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**REPORT ON THE COMMUNITY CHARTER OF THE FUNDAMENTAL SOCIAL RIGHTS OF
WORKERS AND ON THE PROTOCOL ON SOCIAL POLICY ANNEXED TO THE TREATY
ESTABLISHING THE EUROPEAN COMMUNITY**

(presented by the Commission)

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INTRODUCTION

- 1 The Community Charter of the Fundamental Social Rights of Workers was adopted by eleven of the heads of state and government at the European Council of Strasbourg on 8 and 9 December 1989. The Protocol on Social Policy states that "eleven Member States wish to continue along the path laid down in the 1989 Social Charter", and authorises them to "have recourse to the institutions, procedures and mechanisms of the Treaty for the purposes of taking among themselves and applying as far as they are concerned the acts and decisions required"; it goes on to say that this is "without prejudice to the provisions of the Treaty, particularly those relating to social policy which constitute an integral part of the *acquis communautaire*". For its part, the Agreement says that the "Community and the Member States shall have as their objectives the promotion of employment, improved living and working conditions, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. To this end the Community and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Community economy."
- 2 The entry into force of the Treaty on European Union on 1 November 1993 automatically gave effect to the Protocol on Social Policy and to the Agreement on Social Policy.
- 3 Community action implementing the Charter and the Agreement is based, with a view to improving living and working conditions in particular, on three fundamental principles:
 - the principle of subsidiarity, bearing in mind the specific nature of the social field, whereby each of the areas for action should meet with the most appropriate response (e.g. harmonisation, coordination, convergence, cooperation, etc.), having regard to the needs as ascertained and the potential added value of Community action;
 - the principle of respect for the diversity of national systems, cultures and practices, where such diversity is a positive element in the realisation of the internal market;
 - preservation of business competitiveness, having regard to the need to reconcile economic and social considerations. In any initiative, a balance must be sought and found.
- 4 The method adopted by the Commission for implementing these initiatives calls for a broad measure of prior consultation both of the Member States and of the

social partners within the advisory committees, "ad hoc" consultations and more formal consultations under the social dialogue. As regards the social dialogue, the Commission wishes to underline the positive contribution made by the social partners in developing the social dimension thanks to their wide range of joint opinions and declarations¹.

- 5 Mention should be made here of the important role which the European Parliament and the Economic and Social Committee have played in this regard. Parliament has frequently stressed that the social dimension is a fundamental condition for realisation of the internal market, while the Commission – despite Parliament's criticism of certain specific aspects of Commission proposals – agrees with Parliament that today's Community is proposing two new frameworks for fleshing out the legal aspects of the European social model: the Community Charter of the Fundamental Social Rights of Workers and the forthcoming European citizenship, which should emerge along with political union and in parallel to Economic and Monetary Union reforms². The Economic and Social Committee has likewise been very constructive, particularly in the Charter's start-up phase; its opinions have made a positive contribution to the progressive and coherent realisation of Community social policy.
- 6 Paragraph 29 of the Charter calls on the Commission to establish each year a report on the application of the Charter. There have now been three such reports, merged with the earlier report on social developments in the Community (Article 122 of the Treaty on European Union). Article 7 of the Agreement on Social Policy states that the Commission shall draw up a report each year on progress in achieving the objectives of Article 1, including the demographic situation in the Community. In its communication on the application of the Protocol on Social

¹ Joint opinion on the creation of a European area for occupational and geographical mobility and improvement of the operation of the labour market in Europe (13 February 1990); on general education, initial training, vocational training and adult education (19 June 1990); on new technologies, organisation of work, flexibility of the labour market (10 January 1991); on the transition from school to adult and working life (5 April 1991); on the broadest and most effective access possible to continuing vocational training (20 December 1991); on occupational qualifications and certification (13 October 1992); on the action and future role of the Community in education and training, bearing in mind the role of the social partners (28 July 1993); on women and vocational training (3 December 1993).

Agreement of 31 October 1991 on the role of the social partners.

A new concerted growth strategy for more employment (3 July 1992). Joint declaration on the future of the social dialogue (3 July 1992). Recommendation by the ETUC, UNICE and CEEP on the operation of multisectoral advisory committees (June 1993). Management and labour proposals for implementing the Agreement attached to the Protocol on social policy in the Treaty on European Union (29 October 1993). Outline plan for the broad lines of economic policy (5 December 1993).

² European Parliament, Social Affairs, Draft report on the European labour market after 1992. Part IX: the European social model, PE 151.130/IX, 30 May 1991, and Resolution A3-0238/92, 8 July 1992.

Policy³, the Commission decided that this report should, for practical reasons, be merged with the report on application of the Charter.

- 7 As regards the Social Charter, this report has been drawn up along the same lines as its three predecessors and as such constitutes an update of the third report as at 31 December 1994. However, for reasons to do with scheduling arrangements, the part concerning the application of the Charter by the Member States will be the subject of a separate report.

³ COM(93) 600 final, 14 December 1993.

**1. THE COMMUNITY CHARTER OF THE FUNDAMENTAL
SOCIAL RIGHTS OF WORKERS**

**1.00 LABOUR MARKET
EUROPEAN SOCIAL FUND**

- 1 In 1994, after three consecutive years in which the numbers in work declined progressively, this came to a halt and the outlook improved significantly. We need growth to solve the unemployment and social problems but, as stated in the report on "Employment in Europe 1994", we "... need more than growth. We also need to create a more employment-intensive pattern of growth - using all the means and instruments available to us." In this context, the Commission set out its views on the causes and the strategy for addressing the underlying structural changes required to improve the employment situation in the White Paper on Growth, Competitiveness and Employment which was examined by the European Council in December 1993. One of the principal messages of the White Paper is that the employment-intensity of growth in the Community must be improved if a long-term solution to unemployment is to be found. During 1994 the Commission has been carrying out detailed studies on the various proposals in the White Paper and put before the European Council at Essen an Action Plan for Employment which sets the framework for the Member States' actions to address the structural issues involved.

In December 1994, the Essen Council established a priority for "continuing and strengthening the strategy of the White Paper in order to consolidate growth, improve the competitiveness of the European economy and the quality of the environment in the European Union and - given the still intolerably high level of unemployment - create more jobs for our citizens". The European Council committed the Member States to include in a multi-annual programme recommendations relating to the following five priority employment areas:

- Improve workers' employability by promoting investment in vocational training. This particularly concerns lifelong learning and access to training for all.
- 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;
 - a wage policy which encourages job-creating investments and in the present situation requires moderate wage agreements below increases in productivity;
 - and, finally, the promotion of initiatives, particularly at regional and local level, that create jobs which take account of new requirements, e.g. in the environmental and social services spheres.

- Lower indirect labour costs, particularly in respect of unskilled workers. On this point, proper targeting is the key to effectiveness.
 - A more effective labour market policy, particularly with reference to the employment services.
 - More effective measures in favour of groups particularly affected by unemployment, offering a brighter outlook for young people by offering them either work or training.
- 2 Set up by the Treaty of Rome to provide back-up for employment and to promote the geographical and occupational mobility of workers within the Community, the scope of the European Social Fund was extended by the Maastricht Treaty and by the 1993 regulations concerning the Structural Funds.
- 3 This new reform, which confirmed the operational principles of the Structural Funds as defined in 1988 (multi-annual programming, partnership and synergy between the various structural instruments), sees the Fund's remit extended to include the prevention of unemployment under a new Objective 4, which deals with adapting workers to industrial change and changes in production systems, and taking in educational activities in the poorest regions of the Union. It is also characterised by a quest for flexibility, in that the rules no longer lay down strictly what measures are eligible, meaning in turn that joint funding arrangements are available for training/employment measures under various Community structural policy objectives covered by the ESF, viz.:
- regional development objectives: Objective 1 (economic adjustment of regions whose development is lagging behind), Objective 2 (economic conversion of declining industrial areas) and Objective 5b (development of rural areas), to which must be added, with the enlargement of the Community, the new Objective 6 designed especially for the very sparsely populated regions of Sweden and Finland;
 - the "horizontal" objectives, i.e. those applying throughout the Community: Objective 3 (combating long-term unemployment and facilitating the integration into working life of young people and of persons exposed to exclusion from the labour market) and Objective 4 (see above).

In more general terms, the new rules are characterised by a desire for a more strategic approach targeting the Community's priorities in the field of employment and the development of human resources, as defined in the White Paper on growth, competitiveness and employment and the White Paper on social policy.

- 4 To meet these varied demands, enhanced financial resources have been made available to the ESF: approx. ECU 25 billion were committed over the period 1989-93, compared with a likely approx. ECU 42 billion over the six-year period 1994-99 in the 15 Member States of the Community. Something like 90% of ESF

resources are used in the context of multi-annual programmes (i.e. Community Support Frameworks or Single Programming Documents), which lay down the amounts and priorities for each Member State and each objective over the coming years. The rest is covered by programmes presented by the Member States under the Community Initiatives, which seek to promote local, innovative and transnational approaches in the field of training and employment. The Social Fund is particularly closely associated with two of these Initiatives:

- the Employment Initiative, with a budget of ECU 1.4 billion for the period 1994-99 and three main strands (NOW for equal opportunities on the labour market, YOUTHSTART for training and employment for the under-20s, and HORIZON for the most vulnerable people on the labour market, particularly the disabled);
- the ADAPT initiative (with a budget of ECU 1.4 billion over the period 1994-99), which is concerned with the adaptation of workers to industrial change.

5 The main decisions concerning the ESF for the coming years were made in 1994, i.e. the Community Support Frameworks and most of the operational programmes or single programming documents for the various objectives, along with the programmes presented by the Member States under the various Community Initiatives.

6 The CSFs and the SPDs for the various objectives (accounting for some ECU 40 billion in the period 1994-99) show a strong trend towards regions whose development is lagging behind (51% of measures) and for Objectives 3 and 4 (accounting for 31% of allocated monies), with the rest going to Objectives 2 and 5b. In addition, a total of approx. ECU 3.5 billion is available for the Community Initiative programmes (ECU 2.8 billion of which is earmarked for ADAPT and Employment).

7 The new CSFs reflect a more coherent and strategic approach to the development of human resources and improvement of the labour market, the aim being to concentrate resources on the more pro-active employment policy measures. The ESF's intention is to ensure that its resources are put to the most effective use for the Community's priorities, which means:

- improved access to, and quality of, education and initial training, more particularly by way of the progressive development of a programme guaranteeing education or skilled training for all young people (YOUTHSTART), and the realisation of human potential in the field of research, science and technology (under Objectives 1, 2, 5b and 3);
- enhanced competitiveness and prevention of unemployment by gearing workers for change through a systematic approach to continuing training (Objectives 1, 2, 5b and 4);

- improved employment prospects for persons at risk of long-term unemployment and exclusion, by way of "integration pathways" (under Objectives 1 and 3), with a range of measures to foster the occupational integration of the people concerned. Special attention will go to boosting the local approach, widening the partnership arrangements at regional and local levels and providing assistance for new sources of jobs. Finally, equal opportunities for men and women on the labour market constitutes a priority which applies across the board to all Social Fund measures.

1.01

EMPLOYMENT AND REMUNERATION

- 1 In its action programme relating to the implementation of the Charter, the Commission took the view that "faced with the considerable development of very varied forms of employment contracts other than those of an open-ended nature, there should be a Community framework ensuring a minimum of consistency between these various forms of contract in order to avoid the danger of distortions of competition and to increase the transparency of the labour market at Community level".

The Commission takes the view that there can be no casting doubt on the need for these particular forms of employment relationship, which are held to be essential in terms of a coherent strategy for growth and jobs. The point here is to define a number of basic provisions which, on the one hand, respect the need for businesses to be flexible and, on the other, take into account the aspirations of workers, allowing for the wide range of situations in the Member States and the bargaining autonomy of the two sides of industry.

