SCHOOLING .....	22

ANNEXES:

I. MOTION FOR A RESOLUTION TABLED BY Mrs VAN HEMELDONCK (Doc. 2-407/84) .....	26
II. RESOLUTION (72-79) OF THE COUNCIL OF EUROPE OF 1 SEPTEMBER 1972	27
III. COMPARATIVE TABLE OF AGE THRESHOLDS RELATING TO YOUNG PEOPLE IN THE COMMUNITY .....	29

The Committee on Legal Affairs and Citizens' Rights hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

on the harmonization of the age of majority under civil law and the legal capacity of young people in the Community

The European Parliament,

- having regard to Article 48(1) and (2) of the EEC Treaty relating to freedom of movement for workers and the abolition of discrimination based on nationality,
  - having regard to Article 50 of the EEC Treaty on the exchange of young workers,
  - having regard to Articles 117 and 118 of the same Treaty relating to the harmonization of social systems and the approximation of provisions laid down by law, regulation or administrative action in the field of social policy,
  - having regard to Article 119 of the same Treaty relating to the principle of equal pay for male and female workers,
  - having regard to Article 123 of the same Treaty relating to the task of rendering the employment of workers easier and their geographical and occupational mobility,
  - having regard to Article 235 of the same Treaty relating to the implementation of measures to attain the objectives of the Community,
  - having regard to Resolution 72-79 adopted on 19 September 1972 by the Council of Ministers of the Council of Europe on the age of majority and addressed to the governments of the member states of that organization,
  - having regard to the motion for a resolution (Doc. 2-407/84) tabled by Mrs VAN HEMELDONCK on 24 July 1984,
  - having regard to the report of the Committee on Legal Affairs and Citizens' Rights (Doc. A 2-113/85),
- A. whereas the construction of Europe today requires a new impetus and calls for the involvement in an active and responsible manner of all the citizens of the Community and, more particularly, of young people who are gaining their personal independence and entering working life,
- B. whereas a reduction in the disparities between the Member States relating to the age of majority under civil law and the legal capacity that ensues from this, would be a major contribution to clarifying and harmonizing the status of young people in the Community, promoting their spirit of initiative in looking for jobs and developing the exchanges that are likely to help Europe advance towards unity,

- C. whereas harmonization of national legislation must take into account the greater degree of freedom and effective responsibility increasingly granted to young people as a result of the development of travel and exchanges, the changing pattern of family relations and the effects of paid employment on the private lives of young people,
- D. whereas it is the responsibility of the Community institutions to promote such harmonization,
1. Considers it highly desirable that national legislation relating to the legal capacity progressively granted to young people by reason of their age should be harmonized within the Community, and to this end:
    - advocates that the age of majority under civil law should rapidly be standardized at 18 in all the Member States;
    - believes that, from the moment a young person reaches the age of majority under civil law, he should enjoy the same rights as other adults, particularly as regards the remuneration of his labour and the exercise of the rights of expression and representation in works council and political elections;
    - recommends, in particular, that systematic reductions in earnings should be abolished once the age of majority under civil law has been reached where such reductions do not constitute specific incentives aimed at providing young people with their first job or they are not founded objectively on criteria of aptitude and training required of other adults carrying out the same work;
    - proposes the harmonization of national legislation on the legal position of young people entering paid employment between the end of their compulsory schooling and their attainment of the age of majority under civil law, with particular reference to the fixing of prohibited occupations, the capacity to conclude a contract, working conditions and holidays, pay, free disposal of earned income, special medical protection and capacity to marry with the permission of parents or guardians;
    - proposes in addition that this harmonization of national legislation be extended to include casual employment which can be taken up by minors before the end of their compulsory schooling;
  2. Calls on the Commission to ensure that the guidelines defined above are implemented in a progressive plan and suggests for this purpose that the measures on the age of majority under civil law and the rights of young people who have come of age should form the subject-matter of a proposal for a directive and that those relating to minors should form the subject-matter of a proposal for a recommendation;
  3. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities and to the Member States.

## EXPLANATORY STATEMENT

### INTRODUCTION

The European Parliament has before it a motion for a resolution tabled by Mrs VAN HEMELDONCK pursuant to Rule 47 of the Rules of Procedure on the problems raised by the continuing differences between the Community Member States with regard to the age at which a citizen comes of age under civil law and the harmful consequences to which these disparities give rise, in particular for the right of young people to take up employment and exchanges within the Community.

### Building a people's Europe

This motion for a resolution is important. It coincides with the intention rightly shown by the Council, Commission and European Parliament jointly, to take significant new steps to promote European unity and to give tangible form to what has been called 'a people's Europe'. This year, which is International Youth Year, special attention must be paid to the positive image which young people have of Europe in their daily lives, the interest which it arouses in them, the ideal of freedom, human, economic and cultural exchange which it represents for them and the opportunities for action and responsibility which it offers them.

### Involving the young people of Europe

Young people are the future of the Europe which we are trying to build and, as Europe progresses towards unity, their rights and duties must be better harmonized throughout the Community. The remaining disparities, which are too great and too numerous, especially where there is no longer sufficient justification for them, are seen by young people as the remnants of frontiers. They make it difficult to obtain clear, simple information without which the spirit of initiative is curbed and are, in some cases, sources of abuse and injustice. It is highly desirable to simplify the legislation of the Member States, harmonize it and, at least, make it more mutually compatible.

### Releasing the spirit of initiative

The transition from the status of a dependent minor to that of a responsible adult is paramount in this respect. However, not only is the age of majority under civil law not identical in all Community Member States, but the differences we see in the rights bestowed on young people who have come of age (as regards employment, remuneration, taking part in elections at work and so forth) show that even when a young person has come of age the meaning of that concept is not the same in all Member States. The differences between the legislation of the Member States form a jungle of special provisions which, to their detriment, restricts the free movement of young people in the Community, curbs their opportunities of taking the initiative to look for employment outside their country of origin and dissuades undertakings or craftsmen from taking in these young people and offering them employment because their capacity to enter into legal transactions appears complex and uncertain.