- 2 On the strength of these considerations, the Commission has proposed a set of fundamental provisions in respect of "non-standard work", comprising three instruments (part-time working, fixed-duration employment and temporary work) to meet three specific needs:
 - to improve the functioning of the internal market and to make the labour market more transparent within the context of economic and social cohesion (legal basis Article 100a of the EEC Treaty);
 - to improve living and working conditions for workers (legal basis Article 100 of the EEC Treaty);
 - to protect the health and safety of workers at work⁴ (legal basis Article 118a of the EEC Treaty).

⁴ COM(90)228 final – SYN 280 and SYN 281, 13 August 1990.

Of the three proposals, only that based on Article 118a, which covers temporary workers and workers with a fixed-duration contract, has so far been adopted by the Council of Ministers – on 25 June 1991⁵.

The other two proposals (one with regard to distortions of competition, based on Article 100a, the other on working conditions, based on Article 100) which also cover part-time workers faced major difficulties in the Council, with very little progress being made in the period 1991–93.

The efforts of the Belgian presidency failed to produce a breakthrough in the Council in the second half of 1993. The German presidency made treatment of the pending proposals again a top priority. They were discussed in several meetings of the Social Questions Group and were the subject of an orientation debate in the Council meeting of 22 September 1994 and of a final debate in the Council meeting of 6 December 1994. At the latter meeting it was formally confirmed that unanimous adoption of the Commission proposals, or even of a part of them, by the twelve or fifteen Member States could no longer be expected in the near future.

The Commission strongly regrets the failure of the Council to make substantive progress on the Commission proposals on non-standard work. It considers in particular that action is urgently needed to ensure that part-time work is attractive and that part-time workers are properly treated, in order to reinforce the contribution which this form of work can make to reducing unemployment. As stated in the White Paper on European social policy, the Commission will initiate consultations with the social partners under the Agreement on Social Policy on the issue of working conditions for "non-standard" employees, in particular part-time workers, fixed-term workers and temporary agency workers.

- 3 The Charter reaffirms the principle under which all employment must be fairly remunerated, pointing out that "in accordance with arrangements applying in each country, workers shall be assured of an equitable wage, i.e. a wage sufficient to enable them to have a decent standard of living". Consequently, and respecting in full the principle of subsidiarity, the Commission intends neither to enact legislation nor to propose binding instruments on pay. It does, though, take the view that it would be apposite to pinpoint a number of basic principles regarding equitable pay, bearing in mind social and economic realities and making use of the usual instruments of economic and social policy, particularly those designed to stimulate economic growth, boost productivity, combat discrimination and ensure solidarity between the various social groups. In this context, the Commission adopted, on 1 September 1993⁶, an opinion on an equitable wage, the

⁵ Council Directive of 25 June 1991 (91/383/EEC) supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship: OJ L 206, 29.7.1991.

⁶ COM(93) 388 final.

final version reflecting the view of the European Parliament and of the Economic and Social Committee.

1.02

**IMPROVEMENT OF LIVING AND
WORKING CONDITIONS**

1 After almost three years of negotiations between the European Parliament, the Council and the Commission, the proposal for a Directive concerning certain aspects of the organisation of working time⁷ was adopted, under Article 118a of the TEU, by the Council on 23 November 1993⁸. The Directive applies to all sectors apart from transport, seafarers and doctors undergoing training and does not affect the Member States' freedom to apply or introduce provisions which are more favourable to workers.

The Directive requires the Member States to take the necessary measures to ensure that workers have:

- a minimum daily rest period of at least 11 consecutive hours out of 24;
- a weekly rest period of at least 35 consecutive hours on average;
- entitlement to a rest break, to be agreed by the social partners or by national legislation, when the working day is longer than six hours;
- a minimum period of paid annual leave of four weeks pursuant to national legislation and/or practice;
- maximum weekly working time of 48 hours on average, including overtime.

The Directive further states that the normal working time of a night worker may not exceed eight hours on average per 24-hour period and that workers must have access to a free medical check-up before being assigned to night work and at regular intervals thereafter. Where workers have health problems associated with night work, they must be transferred, whenever possible, to a daytime job. Employers who regularly employ workers on night work are required to inform the authorities responsible for health and safety. In addition, night workers must enjoy a level of health and safety protection which is geared to the nature of their work and the requisite protection services or resources.

⁷ COM(90) 317 final – SYN 295, 20 September 1990.

⁸ Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ L 307, 13.12.1993).

The Member States are required to implement the Directive by 23 November 1996. However, one Member State may opt not to apply Article 6 on the maximum weekly working time provided certain conditions are met, including compliance with the general principles of health and safety of workers.

Similarly, the Member States may, for the purposes of applying Article 7 (on annual leave arrangements) make use of a maximum transitional period of three years with effect from 23 November 1996, provided that, during this transitional period, workers are entitled to three weeks' paid leave and provided such leave is not replaced by a financial consideration, except in relation to the termination of employment.

- 2 Acting on a Commission proposal⁹, the Council adopted a Directive on provision of a form of proof of an employment relationship¹⁰. The Directive makes it mandatory for employers to inform their workers of the conditions applicable to the contract or employment relationship, and thus makes a contribution to improving the transparency of a labour market which is undergoing change with potential for altering the situation of workers in the kind of employment relationship which generally falls outside the traditional pattern. We are now witnessing the emergence of new forms of distance work, work experience schemes and mixed employment-training contracts, more flexible forms of part-time and full-time working and, in more general terms, the development of new forms of work which tend to obscure the situation of large numbers of workers, making it confused, uncertain and unstable. As a result, conventional concepts of what is meant by workers, employed persons, working time, etc. are no longer covered by conventional labour law. Under the Directive, all workers have a right to know for whom and where they are working and what the essential conditions of the employment relationship are.
- 3 On 18 September 1991 the Commission proposed a Directive amending Directive 75/129/EEC concerning the approximation of Member States' legislation on collective redundancies¹¹. Fifteen years of Directive 75/129/EEC and the impact of the internal market on business restructuring made it necessary to amend the original Directive. With transnational business restructuring gathering pace on the eve of completion of the internal market, redundancies are increasingly being decided at a higher level of business than that of the direct employer, i.e. by a company exercising control over a group, whether it be situated in the same Member State as the employer or in an entirely different one, or by the central management of a multiple-branch undertaking, with the actual employer being located in a different Member State entirely. The Council adopted these

⁹ COM(90) 563 final, 8 January 1991.

¹⁰ Council Directive (91/533/EEC) of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship, OJ L 288, 18.10.1991.

¹¹ OJ L 48, 22.2.1975.

amendments on 24 June 1992¹². The Directive widens the field of application of Directive 75/129/EEC as regards redundancies decided by such decision-making centres, but ensures that such centres supply employers with all the information they need to inform and consult workers' representatives and notify the competent public authority of the plans. The Directive also seeks to extend workers' rights as regards information and consultation to cases of redundancy resulting from a court decision.

4 On 8 September 1994¹³ the Commission proposed a revised version of Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses. This proposal sets out to revise the Directive in the light of the completion of the internal market, legislative tendencies in the Member States regarding ways of safeguarding firms in difficulties, the changing aspects of European Court of Justice case law, the already adopted revision of the Directive on collective redundancies, and the legislative provisions in force in most of the Member States. The essential changes are concerned with:

- clarifying the existing Directive's field of application and definitions;
- clarifying the way the Directive applies to the transfer of one single aspect of the undertaking's activities;
- clarifying the way the Directive's obligations apply to international transfer decisions and to groups of undertakings;
- limiting the joint liability of the transferor and the transferee;
- allowing more flexibility when it comes to transfers effected under insolvency arrangements.

With a view to clarification and transparency, it is also proposed to repeal the Directive currently in force and recast the texts.

5 On the migrant worker front, the European Council meeting in Hanover in June 1988 called on the Commission to draw up a report on the social integration of migrant workers. The European Council of 8 and 9 December 1989 called in turn for an inventory of national positions on immigration with a view to preparing the ground for a discussion of the matter in the Council. Against this background, the Commission's report on the "Social integration of migrants from non-member

¹² Council Directive 92/56/EEC of 24 June 1992, OJ L 245, 26.8.1992.

¹³ OJ C 274, 1.10.1994.

countries residing permanently and legally in the Member States"¹⁴ gave a first indication of the legal and *de facto* situation of immigrants.

- 6 A second report entrusted by the Commission to a group of experts and entitled "Policies on immigration and the social integration of migrants in the European Community"¹⁵ made a major contribution to a more in-depth look at this question. The European Council of 14 and 15 December 1990 took note of this latter report and asked the General Affairs Council and the Commission to "examine the most appropriate measures and actions regarding aid to countries of emigration, entry conditions and aid for social integration...". In addition, shortly after the entry into force of the Treaty on European Union, the Commission transmitted, on 23 February 1994, to the Council and Parliament a communication on immigration and asylum¹⁶ covering all aspects of the problem, including the integration of immigrants in host countries.

1.03

FREEDOM OF MOVEMENT

- 1 Concerning the freedom to provide services, on 28 June 1991 the Commission put forward a proposal for a Council Directive concerning the posting of workers in the framework of the provision of services¹⁷. The Commission's aims behind this proposal were to have the Council ensure that Member States coordinate their laws to establish a core of rules and regulations affording minimum protection. The European Parliament gave its opinion on 10 February 1993, whereupon the Commission amended its proposal on 16 June 1993.

Discussion on this proposal was regarded by the German and French Presidency as a priority matter; however, despite all efforts to date, it has proved impossible to achieve a common position on this proposal.

- 2 With a view to making freedom of movement for workers more effective and working towards the creation of a genuine European labour market, the EURES system (European Employment Services) was set up¹⁸ to act (a) as a European-level employment agency with a remit to inform, advise and place jobseekers throughout Europe and (b) as a forum for examining, at operational level, any question concerning employment in Europe. The network was officially launched in November 1994.

EURES is a cooperative network mobilising the public employment services in all the countries of the European Economic Area and other regional, national and

¹⁴ SEC(89) 924 final, 22 June 1989.

¹⁵ SEC(90) 1813 final, 28 September 1990.

¹⁶ COM(94) 23 final.

¹⁷ COM(91) 230 final – SYN 346; OJ C 225, 30.8.1991.

¹⁸ Council Regulation (EEC) No 2434/92, OJ L 245, 26.8.1992.

international players involved in employment. 350 Euroadvisers, specially trained and covering the whole of the EEA, are the operational arm of EURES. The network makes it possible for all workers to find out what jobs are vacant in the countries of their choice. Any firm wishing to recruit workers from outside its national territory can take a look at mobility-motivated candidates and can circulate its job vacancies through the EURES partners. The network thus constitutes an additional resource for workers who wish to exercise their right to mobility, while for the major companies, it is a potential source of useful information and a means of recruiting labour. EURES also incorporates specific structures reflecting the problems of cross-border workers, grouped together under the heading "Cross-border EURES".

- 3 The Commission's systematic work on application of Article 48(4) of the EC Treaty (employment in the public services)¹⁹ has proceeded satisfactorily. As a result of this work and of resultant infringement proceedings against all the Member States concerned, nationality is no longer a condition for access to a substantial number of public-service jobs in many of the Member States.
- 4 In its recommendation of 21 December 1993²⁰, the Commission advocated certain solutions with a view to resolving the tax problems of workers taking advantage of their right to freedom of movement, and particularly frontier workers, so as to guarantee equal treatment. The scheme proposed in this recommendation is that all persons exercising an economic activity (as paid employees and on a self-employed basis) in a Member State other than their country of residence should enjoy the same tax treatment as residents provided they obtain at least 75% of their total income in the country of work.
- 5 On the basis of Article 8b(1) of the EC Treaty, as incorporated by the Treaty on European Union, the Commission presented to the Council a proposal for a Directive laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by the citizens of the Union residing in a Member State of which they are not nationals²¹. This Directive, which was adopted by the Council on 19 December 1994²², follows on from the Directive on the right to vote and to stand in European Parliament elections, and constitutes the second element of implementation of one of the principal rights of citizenship of the European Union as enshrined in Article 8b(1) of the EC Treaty, which provides that "every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections ... under the same conditions as nationals of that State". The Directive leaves it up to nationals of the Union to vote in their country of residence and, where appropriate, in their country of origin, and addresses the

¹⁹ OJ C 72, 18.3.1988.