## Simplifying and harmonizing the Legislation of the Member States

The main aim of this report is to describe these destructive difficulties and to submit to Parliament a number of proposals for harmonization. These relate chiefly to the age of majority under civil law and to the consequences which it may have in general, particularly as regards the employment of young people.

### Clarifying the status of young people

This approach would, however, be too narrow if it were to create an artificial gulf between young people who have reached the age of majority and those who have not yet done so. Because of the raising of the school-leaving age and the age at which young people leave university and the increase in unemployment which in some countries affects young people especially we need to consider a new sociological situation, that of the relatively indeterminate status of young people during the increasingly long period between the end of compulsory education and finally taking up a career. Coming of age, though important, is merely a transitional stage in this period, which often lasts about 10 years nowadays, at a decisive and very sensitive time of life, and making the rules relating to the age of majority uniform would not be sufficient of itself to solve a problem which must be seen in the wider context of the free movement of young people in the Community and their gradual integration into employment.

Part-time work during the holidays or apprenticeship or sandwich courses inevitably raises new problems in relation to freedom to leave the national territory, financial independence, freedom to live away from home, capacity to enter into legal contracts and personal responsibility.

For this reason the Committee on Legal Affairs and Citizens' Rights submits to the European Parliament a coherent but distinct set of proposals for harmonization and progress:

- for young people who have come of age;
- for those who have not yet come of age although they have completed their compulsory education;
- for those who have not yet completed their compulsory education.

### Testifying to a new European spirit

It is clear that the legislation of the Community Member States is sufficiently divergent to necessitate harmonization measures yet sufficiently close or convergent in its principles for such harmonization not to pose insurmountable problems once a common will has been found.

## I. LEGAL BASIS OF THE COMMUNITY'S POWER TO TAKE ACTION IN THIS FIELD

Should the objection be made that the Treaties do not give the Community jurisdiction over the harmonization of the civil law of the Member States? The implications of this objection must obviously be considered because if the objection were upheld it would appreciably weaken the proposals submitted to Parliament. The Committee on Legal Affairs and Citizens' Rights proposes that that objection should not be upheld.



The matter under discussion has major, direct implications for the principle of freedom of movement of persons and exchanges, especially for workers, within the Community (Article 48(2) and Article 50 of the EEC Treaty) and for the prohibition on discrimination on grounds of nationality (Article 7 of the same Treaty) which is the keystone of the Treaty establishing the European Economic Community.

In addition, Articles 117 and 118 of the Treaty provide expressly for 'the harmonization of social systems' and 'the approximation of provisions laid down by law, regulation or administrative action' in the matter of social policy.

In implementation of these basic principles, Article 119 of the Treaty lays down a prohibition on any discrimination based on sex as regards pay.

It is true that the Treaty referred in that article only to discrimination related to sex. It cannot be argued from this that that article was intended to be limitative: the general prohibition on discrimination is still valid and, by analogy with the provisions on discrimination based on sex, the Committee on Legal Affairs and Citizens' Rights hopes for a proposal for a directive banning discrimination based on age where there is no objective justification for it.

It should be added that Article 123 of the Treaty gives the European Social Fund the task of 'rendering the employment of workers easier and of increasing their geographical and occupational mobility within the Community'.

Finally, Article 235 of the Treaty provides as follows: 'If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the Assembly, take the appropriate measures'.

The power of the Community institutions to take into consideration the provisions submitted to Parliament are therefore well-established. It requires, above all, a common will to take a significant new step to build a more united Europe and one which is more concerned about the daily lives of citizens, especially those of the young people who are its future.

## II. THE AGE OF MAJORITY UNDER CIVIL LAW IN THE MEMBER STATES

Until recently, the age at which a young person acquired adult status was generally fixed at 21 in the Member States of the Community.

Following a resolution (72-79) adopted on 19 September 1972 by the Council of Ministers of the Council of Europe for submission to the Governments of the Member States of that organization, two changes have occurred. First, the age of majority has been lowered, and secondly, it has been jointly fixed at 18.

At present nine Community countries (as well as Spain and Portugal) have adopted this common provision. Only Belgium has not done so but a draft law to that effect is under preparation.

It is necessary for this bill to be adopted swiftly to complete the unity of the Community on this matter, which is important for several reasons.

First, coming of age under civil law, the fundamental effect of which is bring to an end a young person's dependence on his parents and to replace it by personal liability, has direct repercussions on actions related to the pursuit of an occupation and the expression of personal independence: freedom of residence and accommodation, capacity to enter into a contract or run a business, freedom to marry, freedom to dispose of property and income, free choice of doctor, freedom to choose an occupation or religion, legal capacity and liability, and rights of expression and representation in connection with works councils and at the political level.

Secondly, standardizing the age of majority at 18 can only make the quest for Community solutions to the specific problems of young people easier, particularly from the view-point of their right to take up employment, by fixing jointly a legislative kingpin on the basis of which inter alia the situation of young people in employment during the period between the end of their compulsory schooling and coming of age and, more generally, the status of young people in the Community, can be clarified.

For these reasons the Committee on Legal Affairs and Citizens' Rights proposes that the resolution submitted to the European Parliament should aim in the first place to complete the standardization of the age of majority under civil law by fixing it at 18.

### III. THE STATUS OF YOUNG PEOPLE WHO HAVE COME OF AGE IN THE COMMUNITY

One might well think that coming of age makes all young citizens of the countries of the Community full adults. This is not the case. The reality is more complex.

In its resolution of 19 September 1972, the Council of Ministers of the Council of Europe left it open to the national legislatures to derogate from it. 13 years later, these derogations still exist and have three effects:

- the rights and duties inherent in the formal recognition that the age of majority is 18 are not the same in the various Member States;
- adult status is not acquired in full at 18, which sometimes gives rise to abuses affecting young people;
- the differences between the Member States make it difficult to obtain clear, simple information, thus affecting adversely freedom of movement for young adults within the Community, especially where they leave their country of origin to seek employment or to pursue any other occupation in another country.