²⁰ OJ L 39, 10.2.1994.

²¹ OJ C 105, 13.4.1994.

²² OJ L 368, 31.12.1994.

problem of access to the functions of mayor and deputy mayor by stating that Member States may reserve or limit access to such functions, and the election of a parliamentary assembly, to their own nationals. Generally speaking, the Directive is based on the principle that any derogation from the general rules must be justified by problems which are specific to a Member State and must be reexamined in connection with the report to be submitted by the Commission by the end of 1998. The derogations accepted by the Council are aimed more particularly at enabling Member States in which specific problems may arise as a result of non-nationals of that country exceeding 20% of the total number of citizens of the Union residing there to reserve the right to vote and to stand in elections to persons who have resided in that country for a minimum period. The transposition deadline is 1 January 1996; the Directive will be reexamined in connection with the report to be submitted by the Commission by the end of 1998.

- 6 The point should be made that Article 8b(1) constitutes an application of the principle of equality and non-discrimination between national and non-national citizens and a corollary to the right of freedom of movement and residence enshrined in Article 8a of the Treaty.
- 7 The Commission's proposals²³ for amending Council Regulation No 1612/68 and Council Directive 68/360/EEC regarding workers and their families moving and residing within the Community are still pending at the Council.
- 8 A proposal for a Regulation²⁴ designed to include special schemes for civil servants and to facilitate the coordination of schemes applicable to all persons not yet covered by the regulations – insofar as they are insured in a Member State – has been submitted to the Council.
- 9 Bearing in mind the changes which Member States have made to their social security laws and the need to make certain technical changes, a Regulation was

²³ OJ C 100, 21.4.1989; OJ C 119, 15.5.1990.

²⁴ Proposal for a Council Regulation amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and members of their families moving within the Community, and Regulation (EEC) No 574/72 laying down the application arrangements for Regulation (EEC) No 1408/71, OJ C 46, 20.2.1992.

adopted on 30 June 1993²⁵ and a proposal for a Regulation presented²⁶—with a view to amending Regulations No 1408/71, 574/72, 1247/92 and 1945/93.

- 10 The Agreement on the European Economic Area (EEA) and the Protocol adjusting the Agreement on the European Economic Area²⁷ entered into force on 1 January 1994. Referring to Annex VI to the Agreement on Community rules concerning social security, Austria, Finland, Iceland, Norway and Sweden now form part of the coordination scheme, with a view to facilitating the free movement of workers throughout the EEA.
- 11 The Commission's programme of legislation for 1995 makes provision for consolidation of the Community rules on social security for migrant workers. The necessary preparatory work has already been taken in hand.
- 12 The lack of coordination, the diversity and multiplicity of supplementary schemes and the fact that they are increasing in importance over statutory social security schemes make it a very complex matter to organise the transferability of rights in the event of worker mobility between the Member States. This is why the Commission adopted, on 17 July 1991, a "Communication on supplementary social security schemes"²⁸, which takes the form of a consultation and information document intended by the Commission to set in motion a Community-wide debate on supplementary retirement pension schemes. The communication was not intended to make any kind of value judgment on existing national systems, but merely to present an inventory of problems posed by supplementary schemes in respect of worker mobility. The point of the transferability of supplementary pension rights is to get rid of obstacles to the free movement of workers caused by the absence of Community provisions protecting such workers from the loss of their rights. In this respect the Commission, in accordance with the White Paper on European social policy, engages in consultations with a view to drafting a directive to establish a general framework. On the basis of these consultations, the Commission will adopt, in the first half of 1995, a draft directive to establish a general framework to protect the supplementary or occupational pension rights of workers who move across the Union. The aim of the directive is to ensure the appropriate protection of individual rights acquired or in process of being acquired by members and former members of supplementary pension schemes who move across national borders within the European Union. Such protection regards in particular the preservation and transferability of pension rights under both

²⁵ Council Regulation (EEC) No 1945/93 amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and members of their families moving within the Community, and Regulation (EEC) No 574/72 laying down the application arrangements for Regulation (EEC) No 1408/71, and Regulation (EEC) No 1247/92 amending Regulation (EEC) No 1408/71, OJ L 181, 23.7.1993.

²⁶ OJ C 14, 26.5.1994. The ESC opinion was adopted on 14 September 1994.

²⁷ OJ L 1, 3.1.1994.

²⁸ SEC(91) 1332.

compulsory and voluntary schemes. The directive will apply to nationals of a Member State, stateless persons or refugees residing within a Member State.

1.04

SOCIAL PROTECTION

- 1 Solidarity with the disadvantaged sections of the population is primarily a matter for the Member States. However, since the mid-1970s, the Community has become involved in these matters too. The two Poverty programmes 1975-80 and 1984-88 were joined by the Council Decision of 18 July 1989 establishing a new Community programme for the economic and social integration of the least privileged (1989-94).
- 2 On 23 December 1992, the Commission adopted a communication entitled "Towards a Europe of Solidarity: Intensifying the fight against social exclusion, fostering integration"²⁹. While respecting the principle of subsidiarity, the communication proposes overall guidelines for the action which the Community could take in this area.
- 3 On 22 September 1993 the Commission adopted a new programme ("Medium-term action programme to combat exclusion and promote solidarity")³⁰, which is designed to follow on from the Poverty III programme, terminated in June 1994.
- 4 Faced with the persistence of various forms of social exclusion, the Member States have tried to tackle the problem by instituting various forms of guaranteed resources for the worst-off.
- 5 In the Resolution passed on 29 September 1989 by the Council and the Ministers for Social Affairs meeting within the Council on the fight against social exclusion, the ministers showed how much importance they attached to supplementing economic development policies by policies of guaranteed resources geared to the situation in the various Member States. The same desire for solidarity prompted the proposal for a Council recommendation on common criteria concerning sufficient resources and social assistance in the social protection systems³¹. The aim behind this draft recommendation was to get the Member States to recognise a general subjective right to a guarantee of sufficient resources and benefits, and to organise the ways and means of implementing that right. The Council adopted the recommendation on 24 June 1992³². In application of the recommendation, the Commission published, at the end of 1993, a first report on "Social protection in Europe", which describes the social protection situation in the Member States, analyses the Member States' policies and examines the main problems the Member

²⁹ COM(92) 542 final.

³⁰ COM(93) 435 final.

³¹ COM(91) 161 final, 13 May 1992; OJ C 163, 22.6.1991.

³² OJ L 245, 26.8.1992.

States have to face in this field³³. Subsequent reports will be published periodically by the Commission.

- 6 At the same time, and with a view to promoting harmonisation in the levels of social protection, the Commission has proposed, pursuant to its stated aims in the Social Charter action programme, a strategy for the convergence of Member States' social protection policies. This strategy, set out in the proposal for a Council recommendation of 27 June 1992 on the convergence of social protection objectives and policies, sets out to be flexible, progressive and based on a voluntary approach on the part of the Member States³⁴. A strategy of this kind implies the definition at Community level of common objectives as regards the convergence of social protection policies, and sets out to advance the national social protection systems in accordance with the Community's general objectives. This convergence strategy must not be seen so much as an isolated measure, but rather as part of a wider move towards economic and social integration, and the prevention of social exclusion.

1.05

WORKER PARTICIPATION

- 1 The Community instrument on equity-sharing and financial participation by workers, announced in the Commission's action programme, takes due account of the latest developments and of present policies in this area within the Community³⁵. It relates essentially to participation by employees in their companies' profits and asset formation and to equity-sharing. The choice of the Council recommendation instrument is justified by the nature of the subject, for which a non-binding instrument appeared to be more suitable³⁶.
- 2 There is a wide disparity in the types of financial participation schemes currently in operation in the various countries. Their legal and tax statuses differ widely, ranging from cash bonuses and profit-sharing and other forms of deferred participation to special equity-sharing schemes, such as the free distribution of shares to employees or the offer of shares on preferential terms, through share purchase option schemes available to all employees or just to executives, to shareholding trusts or company buy-outs.
- 3 The recommendation is principally concerned with company-internal collective, continuing and participatory schemes (with direct or indirect involvement) based on company results. The designated objective is to encourage wide-ranging use of the various forms of employee participation in company profits and trading

³³ COM(93) 531 final.

³⁴ 92/442/EEC.

³⁵ COM(91) 259 final, 3 September 1991.

³⁶ Proposal for a Council recommendation concerning the promotion of employee participation in profits and enterprise results (including equity participation); OJ C 245, 20.9.1991.

results, either by profit-sharing or by equity-shareholding or a combination of the two.

The Council adopted the recommendation on 27 July 1992³⁷

- 4 The adoption by the Council on 22 September 1994 of Directive 94/45/EC³⁸ on the transnational information and consultation of workers in Community-scale undertakings and groups of undertakings is bound to have a considerable impact on other proposals which are currently up for discussion within the Council on this or similar subjects.

The Commission intends to examine whether – and to what extent – the above directive might facilitate, or even speed up, the adoption of the other proposals currently pending at the Council. These concern the role of workers in the statutes for a European company, the structure of limited companies (the 5th Directive), and the European statutes for associations, cooperative and mutual societies.

1.06 EQUAL TREATMENT FOR MEN AND WOMEN

- 1 At the mid-term stage of the third medium-term Community action programme on equal opportunities for men and women (1991-95), the Commission believes that the strategic objective should be to move away from equal rights to equal treatment on the labour market, by way of equal opportunities in society in general. To this end, its initiatives are concerned with finding solutions to three basic problems: how to reconcile working life and family responsibilities, the horizontal and vertical desegregation of the labour market, and enabling women to participate in the decision-making process.
- 2 With a view to the full implementation of the fundamental right to equal pay, and in accordance with the undertaking given in the Third Programme, the Commission adopted, on 23 June 1994, a memorandum on equal pay for work of equal value³⁹, which explains and analyses current legislation and pertinent Court of Justice judgments. It is designed principally for employers, trade unions, legal experts, national equal opportunities organisations and others with a role to play in implementing legislation on equal pay. At a subsequent stage, the Commission intends to adopt a code of good practice on the equal pay issue.
- 3 One of the subjects which affects the quality of women's work is protection of the dignity of men and women at work. By adopting, in May 1990, a resolution on the protection of the dignity of men and women at work⁴⁰, the EU ministers

³⁷ OJ L 245, 26.8.1992.

³⁸ OJ L 254, 30.9.1994.

³⁹ COM(94) 6.

⁴⁰ Resolution 90/C 157/02, 29 May 1990; OJ C 157, 27.6.1990.

demonstrated their support for the wide-ranging measures deployed to improve the quality of the workplace for both sexes. The Commission, for its part, adopted a recommendation⁴¹ and a code of practice as a basis for action. It also decided to publish a guide on combating sexual harassment, taking the form of a practical and pragmatic guide bringing together aspects of general policy, equal treatment programmes, laws and court cases. Employers, trade unions, staff representatives and women's organisations will all find the guide useful in devising strategies to combat this kind of behaviour.

4 Based on Article 118a of the EEC Treaty, the proposal for a Directive concerning the protection at work of pregnant women or women who have recently given birth constitutes an individual directive within the meaning of framework Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work⁴². Its aim is to improve the standard of protection of pregnant women or women who have recently given birth, regarded as a risk group within the meaning of the framework Directive, without causing any deterioration in their working conditions and more particularly their situation on the labour market. The measures contained in this proposal relate to leave arrangements, duration of work and employment rights on the one hand, and working conditions, including exposure to agents liable to affect their health, on the other. It also contains a particular reference to the burden of proof in case of a dispute. This proposal for a Directive is in response to a major and specific need; on a number of occasions, the European Parliament has underlined the urgency of this initiative as contributing significantly to the promotion of health and safety of workers at work. The Council adopted the definitive text on 19 October 1992⁴³.

5 The lack of good-quality and affordable childcare facilities constitutes a major obstacle to women finding jobs and engaging in vocational training. This is why the Commission has assumed responsibility for following up the recommendation on childcare⁴⁴, which advocates a series of measures to enable men and women to reconcile their occupational and family responsibilities arising from childcare and child-rearing duties. A questionnaire was drawn up for the Member States with a view to collecting the necessary information for an evaluation report on implementation of the recommendation, in the light of which the Commission will decide what measures should be proposed.