The restrictions on full adult status in the legislation of the Member States are partly based on and justified by the concern to extend measures to protect young people for a short period beyond their coming of age. However, the differences between the legislation of the Member States, due in particular to the independent action taken by the various States before the Community was set up, are in themselves the proof that to a great extent they are legal relics. The need for them is debatable and they are hardly appropriate in a Europe which is increasingly unrestricted and progressing towards unity.

Creating a people's Europe and making it a reality for young people in their daily lives when they come of age and wish to be recognized as adults means reviewing these independent or even disparate bodies of legislation, simplifying and harmonizing them, removing obsolete features for which there is no longer any obvious justification, amending certain provisions which, though designed to protect young people, in fact work to their disadvantage, and in short removing frontiers which are no longer necessary and which are sometimes harmful.

Is it normal for example for young workers to be unpleasantly surprised, at the end of the harvest season, when their pay is reduced by 20% in certain countries on the sole ground that they are under 21 years of age, even though they have done the same work as older people who have come of age? This discrimination is based solely on the grounds of the age of the person concerned since the nature of the work does not require any special training or lengthy experience or involve special risks for young people.

(a) Pay

The first field calling for the European Parliament's attention is that of the pay of young workers who have come of age. The legislation of all the Member States provides that pay may be reduced according to age, these reductions varying considerably from one job to another and from one country to another. The objection might be made that they are not automatically applied, that they are generally accompanied by provisions aiming to avoid arbitrary behaviour on the part of employers and that, in return, the demands made on young people in their work are, at least theoretically, lower. However, the principle itself has become debatable since it involves the static criterion of age and not the more dynamic criterion of the work which actually performed. When a young person has come of age it is logical to take the view that the work he does is adult's work and that he should be paid as an adult if he performs that work like other adults in a similar situation (length of service ...).

These pay reductions are based on a largely outmoded concept of the economy and employment. Social protection measures adopted over the past decades in favour of workers as a whole (hours of work, holidays and so forth), the development of the tertiary sector and progress in technology and engineering have restricted the number of occupations characterized by hard physical labour which were preponderant not long ago in industry and agriculture.

It follows that legislation which was originally justified has become increasingly obsolete and constitutes a source of abuse which works to the disadvantage to young people who have come of age who, whilst being protected by general social legislation, are nevertheless penalized solely because they are not old enough although they are recognized as having come of age and are in most cases made to do the same work as other adults. Only the requirement of special training, assessed on objective criteria including that of experience where it is a crucial factor, can be a justification for any disparities.

The foregoing observations are in no way a criticism of the effectiveness of certain specific measures designed to make it easier for young people to find their first job, such as for example employment-training contracts, schemes combining training and work and special employment incentives. What we are challenging are the various systematic pay reductions and exceptions which were devised in times past and for different reasons, where they are arbitrary.

The Committee on Legal Affairs and Citizens' Rights proposes that there be included in the resolution submitted to the European Parliament, with the above reservation, a statement that the principle of 'equal pay for comparable training and equal work' should be applied to young people who have come of age.

Some people might object that abolishing these pay reductions which, it should be recalled, relate in this instance to young people who have come of age, might well dissuade undertakings from employing young people.

This argument must be challenged. If that were the case, why are young people already the ones principally affected by unemployment in some Community countries? It is more correct to say that social legislation has not in this instance kept pace with changes in the legislation on the age of majority and that this situation must be put right, rather than retaining inegalitarian and unjust provisions linked to age when these young people have already become adults.

The objection might also be made that the Community institutions do not have power to lay down common provisions in this field because this would first of all come up against the fact that salaries are generally fixed freely by the representatives of employers and workers in national collective bargaining agreements and secondly against the principle of autonomy in negotiating wage rates which govern the Community.

These two objections are inadmissible. There is no question either of standardizing salaries in violation of the jurisdiction of the Member States or in infringement of the powers of the representatives of both sides of industry or of undertakings but of avoiding a situation in which, in one undertaking and for the same work done in the same way, as regards quantity and quality, young persons who have come of age are wrongly penalized solely because of their age.

The Committee on Legal Affairs and Citizens' Rights proposes that the analogy with the problem of pay for men and women referred to in Article 119 of the EEC Treaty should be invoked. That article prohibited any discrimination based on sex and the above objections cannot be put forward.

A directive similar to that of 15 February 1975, which came into force on 15 February 1976 and which recalled the principle of equal pay for men and women, should therefore be adopted on behalf of young people who have come of age. With this in mind Parliament might ask the Commission of the European Communities to introduce a proposal for a directive.

#### (b) Rights of expression and representation at work

The inequality affecting young people who have come of age in the matter of pay is also found with regard to the rights of expression and representation at work.

These disparities clearly do not come within the powers of the European institutions but are covered by the independent rules and procedure of trade unions or occupational organizations. They consist in particular of age thresholds above which a young worker may belong to a given trade union, vote in elections within that trade union or be elected an employees' representative within his undertaking or leader of that trade union.

On the other hand, there are other disparities relating to rights of a general nature which should be reduced throughout the Community Member States.

These are basically, and within this context only, the age at which a young person who has reached his majority may vote or stand for election in elections at work, in other words exercise the right to vote or be entitled to represent other workers.

The differences between the Member States in this respect are appreciable. However, a common feature of the legislation of most Member States is that they retain a time-lag between the age at which a young person reaches his legal majority and that at which he may exercise a right to vote at work and above all the right to represent other workers in his occupation.

Although young people are very often entitled to vote at the age of 18, subject to length of service in the undertaking, which is often from 6 to 12 months, on the other hand, the age at which they may stand for election is often postponed until 21 or even 23 and coupled with a requirement of up to three year's employment in the undertaking.