Although the directives on equal treatment for men and women (75/117/EEC, 76/207/EEC, 79/7/EEC and 86/378/EEC) cover a fairly wide field, they did not take sufficient account of the special situation of self-employed women and women whose professional status was unclear (i.e. neither in partnership nor in

⁴¹ Recommendation 92/131/EEC, 27 November 1991; OJ L 49, 24.2.1992.

⁴² OJ L 183, 29.6.1989.

⁴³ Council Directive 92/85/EEC, 19 October 1992; OJ L 348, 28.11.1992.

⁴⁴ Council Recommendation 92/241/EEC, 31 March 1992; OJ L 123, 8.5.1992.

paid employment). On 11 December 1986, therefore, the Council adopted a Directive on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood⁴⁵, which sought to identify the specific contribution of such workers to family income, give participating spouses a clearly-defined professional status and, consequently, guarantee their social security rights.

- 6 On 16 September 1994, the Commission adopted a report on the implementation of this Directive⁴⁶. While it is true that, from the strictly legal viewpoint, the Directive can be said to have been implemented in the Member States, the fact remains that the practical results are not entirely satisfactory in terms of the primary objective, which was to bring about a general improvement in the status of the helping spouse. There would seem to be a need, then, for the Commission and the Member States to explore ways of making progress in this field.
- 7 Despite the efforts of the Commission and the Council presidency, it proved impossible to achieve adoption of the directives on parental leave and the burden of proof. With a view to advancing these dossiers, the Commission has therefore decided to make use of the Protocol on social policy. The social partners have been consulted on the basis of a Commission document concerning all aspects of the reconciliation of family and professional life. Commission will shortly submit to the social partners a consultative document on the subject of the burden of proof in equal treatment cases.
- 8 On 28 September 1994, the Court handed down six judgments interpreting Article 119 of the Treaty concerning (supplementary) occupational social security schemes. The purpose was to clarify the judgment of 17 May 1990 in *Barber*, in which the Court had clearly stated that benefits arising from an occupational scheme counted as remuneration within the meaning of Article 119 of the Treaty as regards equal pay for men and women. Consequently, as the said article does not allow for exceptions to the principle of equal pay, and as it takes precedence over any secondary legislation, certain provisions of Directive 86/378/EEC on equal treatment for men and women in occupational schemes, which purported to allow such derogations (under Article 9 of the Directive), are inapplicable and of no effect as regards workers in paid employment. For this reason, and for reasons of legal certainty, the Commission intends to present an amendment to Directive 86/378/EEC to bring it into line with Article 119 of the Treaty as interpreted by the Court of Justice.

⁴⁵ Directive 86/613/EEC, OJ L 359, 19.12.1986.

⁴⁶ COM(163) 94.

- 1 More than ever before, the development and quality of vocational training are well and truly on the agenda and will play a major role in the Community's ability to deal successfully with the challenges facing it on the eve of the 21st century. This subject is at the very heart of the analyses and proposals which the Commission presented to the European Councils of Brussels and Corfu in its White Paper on growth, competitiveness and employment. The White Paper said that the Community must conduct an in-depth restructuring of its education and training systems, proposing as an objective an improvement in continuing, life-long learning and training schemes.
- 2 Community action programmes in the field of vocational training have made enormous progress since 1987 in the wake of the adoption of the Comett programme. The subsequent adoption by the Council of a series of other action programmes, such as Eurotecnet, Petra and Force, and the recommendation on access to continuing training adopted in direct application of point 15 of the Community Charter of the Fundamental Social Rights of Workers demonstrates the importance attached throughout the Community to vocational training as a fundamental policy in terms of economic growth and social equilibrium. These four programmes terminate at the end of 1994. They have achieved significant and concrete results in creating a basis for transnational cooperation. The European training market, transnational training partnerships and European training networks have all become watchwords in the European training field, constituting reference frames for the work of European training providers.
- 3 The pursuit of a Community policy on vocational training is laid down by Article 127 of the Treaty on European Union. On the strength of this article, the Commission has proposed a Council Decision establishing an action programme for the implementation of a European Community vocational training policy "Leonardo da Vinci"⁴⁷. The Council adopted a common position⁴⁸ on the Commission's proposal and subsequently adopted the Decision on 6 December 1994⁴⁹. The programme will cover the period 1 January 1995 to 31 December 1999.
- 4 The Leonardo da Vinci programme is therefore a Community action programme designed to support and supplement Member States' policies, excluding any element of harmonisation of Member States' legal and regulatory provisions. The Member States are solely responsible for the content and organisation of training. The most important elements of the programme are:

⁴⁷ OJ C 67, 4.3.1994.

⁴⁸ Common Position (EC) No 31/94, 18 July 1994; OJ C 244, 31.8.1994.

⁴⁹ OJ L 340, 29.12.1994.

- (a) The objectives: to promote high-quality vocational training and the capacity for innovation in the field.
- (b) Operator support structures: to be nominated by the Member States; should be able to call on current programme structures as far as necessary.
- (c) The role of the social partners: the social partners are essential players in Leonardo. They are involved in the consultation process at both Community and national levels. They act as operators for specific projects, whether or not on a joint basis. Special relations will be established between the programme and the social dialogue. The direct implementation of pilot projects by employers' organisations and trade unions, possibly bringing in other partners too, gives them the chance to become directly involved in designing specific training projects the results of which may be used by their organisations. These projects also constitute an important source of support for the development of the social dialogue at Community level, and an integrated monitoring mechanism for these specific projects will be put in place to this effect.
- (d) The measures: divided into three strands reflecting the three aims:
 - Strand I: support for the improvement of vocational training systems and provisions in the Member States;
 - Strand II: support for the improvement of vocational training measures, including university/business cooperation concerning firms and workers;
 - Strand III: support for the development of language skills, knowledge and the dissemination of innovation in the field of vocational training.
- (e) Areas of training: all vocational training fields are involved: initial training and transition to working life; continuing training; university/business cooperation. Leonardo seeks to develop life-long learning arrangements.
- (f) The players: all the vocational training players are involved: public authorities, undertakings, social partners at national and Community level, public and private-sector training organisations, universities. Partnership arrangements between these various players are also sought.
- (g) Coordination and synergy of resources: Leonardo places special emphasis on coordination with other Community measures and seeks complementarity between measures and funding from the European Social Fund.
- (h) Evaluation: evaluation provisions, on a partnership basis between the Commission and the Member States, are designed to boost the visibility

and knowledge of Community measures and their impact on national systems.

- (i) Enlargement: the Leonardo programme will also be open to the associate countries of central and eastern Europe and to Cyprus and Malta, so as to strengthen potential interaction between the development of vocational training policy in the Union and support given by the Union to vocational training measures in those countries.

5 In close conjunction with the social partners at Community level, a social dialogue back-up measure on continuing training has been set in place at the Commission's initiative. This is designed to identify, collect and analyse innovative continuing training practices involving dialogue between the social partners. It can therefore be used to pinpoint themes of common interest for the social dialogue and to support them by way of specific examples. This arrangement is closely linked to the social dialogue proper and is intended to evolve towards a lasting base of information and observation of innovative practices in the field of training, with a view to strengthening the dialogue between the social partners.

6 The social partners have also deepened their substantial contribution to the development of vocational training by their work within the social dialogue on two themes:

- under the third remit assigned to the Social Dialogue Education/Training Group by way of a draft joint opinion - which is now being finalised - on the "contribution of vocational training to the fight against unemployment and the reintegration of the unemployed in the labour market";
- under the fourth remit assigned to the same Group, which is to reexamine the joint opinions in the field of education and vocational training with a view to coordinating them, making them more consistent and, where necessary, updating them against the background of the White Paper on growth, competitiveness and employment. On this basis, new subjects could be dealt with on a joint basis so as to meet current challenges. On conclusion of this examination, and without prejudice to the result, the Social Dialogue Committee will decide on what the outcome should be within the context of the social dialogue.

1.08

HEALTH AND SAFETY PROTECTION FOR WORKERS

1 Health and safety protection at work at Community level is covered by a set of binding provisions based, following the entry into force of the Single European Act, on Article 118a. The action programme implementing the Community Charter incorporated new proposals in a number of sectors in which safety is an important issue. There are ten proposals for individual directives based for the

main part on the framework Directive (89/391/EEC), together with two further initiatives concerning occupational diseases and the creation of a European Agency for Health and Safety at Work.

2 Three-quarters of the proposals presented by the Commission under the programme have now been adopted:

- Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels⁵⁰.
- Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (8th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)⁵¹.
- Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (11th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)⁵².
- Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (12th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)⁵³.
- Council Directive 93/193/EEC of 13 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (13th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)⁵⁴.
- Commission Recommendation 90/326/EEC of 22 May 1990 concerning the adoption of a European schedule of occupational diseases⁵⁵.
- Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (9th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)⁵⁶.

⁵⁰ OJ L 113, 30.4.1992.

⁵¹ OJ L 245, 26.8.1992.

⁵² OJ L 348, 28.11.1992.

⁵³ OJ L 404, 31.12.1992.

⁵⁴ OJ L 307, 13.12.1993.

⁵⁵ OJ L 160, 26.6.1990.

⁵⁶ OJ L 245, 26.8.1992.

Council Directive 91/382/EEC of 25 June 1991 amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (2nd individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)⁵⁷.

- 3 In making its recommendation of 22 May 1990 on the adoption of a European schedule of occupational diseases⁵⁸, the Commission stated that, after a period of three years, it intended to look into whether binding legislative provisions were needed, and placed the emphasis on preventing occupational risks with a view to encouraging measures to reduce workplace nuisances. As part of this process, consultations have taken place with government representatives, revealing that the Member States have already, to a very great extent, incorporated the European schedule. The Commission intends to pursue its reexamination of the list from the point of view of scientific and medical progress.
- 4 Subsequent to the Parliament's opinion at first reading, the Commission forwarded to the Council, on 9 June 1994, an amended proposal for a Directive on the protection of the health and safety of workers from the risks related to chemical agents at work. The Commission's amended proposal retains the structure and objectives of the initial proposal, but clarifies and amplifies certain of its provisions. The objectives are now:
 - (a) to lay down minimum requirements for the protection of workers from the health and safety risks arising from all chemical agents present at the workplace;
 - (b) to consolidate, update and adapt the existing provisions relating to chemical agents in the light of current knowledge and to align them with the measures provided for in Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work⁵⁹;
 - (c) to adopt additional requirements so as to improve the protection of workers from the risks arising from activities involving chemical agents;
 - (d) to clarify the Community provisions on the health and safety of workers exposed to chemical agents and to improve the basis on which information is supplied to workers;
 - (e) to ensure that all the preventive measures at the workplace are based on accurate appraisal of the risks associated with the way the chemical agents are used and that the protective measures take account of the

⁵⁷ OJ L 206, 29.7.1991.

⁵⁸ OJ L 160, 26.6.1990.

⁵⁹ OJ L 183, 29.6.1989.

characteristics of the workplace, the activity, the circumstances and any specific risk.