In this field, as in that of pay, it would be logical to give a young person who reaches the age of legal majority all his adult rights by fixing his entitlement to vote and to stand for election at 18 years in the context of elections at work, subject to a requirement of not more than one year's employment within the undertaking.

It should be noted, in addition, that in some Member States the legislation provides, at least in the case of medium-sized or large undertakings, for the setting-up of committees or councils whose task is to deal with the specific problems of certain categories of worker to prevent them from being ignored, neglected or not taken into sufficient consideration (women, the handicapped, young people and so forth).

The Committee on Legal Affairs and Citizens' Rights did not consider it necessary to propose the spread of these committees because it believes that these run risk of turning young workers who have reached their majority into second-class citizens. The argument behind this draft report is that these young people should be recognized as full members of the adult community when they reach the age of legal majority.

#### (c) Expression of political rights

A survey of the status of young people who have come of age within the Community would be incomplete if we did not also mention the existing disparities in the age at which a young person can vote in political elections and stand for election. These disparities are also important and stress the fact that the voting age coincides only partially with the age of legal majority.

From the point of view of principle, the argument underlying this report is, once more, that young people reaching their majority should not be made liable for their own actions with one hand only to have that status taken away with the other and that it would therefore be desirable to make the age of legal majority coincide with the voting age (right to vote and right to stand for election) by recommending inter alia that this should be so in the case of elections to the European Parliament.

#### IV. THE STATUS OF YOUNG PEOPLE IN THE PERIOD BETWEEN THE END OF COMPULSORY SCHOOLING AND REACHING THE AGE OF MAJORITY

The period between the end of compulsory schooling and reaching the age of majority is one of the most delicate with regard to free movement for young people within the Community and the pursuit of an occupation. National provisions on this are very diverse and therefore involve numerous disparities between the young citizens of the Community Member States, owing to the combination of three factors:

- the age at which compulsory schooling ends is not identical and varies from 14 to 18 years;
- young people are still minors and subject to parental authority;
- they nevertheless have the right to pursue full-time employment.

The growth in cultural visits, tourism and study in countries other than that of which these young people are citizens makes it particularly desirable to simplify and harmonize national legislation.

In view of the extreme complexity of this matter, the limited scope of this report has forced us to make choices which, though sure to be imperfect and no doubt questionable, are nevertheless necessary because a single resolution of the European Parliament cannot be enough to reform by means of harmonization the family law, the criminal law, the civil law or the labour law of the various Member States. The criterion proposed by the Committee on Legal Affairs and Citizens' Rights is that of the incentive which the proposals submitted to Parliament might have to exchanges of young workers who are under age, their incorporation into the working world within the Community and their awareness of European unity.

It is regrettable that the length of compulsory education and the age at which this duty to attend school stops are not uniform. However, harmonization in this field would have considerable chain reactions on the organization of education in certain countries and the Committee on Legal Affairs and Citizens' Rights considers that this upheaval, which might be discussed in a context other than that of this report, is not of itself an essential pre-requisite for the improvement of the conditions under which a young person can leave his country of origin to study, travel or work in another Member State.

On the other hand, there are other provisions linked to exchanges and work which, whilst more limited, are worth harmonizing in order to promote the development of specific Community measures on this important period of life which should enable young persons coming of age to make an instructive transition from the status of a person who is under age and dependent on his parents to that of the personal independence of a young person who has reached his majority.

##### A. GENERAL WORKING CONDITIONS

An initial series of clarifications and simplifications should be made in respect of the working conditions of young people during the period between the end of compulsory schooling and the attainment of the age of majority under civil law:

- (a) occupations that are prohibited because they are particularly arduous or because of the hazards they involve, in particular to physical health, mental stability and normal growth;
- (b) maximum working hours per daily working period, per day and per week, and hours that may not be worked;
- (c) minimum leave requirements;
- (d) special medical supervision;
- (e) limits on any reductions in earnings where such reductions are genuinely justified, in quantitative or qualitative terms, by the work actually carried out by minors;
- (f) the arrangements whereby the specific problems of under-age young workers are dealt with in large and medium-sized undertakings.

(a) Prohibited occupations

The Commission should take all appropriate measures to ensure that a list of prohibited occupations for young people entering working life after completing their compulsory schooling is drawn up in a manner common to all Member States.

Such harmonization would have the advantage of facilitating the spread of clearer and more effective information for young people which, being widely disseminated throughout the Community, would help improve the protection of young people, while making it easier for them to enter authorized occupations.

Moreover, a measure of this nature should not raise major difficulties in terms of implementation because there is wide agreement on basic principles, although the implementing provisions differ very considerably.

As a general rule, occupations requiring excessive physical strength, involving the risk of contamination or explosion or necessitating the use of hazardous machinery are and should remain prohibited, the only exceptions allowed being those dictated by the needs of vocational training and then only under direct supervision. Apprentices must in no circumstances be allowed to engage in assembly-line work or piecework.

(b) Working hours

Likewise, the similarity between the legislation of the various countries in this area should make it possible to harmonize working hours on the basis of general provisions such as the following:

- maximum working hours to be limited to 8 hours per day and 40 hours per week on the understanding that this period can in no circumstances exceed that applicable to adults in the same undertaking where it is less than 40 hours;
- overtime to be strictly limited to exceptional urgent cases with a 50% increase in pay to deter abuse; the maximum limit of 40 working hours during the same week may in no circumstances be exceeded;
- ban on night working between 11 p.m. and 6 a.m. except where specially authorized by the appropriate authorities for certain specific occupations (bakers, etc.);

- compulsory minimum rest period of 1 hour after each 4<sup>1</sup>/<sub>2</sub> hours worked;
- minimum interval of 12 hours' rest between two working days;
- except in exceptional cases subject to the prior agreement of the appropriate authorities, ban on Sunday and holiday working;
- minimum weekly rest period of 24 consecutive hours.

It is clear that these provisions that take account of those that are most widespread in the various Member States and cannot cover special cases arising from the nature of certain occupations from which young workers should not be systematically excluded (e.g. bakeries as already mentioned above). Yet to make the list of Community provisions too precise would indirectly be detrimental, through the new resulting complexity, to the objective that is sought after. Sufficient discretionary power in the matter of derogations should therefore remain with the authorities responsible in each country for work safety inspection.

#### (c) Paid holidays

While practice in the various Member States is fairly similar as regards working hours, the same is not true with regard to paid holidays.

The differences are comparatively large. The Member States occupying a middle-of-the road position (Belgium, Luxembourg, the Netherlands, the FRG) guarantee approx. 4 to 5 weeks' paid holiday per year for under-age workers.

In Greece, the period in question is 18 days.

As for Ireland and the United Kingdom, the law lays down a minimum period of 3 weeks in Ireland and 2 or 3 weeks, according to the industry in question, in the United Kingdom.

The Committee on Legal Affairs and Citizens' Rights proposes that the European Parliament adopt the principle of a minimum of 4 weeks' holiday per year for all young workers under 18, with the proportion of this period paid for by the employer being calculated on a pro rata basis by relation to the time actually worked and with a minimum continuous period of 3 weeks' holiday.

Two Member States (Belgium and Denmark) grant young people a holiday allowance corresponding in Belgium to 7 weeks' work for a full-time job and, in Denmark, to 12.5% of earnings during the working year.

#### (d) Medical supervision

The provisions relating to special medical supervision of young workers under 18 are very similar and should make it possible to reach agreement on the following common rules:

- compulsory medical examination at the time of recruitment;
- one medical check-up per year with more regular periodical check-ups if the nature of the work, in the opinion of the local authorities, so requires.



The examinations would be carried out by government-approved doctors in working time at the employer's expense with no loss of earnings for the employee.

(e) Earnings

The problem of lower wage levels for young workers is not the same for those who are still under age, even if they are working full time, as for those who have reached the age of majority. The latter are recognized as adults and should logically be capable of coping fully with the demands of their job; the former should in no circumstances be subject to such demanding requirements in terms of qualitative or quantitative output.

It is nevertheless true that the disparities observed are excessive and encourage abuse to the detriment of young people starting out in working life.

In Belgium, the reduction applied is 7.5% per year until the age of 21.

In Denmark, a young person receives 60% of basic earnings at the age of 16 and 70% from the age of 17.

In France, the reduction can be 20% for young people under 17 and can continue until the age of 21.

In Ireland, the rate of reduction is 50% at the beginning of working life.

In Italy, it can reach 35%.

It is 30% between the ages of 16 and 17 in Luxembourg, 20% from the age of 17 and the standard minimum wage is paid from the age of 18, as in Greece. In the Netherlands the right to the standard minimum wage is guaranteed only from the age of 23, the reduction applied is 65% at the age of 15 and it is reduced each year by between 5 and 10%. In the FRG, the reduction varies between 5 and 40% and in the United Kingdom between 25 and 65%. It is difficult to argue that all these reductions, by virtue of their very variety, can be fully justified in rational terms.

The entry of young people into working life cannot be considered solely in terms of the lower economic return which they are deemed to provide at the beginning of their working lives. Is it not also plain that sometimes substantial reductions deter young people from looking for a job when they compare their first wage-packet with the sums they can receive in unemployment benefit?

The Committee on Legal Affairs and Citizens' Rights therefore believes that the European Parliament would be championing a just and progressive cause if it were to recommend that this relatively anarchic and to some extent unjust system be reformed.

In the same way as for young workers that have reached the age of majority, it proposes that any reductions during the period in question should not be based only on age considered as an absolute quantity but should refer to the level of training, i.e. actual aptitude in carrying out the job required, in the light of what is expected of adults doing the same job.

The Committee on Legal Affairs and Citizens' Rights feels it would be excessive to rule out all notion of a reduction in earnings between the end of compulsory schooling and the attainment of the age of majority (unlike what has been proposed above for young workers that have reached the age of majority, once they have taken up a job that they carry out on an equal footing with other adults). This period is, and will to an increasing extent become, one of apprenticeship and vocational adaptation. However, the criterion of training (meant in the widest sense, i.e. including not only general training or basic techniques but also experience, performance, etc.) should be substituted within the framework of trade agreements (collective bargaining, etc.) for that of age taken in isolation.

Such agreements negotiated between both sides of industry would make it possible to establish an objective basis for determining the training necessary to satisfy fully the requirements of a particular job by comparison with what is demanded of other workers.

Finally, after a trial period or a period of adaptation which should not exceed one year, the minimum legal wage paid to workers in the same undertaking should at least be guaranteed for equal work. A measure of this nature would be all the more timely in view of the fact that low wages go with precisely those jobs with the lowest training requirement with the exception, as in the case of young people that have reached the age of majority, of special situations resulting from specific measures aimed at facilitating job creation.

#### (f) Right of expression and representation at work

Dependence on parental authority and the legal incapacity inherent in the status of minor may justify under-age young workers not being allowed to exercise the right to vote or, still less, stand for election in works council elections before reaching the age of majority under civil law.

To ensure that they are not marginalized in the undertaking and that their specific problems are not overlooked or neglected, the Committee on Legal Affairs and Citizens' Rights suggests that all solutions be considered which enable the bodies on which workers are represented within the undertaking to reflect the age structure of that undertaking.

#### B. PERSONAL INDEPENDENCE AND LEGAL CAPACITY OF YOUNG WORKERS UNDER 18

As already stated, a minor is by definition dependent on his parents (or on a guardian), remains under their authority and does not yet have the legal capacity to perform acts under civil law.

The consequences resulting from this situation are important in the daily life of young people. They concern, for example, the freedom to buy or sell, conclude an agreement, dispose freely of earned income, have a bank account, make a will, travel, drive a vehicle, choose another nationality, live elsewhere than with his legal guardians, marry freely, acknowledge a child, choose a doctor, etc., all these acts being to a greater or lesser extent tied up with the exercise of an occupation or the liberty to come and go and live in the Community.