- 5 As part of its drive for harmonisation of conditions in the field of health and safety protection at work, the Council adopted, on 12 October 1993, Directive 93/88/EEC, which makes provision for a classification of biological agents⁶⁰, supplementing Annex III to Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work⁶¹. Part of the added text concerns a classification of biological agents into groups (2, 3 and 4) according to danger level. The amended text covers some 300 organisms. In addition, the amendment incorporates a code of conduct featuring recommendations on vaccination practice. However, vaccination will continue to be governed by national laws and practice.
- 6 On 8 July 1994, the Council adopted a Regulation establishing a European Agency for Safety and Health at Work, with its headquarters in Bilbao⁶². The Agency's remit will be to collect and circulate technical, economic and scientific information on safety at work, promote and support exchanges of information and experience between Member States, organise conferences and seminars, provide the Commission with the information it needs to prepare and evaluate legislative texts, create a network linking up the Member States' national networks and, finally, collect and disseminate information on health and safety from outside the Union. The Commission will make a special effort to ensure that the Agency can become operative in 1995.
- 7 Council Directive 92/29/EEC⁶³ on the minimum safety and health requirements for improved medical treatment on board vessels will enter into force by 31.12.1994. Vessels are unlike other workplaces in that they are mobile and geographically isolated, with attendant occupational risks which are higher than elsewhere. It is therefore essential to have specific provisions whereby "seagoing workers" enjoy the same level of health and safety protection as that afforded to workers on dry land in the Community. Three types of minimum requirements are laid down in the Directive:
- Firstly, all vessels, whether seagoing or operating in coastal waters, will be required to carry medical supplies which, in terms of quality, meet the minimum specifications set out in an annex. The antidotes needed on board vessels carrying dangerous goods are also specified, and each life raft must be equipped with a watertight medicine chest. Large vessels with more than 15 crew members must have a sick bay, whilst those with a crew of 100 or more will be required to have a doctor on board. The

⁶⁰ OJ L 268, 29.10.1993.

⁶¹ OJ L 374, 31.12.1990.

⁶² OJ L 216, 20.8.1994.

⁶³ OJ L 113, 30.4.1992.

responsibility for providing and replenishing the medical supplies, which are to be checked annually by the Member States, will lie exclusively with the owner, without any expense to the workers.

- Moreover, vocational training for seamen must include medical and emergency measures to be taken in the event of an accident or serious medical emergency.
 - Finally, in order to ensure better emergency treatment, the Member States will be required to designate one or more centres capable of providing vessels with free medical advice by radio.
- 8 Regarding the Directive concerning the minimum safety and health requirements for transport activities and workplaces on means of transport, the Commission presented the Council with an amended proposal in the late autumn of 1993⁶⁴.
- 9 Finally, in respect of the Directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents, the Commission presented the Council with an amended proposal in July 1994⁶⁵.

1.09 PROTECTION OF CHILDREN AND YOUNG PEOPLE

- 1 Children and young people still constitute an important labour force reserve, the size of which varies from one Member State to another. In many cases, this is an "invisible" labour force which is not adequately covered by official statistics. According to Eurostat's 1989 labour force survey, there were 397 000 young people aged between 14 and 19 at work in Portugal, compared with 563 000 in Spain, 2 128 000 in the United Kingdom and 743 000 in Italy. Between 90 000 and 200 000 children aged less than 15 were at work in Portugal in the early 1980s according to the International Labour Organisation. In more global terms, according to Eurostat (1989), almost 2 million young people of 15 years of age are at work in the Community, over a third of whom are employed in the distributive services and in the hotel and catering trade. Most of the youngsters are to be found in the United Kingdom (with more than a third of the total), Germany (15%) and Italy (12%).
- 2 It was only logical, then, for the Community Charter of the Fundamental Social Rights of Workers to devote special attention to the protection of children and young people (paragraphs 20-23). Paragraph 22 sets out the principal objectives, e.g. that "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", limitations on the duration of

⁶⁴ COM(93) 421 final; OJ C 325, 2.12.1993.

⁶⁵ COM(94) 284 final; OJ C 230, 19.8.1994.

work and a ban on night work for workers of under 18 years of age. Paragraph 20 says that "the minimum employment age must not be lower than the minimum school-leaving age and, in any case, not lower than 15 years".

Similarly, in Chapter 11 of its action programme relating to the implementation of the Charter, the Commission affirmed its determination to protect young people from conditions of work and employment which might damage their health, safety and development. The Commission's aim, then, is to get the Council to adopt a directive on the protection of young people. The Commission adopted a proposal on 15 January 1992⁶⁶, which was scrutinised by Parliament at first and second readings and gave rise to a Council common position, before being finally adopted on 22 June 1994⁶⁷.

- 3 This Directive applies to all people aged less than 18 years with an employment contract or employment relationship as defined by the law currently in force in a Member State and/or subject to the law currently in force in a Member State.

Groups of young people are defined as follows:

- young: any person under 18 years of age;
- child: any young person who is less than 15 years of age or who is still undergoing full-time compulsory education in accordance with national law;
- adolescent: any young person of at least 15 years of age but less than 18 who is no longer undergoing full-time compulsory education in accordance with national law.

The Member States may provide that the Directive should not apply to occasional or short-term work in relation to domestic service in a private household or work regarded as not being harmful, damaging or dangerous to young people in a family undertaking.

The Directive provides for Member States to take the necessary measures to ban work by children and to ensure that work done by young people is strictly regulated and protected pursuant to the conditions laid down in the Directive.

The Directive's principal objective is to ban work by children. However, the Member States may, subject to certain conditions, provide that this overall ban should not apply to:

⁶⁶ OJ C 84, 4.4.1992; COM(93) 35; OJ C 77, 18.3.1993.

⁶⁷ Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work; OJ L 216, 20.8.1994.

- (a) children performing work of a cultural, artistic, sports or advertising nature, provided prior authorisation is given by the competent authority in individual cases;
 - (b) children of at least 14 years of age working under a combined work/training 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 (a); light work may, however, be performed by children of 13 years of age for a limited number of hours per week in the case of categories of work determined by national legislation.
- 4 On the question of working time, the Directive imposes limits on children who are undergoing compulsory full-time schooling. To ensure that no harm is done to their school work and hence their long-term development as a result of excessive daily working times, such work is only allowable up to 12 hours per week and 2 hours per school day. Time spent by young people on vocational training must be included in working time. For all adolescents and young people undergoing combined work/training, the maximum working time is 8 hours per day or 40 hours per week, although these limits may be subject to derogation in certain cases.
- 5 The Directive also provides for a ban on night work by children between 10 pm and 6 am and for adolescents between 11 pm and 7 am, with certain derogations possible in the latter instance.
- 6 The Directive further features provisions on:
- general obligations on employers, e.g. safety and health of young people, assessment of the hazards to young people in connection with their work, health assessment and monitoring arrangements, information for children's legal representatives of possible risks to safety and health;
 - the kind of work which is covered by an outright ban for young people, e.g. work which is beyond their physical or psychological capacity and work involving harmful exposure to dangerous agents.
- 7 Each Member State is required to lay down any necessary measures to be applied in the event of failure to comply with the provisions adopted in order to implement the Directive. The Directive also includes a "non-reducing clause" relating to the level of protection afforded to young people.
- 8 The Directive has to be transposed into the Member States' national law by 22 June 1996. However, the United Kingdom has been given a longer deadline for the transposition of certain provisions regarding working time.

- 1 The substantial increase in elderly and very old people between now and the end of the century has made the problem of integrating such people into society acute throughout the Community, not to mention the economic and social implications of the ageing process. Enacting legislation would not have been the appropriate response given that different Member States have different approaches, cultures and traditions.
- 2 However, population ageing, the shift in the ratio of the working to the non-working population and the change in family structures are likely to have major social and economic implications. This is why the Commission has presented a communication on the elderly, together with a proposal for a Council Decision on Community actions for the elderly⁶⁸. In the wake of this measure, the Council adopted a decision dated 26 November 1990 on Community actions for the elderly⁶⁹.
- 3 Among the wide range of measures proposed for the elderly, those encouraging sharing of experience are particularly important. To these must be added the Council decision proclaiming 1993 the "European Year of the Elderly and of Solidarity between Generations".
- 4 On the basis of the Commission's proposal of 10 January 1992⁷⁰, the Council adopted, on 24 June 1992, a decision on the organisation of the European Year of the Elderly and of Solidarity between Generations (1993)⁷¹.
- 5 On conclusion of the 1993 European Year, the Council adopted a declaration on the elderly, dated 6 December 1993⁷². On 24 February 1994, the European Parliament adopted a resolution on the elderly.
- 6 As set out in the White Paper on European social policy, the Commission has presented a proposal for a decision on further Union-wide action to help meet the challenges of an ageing population covering, in particular, the role and contribution of the active retired population, so as to take forward new concepts and practices within the European Union.

⁶⁸ COM(90) 80 final, 24 April 1990.

⁶⁹ OJ L 28, 2.2.1991.

⁷⁰ OJ C 25, 1.2.1992.

⁷¹ OJ L 245, 26.8.1992.

⁷² OJ C 343/A, 21.12.1993.

- 1 More than 10% of European Union citizens are affected, to varying degrees, by physical, sensorial or mental limitations which prevent them from becoming fully integrated, either professionally or socially. Taking as its premise the principle that only an overall and consistent policy on education, functional rehabilitation, training, employment and social integration is capable of delivering effective results, the Union has developed initiatives designed to aid such an approach and to create a synergy and knock-on effects in the Member States.
- 2 The European Social Fund and the Horizon initiative perform an important function in supporting and promoting training and vocational rehabilitation for the disabled. The Helios II programme, which was adopted by the Council on 25 February 1993 for a period of four years, is concerned with the exchange of information and the promotion of original experiments for integrating handicapped people developed by the Member States and non-governmental organisations (NGOs). As a result, more than 676 partners designated by the Member States and more than 250 projects organised by the NGOs are covered by the programme.
- 3 With a view to improving the mobility and safe transport of workers with reduced mobility, the Commission adopted a proposal for a Council Directive on 19 December 1991⁷³.
- 4 Following the resolution adopted by the Council and the representatives of Member States' governments on 16 December 1991 and of the White Paper on the future development of the common transport policy, the Commission submitted to the Council, on 26 November 1993, a report on measures to be taken in the Community with a view to making means of transport accessible to people with a mobility handicap. The Commission has proposed a range of Community measures on the technical standards applicable to means of transport, accessibility and the financing of transport infrastructure, signs and information for passengers, training on the special problems and needs of the disabled, and research and development.
- 5 Finally, the White Paper on European social policy sets out the broad lines of the next stage of development in Community action for the disabled, focusing on:
 - building on the positive experience of the European Disability Forum to ensure that the needs of disabled people are taken into account in relevant legislation, programmes and initiatives;

⁷³ Proposal for a Council Directive on minimum requirements to improve the mobility and the safe transport to work of workers with reduced mobility. (Commission proposal: OJ C 68, 16.3.1991; amended proposal: OJ C 15, 21.1.1992.)

- preparing an appropriate instrument endorsing the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities;
- encouraging discussions within the social dialogue on a model code of good practice in relation to the Commission's own personnel policies and practices with regard to disabled staff;
- proposing to enshrine in Community law an explicit reference to the fight against disability and other forms of discrimination.

2. THE AGREEMENT ON SOCIAL POLICY

2.1 THE COMMISSION'S COMMUNICATION OF 14 DECEMBER 1993 CONCERNING THE IMPLEMENTATION OF THE PROTOCOL

- 1 Following the entry into force of the Treaty on European Union, the Commission submitted a communication to the Council and Parliament explaining how it intended to implement the Protocol and the Agreement on social policy, the aim of which is to translate into action the wish on the part of the Member States, with the exception of the United Kingdom, to advance the social dimension of Europe at the same pace as the economic, commercial and monetary dimensions.
- 2 The Commission points out that Article 2 (1) of the Agreement sets out the social policy objectives as mapped out in the 1989 Charter, covering the promotion of employment, improved living and working conditions, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment, and the combating of exclusion. These objectives supplement the general and specific tasks of the Community as set out in the Treaty establishing the European Community, as replaced by Article 2 of Title II of the Treaty on European Union.

In the first instance, the Agreement provides that the Council vote by qualified majority and after consulting the Economic and Social Committee on the following subjects:

- - workers' health and safety;
- working conditions;
- information and consultation of workers;
- equal opportunities and equal treatment for men and women;
- integration of persons excluded from the labour market.

Secondly, Article 2 (3) provides for the Council to act unanimously on a proposal from the Commission, after consulting the European Parliament and the Economic and Social Committee, in the following areas:

- financial contributions for promotion of employment and job creation;
- social security and social protection of workers;
- protection of workers where their employment contract is terminated;
- representation of workers, including co-determination;
- conditions of employment for third-country nationals legally residing in Community territory.

Finally, Article 2 (6) explicitly places outside the jurisdiction of the Community any matters relating to pay, the right of association, the right to strike and the right to impose lock-outs.

The Agreement confirms the recognition, as already enshrined in Article 118B of the Single Act, of the fundamental role of the social partners. This recognition operates at two levels;

- at national level, in that "a Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to the Agreement" (Article 2 (4));
- at Community level, in that the Commission's task is to promote the consultation of management and labour at Community level and to take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties (Articles 3 and 4).

3 Social policy is therefore subject to autonomous and complementary legal frameworks:

<p><u>Maastricht Protocol - Qualified majority (44/66) possible (Art. 2(1))</u></p> <ul style="list-style-type: none"> - improvement in particular of the working environment to protect workers' health and safety; - working conditions; - information and consultation of workers; - equality between men and women with regard to labour market opportunities and treatment at work; - integration of persons excluded from the labour market. 	<p><u>EC Treaty - Qualified majority (54/76) possible</u></p> <ul style="list-style-type: none"> - Art. 49: free movement of workers; - Art. 54: freedom of establishment; - Art. 57: mutual recognition of diplomas; - Art 100a: internal market, Art. 43: agriculture; Art. 75: transport; - Art. 118a: health and safety at work; - Art. 125 (new): ES (application decision); - Art. 127 (new): vocational training.
<p><u>Unanimity (11) required (Art. 2(3))</u></p> <ul style="list-style-type: none"> - social security and social protection of workers; - protection of workers where their employment contract is terminated; - representation and effective defence of the interests of workers and employers, including co-determination; - conditions of employment for third-country nationals legally residing in Community territory; - financial contributions for promotion of employment and job creation. <p><u>Explicitly excluded from Community jurisdiction (Art. 2(6))</u></p> <ul style="list-style-type: none"> - pay; - right of association, right to strike, right to impose lock-outs. 	<p><u>Unanimity (12) required</u></p> <ul style="list-style-type: none"> - Art. 51: social security (measures necessary for freedom of movement); - Art. 100: internal market; - Art. 130d: tasks, priority objectives and organisation of the Structural Funds; - Art. 235: attainment of the Community's objectives.

The Commission's principal aim is to promote the development of a European social policy which will be to the advantage of all workers and citizens of the Union. The Commission further wants – and will work to this end – social policy to be once again based on a single legal foundation: in this respect, the 1996 Intergovernmental Conference will be of decisive importance.

4 At the same time, the Communication points out that the Agreement does have a sound legal basis given that the Protocol on social policy, which was adopted by all the Member States and annexed to the EC Treaty, and thus ranks as a treaty, allows the measures to be taken by the Member States concerned. It is important to stress, though, that the Protocol does not preclude institutions from having recourse in the social field to the provisions of the EC Treaty pursuant to the procedures governing all the Member States. Social policy is therefore governed:

- by the provisions of the EC Treaty as amended by the Treaty on European Union; and
- by the provisions introduced by the Agreement, which will form a new basis for Community action, including the possible adoption, for the Member States concerned, of legislative measures.

5 The Communication points out that the Commission will decide on which procedure to adopt by taking the following considerations into account:

- the nature of the proposal;
- the attitude of the social partners to it;
- the need to ensure that the social dimension progresses at the same pace as other Community policies, and hence the possibility for the Council to reach decisions by qualified majority;
- the desire to ensure that all workers throughout the Community benefit from the proposed measure;
- the possibility for the 12 Member States to move forward together.

The Commission will decide on a case-by-case basis, in the light of the above criteria, whether or not to make use of the Protocol. However, if there is a legal basis in the Treaty with a decision-making procedure which is likely to bring about a decision, as in the field of safety and health at work, the Commission will give priority to instruments which enable a decision to be taken by all the Member States.

6 The Commission's Communication points out that the social partners now have a right⁷⁴ to be consulted by the Commission both on the direction of Community

⁷⁴ Article 3(1) of the Agreement.

social policy and on the content of Community action in this area. In facilitating the social dialogue, the Commission must ensure "balanced support for the parties". Among the different measures which may facilitate the dialogue, mention can be made of working groups and the provision of technical assistance deemed necessary to underpin the dialogue.

7 As regards the consultation procedure, what the Communication has to say is:

- As in the past, the Commission will engage in wide-ranging consultations so as to ensure that its policy is as appropriate as possible to the economic and social realities. Such consultation will cover all European (or national, as the case may be) organisations which may be interested in Community social policy.
- In accordance with Article 3 of the Agreement, the Commission engages in formal consultations with the social partners' European organisations in so far as these organisations meet the following criteria:
 - they must be cross-industry or relate to specific sectors or categories and be organised at European level;
 - they must consist of organisations which are themselves an integral and recognised part of Member State social partner structures, have the capacity to negotiate agreements and are representative of all Member States as far as possible;
 - they must have adequate structures to ensure their effective participation in the consultation process.

On the basis of these criteria as set out in the Communication, the Commission has drawn up a list of organisations which will be formally consulted under Article 3 of the Agreement. This list will be reviewed in the light of experience and development of the social dialogue.

- The Commission feels that these specific consultation procedures under the terms of Article 3 of the Agreement should apply to all social policy proposals, whatever legal basis is eventually decided on. The Commission also reserves the right to engage in specific consultations on any other horizontal or sectoral-type proposal which has social implications.
- The formal consultation of the social partners provided for in Article 3 of the Agreement may lead to the adoption of opinions or recommendations.

8 As regards negotiations, the Communication points out that the social partners, having been consulted by the Commission on the content of a proposal for Community action, may inform the Commission of their desire to engage in a negotiation process with a view to reaching an agreement. The negotiations may

extend over nine months and be extended with the Commission's agreement. At the end of this period, the social partners have to submit to the Commission a report taking stock of the negotiations and informing the Commission:

- (a) either that they have concluded an agreement and jointly request the Commission to propose that the Council adopt a decision on implementation;
- (b) or, having concluded an agreement between themselves, they prefer to implement it in accordance with the procedures and practices specific to management and labour and to the Member States;
- (c) or that they envisage pursuing the negotiations beyond the nine months and accordingly request the Commission to decide with them upon a new deadline;
- (d) or that they are unable to reach an agreement.

Where point (d) applies, the Commission will look into the possibility of proposing, in the light of the work already done, a legislative instrument in the field in question and will forward the result of its deliberations to the Council. The Economic and Social Committee and the European Parliament will also be consulted in accordance with the procedures laid down in the Treaty.

9 The Communication also states that agreements concluded at Community level are to be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 2 and at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. The Council is to act by qualified majority, except where the agreement in question contains one or more provisions relating to one of the areas referred to in Article 2(3), in which case it is to act unanimously. The Communication goes on to say that "under the Agreement, the Commission is not legally required to consult the European Parliament on requests made to it by the social partners concerning implementation of an agreement by means of a Council decision. However, the Commission does intend to inform Parliament and to send it the text of the agreement, together with its proposal for a decision and the explanatory memorandum, so that Parliament may, should it consider it advisable, deliver its opinion to the Commission and to the Council", and that "if the Council decides, in accordance with the procedures set out in the last subparagraph of Article 4(2), not to implement the agreement as concluded by the social partners, the Commission will withdraw its proposal for a decision and will examine whether a legislative instrument in the area in question would be appropriate".

10 In addition, the Communication points out that Article 2.(4) of the Agreement establishes the general principle that directives may be implemented by collective agreement. This principle has been recognised and admitted, subject to certain

conditions, in the case law of the Court of Justice. It is also in line with the implementation requirements of the International Labour Organisation and the Council of Europe.

11 The Communication's conclusions may be summed up as follows:

- The new situation created by the co-existence of two legal frameworks for action in the social field will be complex and difficult to manage.
- The new role for the social partners is an important step forward but will need time to grow and develop.
- The Commission will do all it can to operate these new procedures in an efficient but flexible manner. The important point at this early stage of implementing the new mechanisms is to allow space for natural evolution. The creation of heavy structures is not likely to yield the best results at this early stage.
- The Commission feels that this Communication lays down the ground rules for the implementation of the new procedures so that business can be conducted efficiently and openly. The Commission sees this as a dynamic process which will develop with time and will require reexamination at some later stage.

12 The Commission's Communication was the subject of detailed scrutiny in the European Parliament, the Council and the Economic and Social Committee.

13 At its special plenary session on 23 and 24 February 1994, the European Parliament adopted a first report on the new social dimension of the Treaty on European Union (rapporteur: Mrs Reding) featuring a resolution and, more particularly, a draft joint declaration of the European Parliament, the Council and the Commission to act as a basis for negotiation of an inter-institutional agreement on the application of the Protocol on social policy. In more specific terms, the draft declaration calls for the conditions for determining the representativeness of management and labour to be agreed jointly at Community level and for the Commission to inform the institutions which take part in the legislative process without delay of the progress of negotiations between the social partners. As regards implementation of an agreement between the social partners, Parliament stressed that a Council decision should implement the agreement as concluded. Should the Council intend to modify the agreement, the agreement is deemed to have been repudiated and Parliament may call for the normal legislative process to be initiated. Additionally, the proposal is that the Council may not refuse to implement an agreement until it has consulted and received the opinion of the European Parliament.

14 A second report (rapporteur once again Mrs Reding), conceived especially as a reply to the Commission's Communication, was adopted on 2 May 1994.

Parliament was principally concerned about the criteria for selecting which organisations should be consulted under Article 3 of the Agreement, the consultation procedure itself and the kind of legal and institutional framework to be set up in application of Articles 3 and 4 of the Agreement. Parliament referred back to its draft joint declaration in connection with the first report.

- 15 Parliament's view is that the list of social partners to be consulted as drawn up by the Commission should be "revised so as to permit better representation of all employees' and employers' organisations". To this end, Parliament proposes alternative criteria to be fulfilled by the organisations consulted under Article 3 of the Agreement on social policy, stressing the right of organisations to be involved in collective bargaining at their specific level, although they must "have a mandate from their members to represent them in the context of the Community social dialogue and can demonstrate their representativeness".
- 16 Regarding the consultation and negotiation procedures, Parliament calls for an extra six weeks to enable the Commission to draft its proposal on any new initiatives (making three periods of six weeks each). In the course of negotiations, Parliament wants any possible extension to the nine-month negotiation period to be subject to additional constraints based on the principle that the Commission will "prevent the consultation period from being artificially prolonged and after consulting the European Parliament". Moreover, Parliament expects that "as soon as it proves impossible to reach agreement during the procedure, the Commission will examine the proposal and forward it to the Council and Parliament".
- 17 Finally, Parliament is in favour of introducing legislation to implement the Social Protocol, calling on the Commission to present, in accordance with the criteria set out in its report, a "legislative proposal on the implementation of Articles 3 and 4 of the Agreement on social policy, establishing the legal and institutional framework for the decision-making process of the social partners at Community level". Given that the right of association is outside the scope of legislative action under the Agreement on social policy, Parliament stresses that the next Intergovernmental Conference should make it possible to take such action on the right of association at Community level.
- 18 Two Member States (Belgium and Germany) have specifically set out their position on application of the Protocol on social policy. The note of 4 March 1994 from the Belgian Ministry for Employment, Labour and Equal Opportunities Policy underlines the wish that the Council be fully informed in connection with any consultation procedure engaged in by the social partners. At its meeting on 19 April 1994, the Council had a first exchange of views on the Belgian delegation's note. Subsequently, the German government presented a memo of its own on 30 May 1994; this has not yet been discussed in the Council.
- 19 At its plenary session on 24 November 1994, the Economic and Social Committee adopted an opinion on the Commission's Communication on application of the Protocol on social policy (Rapporteur: Mr Van Dijk). The Committee starts by

underlining its commitment to the principle of "vertical subsidiarity" as recognised by the Court of Justice of the European Communities and as detailed in Articles 2(4), 3 and 4 of the Agreement on social policy. As regards which legal basis the Commission should choose on social policy, it comes out in favour of the Agreement, and also for the Agreement to be incorporated into the Treaty at the next Intergovernmental Conference.