As each Member State has its own laws in this area, it is not part of the intention of this report to propose systematic harmonization that would call into question substantial sectors of national legislation.

The Committee on Legal Affairs and Citizens' Rights proposes, however, to examine the specific problems encountered by a young under-age person upon taking up paid employment in order better to appreciate the relative independence resulting from this situation and with a view to encouraging exchanges within the Community, strengthening awareness of European unity among the young people concerned and adapting the law to changing customs.

To this end, the Committee on Legal Affairs and Citizens' Rights believes that when a young person has completed his compulsory schooling, he is capable of doing a full-time job and thus of enjoying greater independence than a younger under-age person who is still at school.

#### (a) Contracts of employment

Although the principle of parental dependence prohibits in law a young person from concluding a contract of employment against the wishes of his legal guardians until such time as he has reached the age of majority, the general practice in the Member States is for under-age young people in fact to make increasing use of this right on condition that they produce express authorization by their parents or other legal guardians or provided at least that no formal opposition is voiced by the latter.

Without making drastic changes to existing legislation on relations between parents and children, it might be commonly acknowledged - and this is the proposal of Committee on Legal Affairs and Citizens' Rights - that, from the time he can furnish proof that he has completed his compulsory schooling, a young person should be deemed competent to conclude a contract of employment on the understanding that:

- on the one hand, it would be up to the employer to ascertain that there was no opposition on the part of the child's legal guardians,
- on the other hand, it must always remain possible for the young person or his legal guardians to terminate the contract with no other obligation on the young person than to serve a maximum of one month's notice.

It is proposed that the same should apply to apprenticeship contracts.

Where there is opposition by the parents or guardian, a ruling would be given by a competent judge in the Member State concerned.

#### (b) Free use of earned income

The Committee on Legal Affairs and Citizens' Rights also suggests that it be proposed to Parliament that throughout the Community it should be accepted that:

- the wages due to an under-age young person in exchange for his labour should be paid directly to him where he has completed his compulsory schooling,

- he may make free use of such earnings for his own purposes without prejudice to the mutual obligations of assistance and maintenance between parents and children. Where there is formal opposition by the parents or guardian, it would be for the competent judge to give a ruling.

It is not appropriate in the context of the main arm of this report to propose a greater degree of harmonization between national legislation relating to the disposal and enjoyment of other property belonging to children whether by use, sale, gift or will.

(c) Bank accounts, cheque books, credit cards

The right to have a bank account, a cheque book and a credit card and to make deposits and withdrawals should be granted to every young person from the end of their compulsory schooling, as long as the legal guardians guarantee to regularize the position should the account become overdrawn. Practice in the various Member States goes, moreover, largely along these lines.

Hire-purchase and similar transactions should remain the exclusive responsibility of the legal guardians.

(d) Driving licences

Generally speaking, the age at which a licence can be obtained to drive a motor vehicle is fixed at 18 in the Member States, although a licence to ride a motorcycle (where the potential speed and risks are at least as great) can often be obtained earlier (at 16). The high percentage of accidents involving young people cannot but give rise to reservations about any proposal to grant a car driving licence at the same age as the driving licence for large-capacity motorcycles.

This question deserves, however, careful consideration in the light of experiments currently being carried out (in certain French departments, for example) whereby 16 year-olds are allowed to drive cars provided they are accompanied by someone who has reached the age of majority and followed a special training course.

(e) Marriage

One of the questions where the greatest diversity exists between the Member States is that of the age at which young people may marry. It is plainly an important one in the light of the geographical mobility of young people within the Community.

As a general rule (except for Scotland however), marriage is not allowed without parental consent before the age of majority has been reached, i.e. 18, except where special dispensations are granted for important reasons.

As a general rule (with the exception of the FRG), marriage also has the effect of releasing young people from parental authority, i.e. of automatically conferring on them their majority under civil law.

Otherwise, the variations are considerable and relate, in particular, to the age limits for parental consent to marriage before attainment of the age of majority.

In most Member States there is no age difference for girls and boys.

In other countries, girls may marry earlier than boys: in Belgium and in France at 15 in the case of girls and at 18 in the case of boys; in Germany, one of the couple must be at least 18, the other at least 16.

The part played by the legal guardians of minors in the conclusion of the marriage contract also differs from one country to another. Sometimes their explicit agreement is required and sometimes only their presence is needed for the contract to be valid.

The Committee on Legal Affairs and Citizens' Rights could propose that, subject to the agreement of the legal guardians of minors (both for marriage and for conclusion of the accompanying contract), permission to marry could be granted at the age of 16 for both boys and girls in all the Member States without prejudice to more favourable provisions currently in force.

#### (f) Release from parental authority

The scope for obtaining legal release from parental authority varies from one country to another. Provisions of this nature do not exist in Denmark, the United Kingdom (except for Scotland) and Ireland, and they were abolished in Italy, Luxembourg and the FRG when the age of majority under civil law was lowered.

A court may hand down a ruling granting release from parental authority at the age of:

- 15 in Belgium,
- 16 in France,
- 18 in the Netherlands.

In the light of the general trend towards lowering the age of majority, the purpose of such provisions at the present time can be called into question. The Committee on Legal Affairs and Citizens' Rights suggests that situations where release from parental authority is still justified should be examined.

Partial release from parental authority on a selective basis (legal capacity, residence) could be introduced either at the request of the minor or automatically in specific family and social situations. The Committee on Legal Affairs and Citizens' Rights is aware that this question is outside the scope of the Community, but believes nonetheless in the usefulness of an exchange of views at European level on this problem.

#### (g) Civil and criminal liability

The personal responsibility which a young person or an adult assumes for his acts depends on the degree of freedom he enjoyed in carrying out those acts. Consequently, granting young people greater independence between the end of compulsory schooling and the attainment of the age of majority cannot but entail greater personal responsibility in return. It would be appropriate to propose harmonization of national legislation in this area, taking particular account of the following points which are tied up with the very nature of this period leading up to the attainment of the age of majority:

- parents or guardians must at all events retain some degree of liability which they cannot surrender,
- in taking corrective action against misdemeanours that may have been committed by minors, priority should be given to educational assistance rather than penal sanctions,
- the Member States must ensure that parents comply with the requirement to take out a civil liability insurance for their children until the latter have reached the age of majority in order to protect both themselves and their children.