- 20 Regarding the concept of representativeness and which social partners' organisations should be formally consulted under Article 3 of the Agreement, the Committee's stated view is that the Commission's criteria "should also include capacity to negotiate", bearing in mind that such criteria might help the social partners at Community level to achieve the objective of agreement-based relations at European level.
- 21 The Committee is in favour of a broad interpretation of the scope of the new consultation procedures. It welcomes the fact that the Commission intends to apply the formal consultation procedure in respect of any social policy initiative, regardless of the legal basis, and calls on the Commission to engage in such consultations in respect of any other horizontal or sectoral-type proposal with social implications.
- 22 As regards the consultation and negotiation procedures themselves, the Committee insists on being kept fully informed throughout the process and proposes that the first phase of consultation of the social partners be of eight weeks and that the Commission should present its proposal for the second phase of consultations (likewise of eight weeks) within four months. The Committee stresses that the social partners are free to engage in negotiations at any time, i.e. during the first phase of consultations, during the second phase of negotiations or on a totally autonomous basis.
- 23 The Committee raises a number of questions on how an agreement between social partners should be implemented at Community level. As regards implementation in accordance with national procedures and practices, the Committee wonders about the scope of the declaration by the negotiating parties, considering that "the denial of obligations to take legislative action in support of implementation does not exclude the obligation to avoid legislation having a negative impact on the implementation of EC-level agreements". The Committee also raises the question of the legal nature of the Council decision under Article 4(2) and recommends a degree of flexibility on what form of binding legal instrument should be used.
- 24 The Committee is of the opinion that the Commission cannot refuse to propose implementing an agreement by way of a Council decision where such a decision is requested jointly by the signatories. At the same time, the Committee stresses that the Commission might propose that the negotiating parties envisage introducing amendments to their agreement with a view to implementation if the Council fails to reach a decision initially. At any rate the Committee considers that the agreement must be implemented as concluded and that the Committee and

the European Parliament must be involved in the event of the Council refusing to take a decision.

- 25 Mindful of the practical arrangements for implementing the new consultation and negotiation procedures, the Committee proposes setting up an independent secretariat to give the social partners their own resources for preparing, organising and following-up social dialogue meetings.

2.2 APPLICATION OF THE AGREEMENT: INFORMATION AND CONSULTATION OF EMPLOYEES

- 1 The Commission's proposal for a Council Directive on the establishment of a European Works Council in Community-scale undertakings and groups of undertakings for the purposes of informing and consulting employees⁷⁵ takes account of the principle of subsidiarity. Thus, the proposal does not affect Member States' internal information and consultation procedures concerning national undertakings, which remain subject to the law and practices of the Member States, and the social partners' autonomy has also been respected. The Commission proposal was largely based on the joint opinion adopted under the social dialogue in March 1987 by the ETUC, UNICE and CEEP. So long as the conditions for establishing a European works council have been met, it is up to the social partners in the first instance to decide by negotiation on the nature, composition, functions and powers of such committees and their operational procedures. It is only where there is no agreement that the subsidiary requirements will apply.
- 2 Once it became obvious that it would be impossible to reach a decision on the part of all the Member States, the Commission decided to base its proposal for a Directive on the Agreement on social policy; this meant that the consultation and negotiation procedures provided for in the Agreement were tried out for the first time in practice.
- 3 Once it became obvious that the social partners were not going to be able to negotiate an agreement in lieu of a directive, in accordance with Article 4 of the Agreement, and since it felt that a Community initiative was still justified, the Commission activated the legislative procedure. On 13 April 1994, the Commission decided to adopt a fresh proposal⁷⁶ with a view to presenting it to the Council on the basis of Article 2(2) of the Agreement on social policy.

The Economic and Social Committee delivered its opinion on 1 June 1994⁷⁷

⁷⁵ COM(90) 581 final, 25 January 1991.

⁷⁶ COM(94) 134 final, OJ C 135, 15.9.1994.

⁷⁷ Not yet published in the Official Journal.

The European Parliament delivered its opinion at first reading on 4 May 1994⁷⁸.

On 3 June 1994, the Commission adopted an amended proposal in accordance with Article 189a(2) of the EC Treaty, incorporating a number of amendments proposed by the European Parliament⁷⁹.

On 18 July 1994, the Council adopted a common position on the Commission's amended proposal⁸⁰.

The European Parliament examined the Council's common position at second reading on 15 September 1994 and approved it subject to 12 proposed amendments.

The Commission thereupon examined the amendments proposed by Parliament at second reading, incorporating a number of them into its reexamined proposal.

- 4 The Social Affairs Council adopted the directive unanimously (Portugal abstaining) during its meeting of 22 September 1994⁸¹. The key features of Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees are as follows:
- 5 General: The Directive has been adopted by the Council on the basis of Article 2(2) of the Agreement on social policy. Consequently, it is only addressed to the Member States concerned by the Agreement on social policy and is hence not applicable to the United Kingdom.
- 6 The objective: The objective of the Directive is to improve the information and consultation of employees in Community-scale undertakings and groups of undertakings on transnational issues, i.e. those concerning at least two establishments situated in two different Member States. The risk here is that this aim may become dissipated in a range of procedures which makes it impossible to keep track of what is going on, and to this end it is proposed to set up a European Works Council where requested by employees or their representatives according to a transparent procedure, and insofar as the interested parties do not decide, by common accord, to set up some other information and consultation procedure.
- 7 Scope: It is provided that the establishment of a European Works Council or an employee information and consultation procedure be restricted to Community-

⁷⁸ Not yet published in the Official Journal.

⁷⁹ OJ C 199, 21.7.1994.

⁸⁰ OJ C 224, 31.8.1994.

⁸¹ OJ L 254, 30.9.1994.

scale undertakings and groups of undertakings with at least 1000 employees and at least two establishments in different Member States each employing at least 150 people. Of course, the mechanisms for informing and consulting employees which the Directive seeks to create at the level of Community-scale undertakings or groups of undertakings are in no way intended to prevent the coexistence and the development of decentralised information and consultation practices which are in line with current business practice or the specific needs of individual businesses. The Directive also covers cases where Community-scale undertakings or groups of undertakings have their headquarters in countries outside the territory of the Member States directly concerned by the Directive. Where this is the case, such businesses are treated in a similar way based on either the representative agent of the undertaking or group of undertakings or the undertaking with the highest number of employees in the territory of the Member States concerned. Community-scale undertakings and groups of undertakings with their central management in the United Kingdom will, of course, be subject to the same obligations as are imposed on undertakings and groups of undertakings from third countries.

- 8 Triggering requirement: The threshold requirements for triggering the procedure will now require the written request of at least 100 employees or their representatives in at least two Member States concerned.
- 9 The agreement: The main body of the Directive is intended to provide a legal framework within which an agreement can be concluded between central management and the employees' representatives. The parties are free to set up the information and consultation mechanism most suited to their needs, e.g. an information and consultation procedure instead of a European Works Council.
- 10 Period of negotiation: The Directive establishes that if an agreement is not reached within a period of three years, the rules laid down in the Annex will apply. However, where central management refuses to commence negotiations, the Annex will apply after a period of six months. It will also apply immediately if the two parties so decide.
- 11 Confidentiality: The Directive obliges Member States to allow management, subject to certain conditions and guarantees, to withhold information, the disclosure of which could be seriously prejudicial to the undertakings concerned.
- 12 Existing agreements: Existing agreements on transnational information and consultation will be exempt from the obligations arising from this proposed directive. When these expire, the parties to these agreements may decide jointly to renew them. Where this is not the case, the provisions of the proposed directive will apply.
- 13 The Annex's subsidiary requirements: The Directive provides that, in addition to the annual information and consultation meeting provided for in paragraph 2 of the Annex, consultation meetings might also be held with a restricted delegation

from the European Works Council (3 members). Representatives from the undertaking and/or establishments concerned by the measures in question also have the right to participate in these consultation meetings. This solution will make it possible to preserve the essential objectives of the Directive and to avoid the excessive cost and cumbersomeness of consulting the entire European Works Council (which can have up to 30 members) every time a decision is envisaged. The matters subject to consultation are any measure which is liable to have a considerable effect on employees' interests, particularly in the event of relocations, closures of undertakings or establishments or collective redundancies.

3. THE FUTURE OF EUROPEAN SOCIAL POLICY

3.1 THE GREEN PAPER AND THE CONSULTATION PROCESS

- 1 In November 1993 the Commission published its Green Paper on European social policy, which was preceded by a public appeal in the Official Journal for contributions and comments; 500 contributions were received from Member States' governments, various other bodies and individuals, testifying to the firm interest in various aspects of social policy.
- 2 The objective of the Green Paper was to stimulate a wide-ranging debate within all Member States on the future lines of social policy in the European Union, bringing in all interested parties including, of course, the social partners, as well as specific interest groups. The whole process took place at a moment when the attention of the Community was focused on the issue of how to reconcile economic and social objectives in the face of rising unemployment and growing concern about Europe's ability to remain competitive into the 21st century.
- 3 The Green Paper stresses that there is much debate in all Member States about how to address the problem of unemployment, much of which is now recognised as being structural in character. The issues under discussion include the need for greater labour market adaptability, the suggestion that wage differentials should be widened and that wages should vary more as a function of economic conditions, and questions about whether social benefits should be reduced or targeted so as to provide greater incentives to seek work. This is linked to the problems which all Member States are having in funding the growing demand on social protection systems and the search for greater efficiency in the operation of these systems as one means of making savings. At the same time, there exists a growing degree of public concern that, contrary to the objective of ensuring that economic and social progress should go hand in hand as clearly stated in the Treaties of Rome and Maastricht, the net impact of the integration process could be a levelling down of social standards. This is reflected in the fear that the creation of a single market could open the way to a form of social dumping, i.e. the gaining of unfair competitive advantage within the Community through unacceptably low social standards. But there is also a concern that, somehow, the imperative of action at European level can become a pretext for changes in social standards at national level.
- 4 The premise at the heart of the Green Paper is that the next phase in the development of European social policy cannot be based on the idea that social progress must go into retreat in order for economic competitiveness to recover. On the contrary, as has been stated on many occasions by the European Council, the Community is fully committed to ensuring that economic and social progress go hand in hand. Indeed, much of Europe's influence and power has come

precisely from its capacity to combine wealth creation with enhanced benefits and freedoms for its people.

- 5 The Green Paper is in five parts. Part I sets out what the Community has already achieved in the social sphere. Part II looks at the social challenges now facing us all. It examines the risks of declining social cohesion in Europe and the threats to important common goals such as social protection, solidarity and high levels of employment. A new medium-term strategy is needed which will draw together economic and social policies in partnership rather than in conflict with each other. Only in this way will sustainable growth, social solidarity and public confidence be restored. It is acknowledged that European production systems need to be based on the new technologies. There can be no social progress without wealth creation. But it should also be recognised that the consequent structural changes will have considerable impact on other important areas, such as employment intensity, working and living conditions, the quality of life and the development of industrial relations. Part III discusses the possible responses of the Union to these challenges, both in terms of what Member States want and of what the Community is trying to achieve. Part IV provides a brief conclusion, while Part V brings together the questions raised in different parts of the Green Paper. These will be the focus of the debate to follow.

3.2 WHITE PAPER ON EUROPEAN SOCIAL POLICY: A WAY FORWARD FOR THE UNION

- 1 The foundations for the White Paper were laid by last year's the last consultative Green Paper on European social policy "Options for the Union"⁸².
- 2 In July 1994, the Commission adopted a White Paper on "European Social Policy: A way forward for the Union"⁸³. At the invitation of the Commission, the European Foundation for the Improvement of Living and Working Conditions prepared a synthesis of the different submissions which was published – together with the responses received from the Member States and the Union Institutions – as an accompanying volume to the White Paper. Building on the aims and objectives of the Community Charter of the Fundamental Social Rights of Workers and the achievements of the Commission's 1989 Social Action Programme, the White Paper seeks to chart a way forward for the future development of European social policy into the next century.
- 3 The White Paper therefore sets out a strategy for consolidating and developing the Union's action on social policy for the future. It proposes a number of specific measures where concrete progress can be achieved in the short term. It also proposes other areas for consideration and development over a longer time frame.

⁸² COM(93) 551 of 17 November 1993.

⁸³ COM(94) 333 of 27 July 1994.

These actions will be consolidated in the incoming Commission's work programme, which will be presented during 1995 following consultations with the Member States, the Union Institutions and other interested bodies on the proposals set out in the White Paper. The key elements of the White Paper are as follows:

- 4 **Employment:** The fight against unemployment and the pursuit of more good, stable jobs is the top priority of the White Paper. Building on the Commission's White Paper on growth, competitiveness and employment and the 1993 Brussels European Council's conclusions, the White Paper proposes the preparation of a more detailed action plan at the level of the Union and the Member States, to be directed in the short term at reversing the trend of unemployment and, by the end of the century, significantly reducing the numbers of unemployed. An action plan was adopted by the European Council at its meeting in Essen in December 1994. The White Paper also proposes a series of related actions designed to improve the Commission's contribution to the achievement of the Community's employment objectives, such as the development of the annual Employment in Europe report, the strengthening of the employment observatory system, and a Communication on policy centred action-research programmes in the employment field.
- 5 **Training:** The White Paper emphasises the crucial importance of investment in education and training, and proposes a series of actions designed to develop progressively a vocational training policy at the level of the Union. It also details the specific contribution of the European Social Fund to human resource development, the fight against unemployment and the working of the labour market.
- 6 **Labour law:** The White Paper places priority on the adoption of the outstanding proposals from the Social Action Programme (posting of workers and non-standard work), but also proposes further work to complete the working time directive and to assess further the need for action in a number of other areas.
- 7 **Health and Safety:** The White Paper places priority on the adoption of the outstanding proposals in this area – transport activities, physical agents, chemical agents, travel conditions for workers with motor disabilities, work equipment (amendment) – together with the adoption of a fourth health and safety action programme in 1995.
- 8 **Equality of opportunity for women and men:** The White Paper seeks to make progress on the outstanding proposals in this area (parental leave and burden of proof), and proposes a range of other action, including the adoption of a fourth equal opportunities action programme in 1995 and the preparation of an annual Equality Report, starting in 1996.
- 9 **Free movement of workers:** The White Paper proposes to continue work to remove the remaining barriers to free movement, including the establishment of a high-level panel to review all aspects of the operation of the single market with regard to the free movement of people (employed, self-employed, students,

pensioners and others), to assess the problems faced and to propose possible solutions to the Commission during 1995. It also proposes to continue work to improve the coordination of social security for migrant workers moving within the Community, and to further develop the EURES (European Employment Service) network. The White Paper also proposes further Community-level action to assist the integration of immigrants and to combat racism and xenophobia.

- 10 Social protection and social action: The White Paper proposes to continue to analyse and monitor social protection policies in Member States, notably through the Social Protection in Europe report, and to consider recommendations in this area. Starting in 1994, the Commission will also prepare an annual report on demography. In addition, priority will be given to taking forward Community-level action in the fight against social exclusion, notably on the basis of the proposals already before the Council. The White Paper also makes proposals to promote the social integration of disabled people and older people, as well as work to demonstrate the added value of Community action to combat discrimination on the grounds of race, religion, age and disability, with a view to introducing a specific reference to combating such discrimination at the next revision of the Treaty.
- 11 Public Health: Building on the Commission's Communication on the framework for action in the field of public health⁸⁴, the White Paper proposes to take forward the programmes already before the Council (cancer, health promotion, prevention of drug dependence, AIDS), and bring forward further proposals as appropriate.
- 12 Social dialogue and the role of voluntary organisations: The White Paper makes proposals to promote and strengthen the social dialogue, particularly with an view to taking full advantage of the provisions of the Agreement on social policy annexed to the Treaty on European Union. It also seeks to strengthen the dialogue with voluntary organisations, notably by holding a social policy forum for debate and discussion of social policy issues, every 18 months.
- 13 International cooperation: The White Paper proposes to further develop cooperation with international organisations and bilateral contacts with other countries, and places a particular emphasis on the development of relations with the countries of Central and Eastern Europe.
- 14 Implementation and enforcement: The White Paper places a particular emphasis on the need to improve the implementation and enforcement of legislation in the social field, and makes a range of proposals aimed at improving the flow of information on Community legislation and social rights. In more general terms, the Commission feels that, in the immediate future, the consolidation and implementation of the existing corpus of legislation will, if we are to avoid a

⁸⁴ COM(93) 559 of 24 November 1993.

distortion of competition as a result of failure to transpose, be at least as important as the presentation of new proposals.

The situation may change once the labour law adaptation process which is currently taking place in all the Member States has stabilised. Once the new workers' rights models have been clarified at national level, attention will refocus on how best to support such models at European level. That being so, the Commission feels that, almost five years after adoption of the Social Charter, the time has now come to look to the future. It therefore intends to organise, in 1995, and in cooperation with the European Parliament, a joint meeting to evaluate what has been achieved, what problems remain and what the prospects are five years hence. This meeting will take as its basis the present 1994 assessment report on what has been done to achieve the objectives set out in Article 1 of the Agreement on social policy.

ANNEX I

List of directives and regulations cited in the report:

INTRODUCTION

1.01 Employment and remuneration

91/383/EEC: Council Directive of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship.
(OJ L 206, 29.7.1991, p. 19)

1.02 Improvement of living and working conditions

91/533/EEC: Council Directive of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship
(OJ L 288, 18.10.1991, p. 32)

92/56/EEC: Council Directive of 24 June 1992 amending Directive 75/129/EEC on the approximation of the laws of the Member States pertaining to collective redundancies
(OJ L 245, 26.8.1992, p. 3)

75/129/EEC: Council Directive of 17 February 1975 on the approximation of the laws of the Member States pertaining to collective redundancies
(OJ L 48, 22.2.1975, p. 29)

93/104/EEC: Council Directive of 23 November 1993 concerning certain aspects of the organisation of working time
(OJ L 307, 13.12.1993, p. 18)

1.03 Freedom of movement

Council Regulation (EEC) No 2434/92 of 27 July 1992 amending the second part of Regulation (EEC) No 1612/68 on the free movement of workers within the Community
(OJ L 245, 26.8.1992, p. 1)

Council Regulation (EEC) No 1945/93 amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-

employed persons and to members of their families moving within the Community and Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, and Regulation (EEC) No 1247/92 amending Regulation (EEC) No 1408/71
(OJ L 181, 23.7.1993, p. 1)

1.06 Equal treatment for men and women

92/85/EEC: Council Directive of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers, workers who have recently given birth or are breast-feeding (10th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)
(OJ L 348, 28.11.1992, p. 1)

86/613/EEC: Council Directive of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood
(OJ L 359, 19.12.1986, p. 56)

Corrigendum to Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood
(OJ L 32, 3.2.1987, p. 36)

1.08 Health and safety protection for workers

89/391/EEC: Council Directive of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work
(OJ L 183, 29.6.1989, p. 1)

90/679/EEC: Council Directive of 26 November 1990 on the protection of workers from risks related to exposure to biological agents at work (7th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)
(OJ L 374, 31.12.1990, p. 1)

91/382/EEC: Council Directive of 25 June 1991 amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (2nd individual directive within the meaning of Article 8 of Directive 80/1107/EEC)
(OJ L 206, 29.7.1991, p. 16)

92/29/EEC: Council Directive of 31 March 1992 on the minimum health and safety requirements to encourage improved medical assistance on board vessels
(OJ L 113, 30.4.1992, p. 13)

92/57/EEC: Council Directive of 24 June 1992 on the minimum health and safety requirements for work at temporary or mobile worksites (8th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)
(OJ L 245, 26.8.1992, p. 6)

92/58/EEC: Council Directive of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (9th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)
(OJ L 245, 26.8.1992, p. 23)

92/91/EEC: Council Directive of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (11th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)
(OJ L 348, 28.11.1992, p. 9)

92/104/EEC: Council Directive of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (12th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)
(OJ L 404, 31.12.1992, p. 10)

93/88/EEC: Council Directive of 12 October 1993 amending Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (7th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)
(OJ L 268, 29.10.1993, p. 71)

93/103/EEC: Council Directive of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (13th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)
(OJ L 307, 13.12.1993, p. 1)

Council Regulation (EEC) No 2962/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work
(OJ L 216, 20.8.1994, p. 1)

1.09 Protection of children and young people

94/33/EEC: Council Directive of 22 June 1994 on the protection of young people at work
(OJ L 216, 20.8.1994, p. 12)

2. AGREEMENT ON SOCIAL POLICY

2.2 Application of the Agreement: Information and consultation of employees

94/45/EEC: Council Directive of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

(OJ L 254, 30.9.1994, p. 64)

ANNEX II

List of directives and regulations proposed but not yet adopted :

INTRODUCTION

1. Community Charter

1.01 Employment and remuneration

Proposal for a Council Directive on certain employment relationships with regard to distortions of competition (Commission proposal OJ No C224, 8.9.90; amended proposal, OJ No C305, 5.12.90).

Proposal for a Council Directive on certain employment relationships with regard to working conditions (Commission proposal COM(90)228/I final) (OJ No C224, 8.9.90).

1.02 Improvement of living and working conditions

Proposal for a Council Directive on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses (Commission proposal, OJ No C274, 1.10.94)

1.03 Freedom of movement

Proposal for a Council Regulation (EEC) amending Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community (Commission proposal, OJ No C100, 21.4.89; amended proposals, OJ No C119, 15.5.90 and No C177, 18.7.90)

Proposal for a Council Regulation (EEC) amending Directive 68/360/EEC on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families (Commission proposal, OJ No C100, 21.4.89; amended proposal, OJ No C119, 15.5.90)

Proposal for a Council Directive concerning the posting of workers in the framework of the provision of services (Commission proposal, OJ No C225, 30.8.91).

Proposal for a Council Regulation (EEC) amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (Commission proposal, OJ C 46, 20.2.92)

Proposal for a Council Regulation (EEC) amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, Regulation (EEC) No 1247/92 amending Regulation (EEC) No 1408/71 and Regulation (EEC) No 1945 amending Regulation (EEC) No 1247/92 (Commission proposal, OJ C 143, 26.5.94)

1.05 Worker participation

Proposal for a Council Regulation on the statute for a European company (Commission proposal, OJ No C263, 16.10.89)

Proposal for a Council Directive on procedures for informing and consulting the employees of undertakings (Commission proposal, OJ No C297, 15.11.80; amended proposal, OJ No C217, 12.8.83)

Amended proposal for a Fifth Directive [...] concerning the structure of public limited companies and the powers and obligations of their organs (Commission proposal, OJ C 240, 9.9.83)

Proposal for a Council Directive complementing the statute for a European association with regard to the involvement of employees (Commission proposal, OJ No C99, 21.4.92)

Proposal for a Council Directive supplementing the statute for a European cooperative society with regard to the involvement of employees (Commission proposal, OJ No C99, 21.4.92)

1.08 Health and safety protection for workers

Proposal for a Council Directive concerning the minimum safety and health requirements for transport activities and workplaces on means of transport (12th Individual Directive within the meaning of Article 16 of Directive 89/391/EEC); (Commission proposal, OJ No C25, 28.1.93; amended proposal, OJ No C294, 30.10.93)

Proposal for a Council Directive on the protection of the health and safety of workers from the risks related to chemical agents at work (Commission proposal, OJ No C165, 16.6.93; amended proposal, OJ No C230, 19.8.94)

Proposal for a Council Directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (Commission proposal, OJ No C77, 18.3.93; amended proposal, COM(94)284, 4.7.94)

Proposal for a Council Directive amending Directive 89/655/EEC on the minimum health and safety requirements for the use of work equipment by workers at work (Commission proposal, OJ No C104, 12.4.94)

1.11 Disabled people

Proposal for a Council Directive on the minimum requirements to improve the mobility and the safe transport to work of workers with reduced mobility (Commission proposal, OJ No C68, 16.3.91; amended proposal, OJ No C15, 21.1.92)

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