#### V. CASUAL EMPLOYMENT OF YOUNG PEOPLE BEFORE THE END OF COMPULSORY SCHOOLING

A comparative study of the laws governing the right of young people to work in the Community before completion of compulsory schooling leads to two general observations:

- on the one hand, a common set of basic principles,
- on the other hand, relatively large diversity in the implementation of these principles.

The common principles can be summed up as follows:

1. Compulsory schooling allows no exception to be made enabling someone to take up a full-time job.
2. However, all the Member States allow the possibility of progressively taking up employment before the end of compulsory schooling, subject to many specific exceptions or authorizations aimed at:
  - giving priority to study over work,
  - protecting the child from occupations which by their nature, length or conditions may be detrimental particularly to his health,
  - making a distinction between permitted occupations depending on how arduous they are acknowledged to be.
3. These measures allowing certain occupations and progressive access to employment are, in the majority of cases, subject to the dual consent both of the parents and of the public authorities.
4. The classification of the types of occupation that are authorized progressively according to age gives priority to protection against risks of a physical nature. Generally speaking, therefore, authorization to appear in television or cinema films, fashion shows or public entertainments is granted from a very young age, while work of an industrial nature is practically forbidden, even on a part-time basis, before the age of 14.

Between these two extremes, there are still many points in common:

- although it is not self-evident that domestic work or farm work are in all cases less arduous than work of an industrial nature or in a craft industry, it is to be noted that much greater tolerance is shown towards the former. In the majority of states, domestic and farm work are permitted at a much earlier age and are not subject to specific safeguards except with regard to the number of hours worked and the priority given to study.

- Likewise, in fairly consistent fashion, the only occupations permitted during the last years of compulsory schooling are in family businesses or farms run exclusively by the parents or guardians and then only on condition that the children share the same residence.

Yet these various points of similarity allow a large number of variations.

First of all and as pointed out above, there is no uniform definition of the period during which schooling is compulsory. In most countries, it refers to the age of the child but this reference age is not identical. It is 14 in Italy, 15 in Greece, in Ireland, in Luxembourg and in the FRG, 16 in Belgium, in France, in the Netherlands and in the United Kingdom.

Denmark applies a different standard, that of the length of study which is 9 years; this means that compulsory schooling ends at 15 or 16 depending on the child.

Finally, it should be added that, in some countries such as the Netherlands, a dispensation can be obtained from the last year of compulsory schooling in favour of part-time education and that, in other countries such as France, from the age of 14 onwards schooling may include practical training courses or apprenticeship contracts opening up the possibility of part-time work without contravening the requirement of compulsory attendance at school.

There are also considerable differences between the Community countries as regards the progressive authorization of certain occupations by reason of age:

- in the Netherlands, the authorization of the work safety inspector is required before young children may appear in television or cinema films or fashion shows, and such activities must take place outside school hours, whereas in the other countries only the parents' consent is required.
- For public events of a cultural, artistic, recreational or educational nature, authorization is granted in Luxembourg from the age of 6 onwards (except for circuses and cabarets) subject to the agreement of the father (not that of the mother) and, of the Minister of Education, after hearing the opinion of the work safety inspectorate and as long as such activities do not continue beyond 11 p.m. In the FRG, the written permission of the parents and the agreement of the work safety inspector are required for children between 3 and 6 years old and the time worked may not exceed between 2 and 4 hours per day and 22 to 23 hours per week. In the United Kingdom, the authorization of the local authority is required whatever the age of the children until such time as they have completed their compulsory schooling.
- In Denmark, parental consent is sufficient for children under 15.
- Subject only to compulsory attendance at school and in the absence of any other special safeguards, children of at least 16 in France and from the age of 14 onwards in Italy are allowed to work as domestic servants.
- The most marked differences concern agricultural labour. In Denmark, any minor may be authorized to work 2 hours each day where such work involves no danger. In Greece, the minimum age is 12 with no limit on the number of hours worked even where primary schooling has not been completed; in addition 3 hours per day of agricultural labour are allowed from the age of 10 onwards provided that the holding is a family farm run by the parents.

Agricultural labour at home is authorized from the age of 13 onwards, in the FRG, for 3 hours per day, in the Netherlands for 2 hours on school days and 5 hours on other days, in the United Kingdom for 2 hours on school days. In Italy, where compulsory schooling has been completed at 14, agricultural labour is authorized subject to no other specific restriction than that of the number of hours worked (35 hours per week).

- Work in offices, warehouses and shops is permitted in Denmark at the age of 13 subject to parental consent (where the child is working at home for a close relation), at the age of 14 in Ireland but from the age of 12 onwards in Greece (with the exception of bars, restaurants, department stores, craft workshops, cakeshops, between the ages of 12 and 14).

Likewise, selling newspapers is allowed for 2 hours a day in the Netherlands from the age of 15 if a dispensation has been obtained from compulsory school attendance.

- Holiday work is permitted in France for half the length of the holidays from the age of 14 onwards. In Italy, the same age limit applies but there is no limit on the length of time worked. In the United Kingdom, the local authority must be informed.
- To all these variations between the various Member States should be added those concerning the last stages of compulsory schooling, during which work supplements teaching. Yet by virtue of the very fact that such work forms an integral part of a training process, it is subject to supervision by the educational authorities and thus reveals special features that have more in common with organized education than the right to take up an occupation in the true sense.

Before concluding this rapid survey of the points of similarity and the points of difference between the laws and practices in the Member States, it should be noted that the authorization to work should not be confused with the right to receive payment that is commensurate with the work carried out and is the property of the young person concerned. This aspect, which is very much tied up with parental dependence, varies according to the legislation of the different countries.

Faced with this complex of similarities and differences, the question to be asked is not whether absolute uniformity should be sought after for its own sake but what are the areas where harmonization could have a positive effect on building Europe.

Without ruling out the usefulness of a specific study on the problems posed by young children and employment, it would appear from this report that the search for greater uniformity should pay particular attention to the time from which the young person is sufficiently independent to move around, at least in a group across Europe, and be confronted with the problems associated with doing paid work, whether during the school year and in a country other than his own or during the holidays.

Having regard to the most widespread practices throughout the Community (with the exception of Greece where children generally start working much earlier than elsewhere), it is therefore from the age of 14 onwards in particular that certain harmonization measures would appear desirable in order to promote the dissemination of information to young people and parents, encourage exchanges and facilitate initiatives by businessmen to welcome young people.



## CONCLUSION

This explanatory statement to the resolution submitted to the European Parliament reveals the many questions linked with varying degrees of closeness to coming of age or preparation for it. Community action must therefore be both voluntarist and realistic and yet progressive. For this reason the resolution makes a distinction between two types of measure which can form the subject-matter of different provisions:

- a proposal for a directive which can be adopted rapidly on the age of majority under civil law and the rights deriving from that for young people who have come of age;
- a proposal for a recommendation giving the Commission greater opportunities to study and appraise the question with a view to clarifying, harmonizing and protecting, on the basis of the principles laid down in the resolution, the situation of young people before they have reached their majority under civil law.

MOTION FOR A RESOLUTION (DOCUMENT 2-407/84)

tabled by Mrs VAN HEMELDONCK

pursuant to Rule 47 of the Rules of Procedure

on the age of majority

The European Parliament,

- A - noting that the national legislation of the Member States lays down when a subject comes of age under civil and labour law,
- B - noting that there are significant differences between the Member States on this issue,
- C - whereas these differences can give rise to disturbance of the common market, in particular in the following areas:
- inequality of access to careers because of differences in the age at which individuals have capacity to act on their own behalf;
  - uncertainty as to the law where contracts are entered into between nationals of different Member States, since the legal validity of such contracts can be affected by one of the parties being a minor;
- D - whereas it is fitting that young people who participate in the work process should have capacity to act on their own behalf,
- E - whereas, with a view to further European integration, efforts should be made to harmonize the various legal provisions in this field,
1. Calls for the age at which full age is attained under civil law to be fixed at 18;
  2. Advocates that capacity be vested in young people to conclude and terminate contracts of employment and to earn and dispose of wages from the moment they enter the work process, subject, however, to school attendance requirement and any provisions in force for their protection;
  3. Calls on the Member States to harmonize their legislation on this basis as quickly as possible;
  4. Instructs its President to forward this resolution to the Council and Commission and the governments and parliaments of the Member States.

## RESOLUTION (72) 29

### ON THE LOWERING OF THE AGE OF FULL LEGAL CAPACITY

*(Adopted by the Committee of Ministers on 19 September 1972  
at the 213th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Considering that the aim of the Council of Europe is to achieve greater unity among its Members, inter alia by promoting the adoption of common rules in legal matters;

Noting that, whereas in the majority of member States the age of full legal capacity was established for a considerable period at 21 years, this age is now fixed below 21 in most member States;

Aware of the fact that under the laws of several member States minors of a certain age enjoy special legal capacity to act independently in some important matters and that in fact in other States very similar results have been achieved by other means;

Believing that even though life today is more complex than formerly, the education gained during a prolonged compulsory schooling and the abundance of information available enable young people to meet the exigencies of life at an earlier age than before;

Recognising that the need of protecting young people is diminishing in importance as a result of measures designed to protect people of all ages in the economic field;

Believing that lowering the age of majority should encourage the development of a sense of responsibility in young people,

1. Recommends governments of member States to lower the age of majority below 21 years and, if they deem it advisable, to fix that age at 18 years, provided that States may retain a higher age of capacity for the performance of certain limited and specified acts in fields where they believe that a higher degree of maturity is required;
2. Recommends governments of member States especially those States where the age of majority may remain above 18 years, to consider the advisability of granting to certain minors capacity to carry out everyday transactions and to act independently in other appropriate fields;

3. Recommends governments of member States in which the lowering of the age of majority would substantially curtail the rights enjoyed by children under their parents' maintenance obligations, with the possible consequence of depriving them of the necessary assistance for pursuing their education or training, to take appropriate measures to remedy such consequences;

4. Invites governments of member States to inform the Secretary General of the Council of Europe in due course of the action taken on the recommendation contained in this resolution.

ANNEX III

	Age of majority under civil law	Age for criminal prosecution	Voting age	Age of marriage with parents' consent		Working age	School-leaving age
				F	M		
Belgium	21	18	21(1) - 18(2)	15	18 (4)	14	16
Denmark	18	18	18	15	15	15	16
Fed. Rep. of Germany	18	18	18	16	18 (5)	14	14 or 16 (9)
France	18	18	18	15	18 (4)	16	16
Greece	18	18	18		18	15	15
Ireland	18	17	18	16	16	15	15
Italy	18	18	18 - 21(3)	14	14 (7)	15	14
Luxembourg	18	18	18	15	15 (6)	15	15
Netherlands	21	18	18	16	16 (8)	16	16
United Kingdom	18	17	18	16	16	16	16
Spain	18	18	18		14	16	14
Portugal	18	16	18		16	14	14

- (1) National elections
- (2) Local and European elections
- (3) Senate elections
- (4) The Procureur du Roi de la République may grant age dispensations
- (5) Or vice versa
- (6) Dispensation from the Grand Duke is required however
- (7) With the authorization of the Juvenile Court
- (8) It is possible to marry at 18; between the ages of 16 and 18 it is possible to marry if a doctor certifies that the woman is pregnant. In addition, the crown may grant age dispensations
- (9) At the age of 14, the person concerned must follow vocational training courses

