

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION
CONCERNING ITS ACTION PROGRAMME
RELATING TO THE IMPLEMENTATION
OF THE COMMUNITY CHARTER OF
BASIC SOCIAL RIGHTS FOR WORKERS

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PART I

GENERAL INTRODUCTION

1. On 27 September 1989 the Commission presented a draft Community Charter of fundamental social rights in which reference is made to an action programme. In its report to the European Council of 8 and 9 December 1989, the Presidency, at the end of the Social Affairs Council of 30 October 1989, has taken note of the Commission's intention to present an action programme relating to the concrete implementation of the rights defined in the Charter. Further, the Presidency "has invited the Commission to take into account the demands expressed by several delegations regarding, in particular, the determination of paid leave, the continued payment of remuneration during holidays and during sickness, the protection of children and adolescents, the situation of pregnant women and of mothers with children of an early age, the professional insertion of the disabled, protection of health and safety at the workplace, vocational guidance, mutual recognition of qualifications and temporary work".

This is the subject of this document which the Commission has prepared under its sole responsibility, pursuant to its right of initiative, with regard to proposals for Community instruments to be presented to the Council and recommendations under Article 155 of the EEC Treaty. The Commission will, however, present this document to the European Parliament, the Economic and Social Committee and the two sides of industry.

2. The attached action programme contains a number of new measures which the Commission sees a need to develop in order to implement the most urgent aspects of the principles of the draft Charter.

These measures are grouped under thirteen short chapters, each covering an area relating to the development of the social dimension of the internal market and which, apart from the chapter on employment and the labour market, correspond to the various sections of the Charter in the context of completing the internal market and more generally, implementing the Treaty as amended by the Single European Act.

That being said, the social dimension has already become a fact. The reform of the structural Funds, the improvement of the working environment in order to protect the health and safety of workers, occupational equality between men and women, the various exchange programmes, etc. are but a few examples of the important fields in which substantial advances have been made.

Each of the thirteen chapters also reviews measures already adopted by the Community with regard to the area concerned. Reference is also made to work that will be continued in each of these areas to adapt existing instruments to social change or change in the Community (for example, adaptation of certain regulations concerning freedom of movement and social security for migrant workers) or technical change (for example, adaptation of certain directives concerning the safety and health of workers).

Each of the new measures is included in a presentation in which the Commission emphasizes the reasons why it considers that action is needed at Community level and the essential components of the proposal it plans to draw up.

3. In accordance with the principle of subsidiarity whereby the Community acts when the set objectives can be reached more effectively at its level than at that of the Member States, the Commission's proposals relate to only part of the issues raised in certain articles of the draft Charter. The Commission takes the view that responsibility for the initiatives to be taken as regards the implementation of social rights lies with the Member States, their constituent parts or the two sides of industry as well as, within the limits of its powers, with the European Community.
4. Furthermore, in choosing the legal instruments it will propose, the Commission will take account of the fact that its proposals should be implemented in the form of laws or collective agreements, this making it possible to adapt to particular situations and enabling the two sides of industry to be actively involved.
5. The Commission has therefore limited its proposals for directives or regulations to those areas where Community legislation seems necessary to achieve the social dimension of the internal market and more generally, to contribute to the economic and social cohesion of the

Community. It mainly concerns proposals relating to social security for migrant workers, freedom of movement, working conditions, vocational training, and improvements, particularly of the working environment, to protect the safety and health of workers. While the Commission is not making a proposal in respect of discrimination on the grounds of race, colour or religion, it nonetheless stresses the need for such practices to be eradicated, particularly in the workplace and in access to employment, through appropriate action by the Member States and by the two sides of industry.

6. In some cases, the Commission is not proposing any initiative. This applies in the case of that section of the draft Charter which is devoted to the right to freedom of association and collective bargaining.

The affirmation of these principles is vital in the field of industrial relations which largely control relations between the two sides of industry in firms, and more widely, on the labour market. Clearly, the problems deriving from the application of these principles must be settled directly by the two sides of industry, or where appropriate, by the Member States.

This section also refers to the social dialogue; in the spirit of Article 118B of the Treaty, the Commission will actively seek to develop it at Community, sectoral or interoccupational level, but also at national and regional levels, it being understood that the dialogue could lead eventually to relations based on agreement at European level.

7. By seeking to make a distinction between the measures to be taken by the Community and those to be taken by the Member States or the two sides of industry, the Commission believes it is acting fully in consonance with the request made by the Heads of State and of Government at the European Council in Madrid which emphasized that "the role to be played by Community standards, national legislation and contractual relations must be clearly established".
8. Although the draft Charter refers to employment policy and the necessary fight against unemployment only in the recitals, the Commission presents in this Action Programme some measures it plans to take to contribute on the one hand to improving knowledge about the labour market and measures to combat unemployment - thus

responding to a request by the two sides of industry in the context of the social dialogue - and on the other hand to solve the problem of unemployment, particularly long-term unemployment, at Community level.

In addition, reference is made, albeit succinctly, in this Action Programme to European Social Fund operations, the main component of Community action in the field of vocational training for young people and for long-term unemployed workers, and thus an essential factor in the campaign against unemployment : the activities of the European Social Fund are henceforth a part of established Community practice.

9. The Commission believes that an Action Programme should include components concerning employment, training and workers' living and working conditions. Thus, by implementing a set of factors contributing to the development of the social dimension of the internal market a contribution will be made to the economic and social cohesion of the Community. It should be stressed that while priority must be given to job creation in the context of reinforcing firms' competitiveness, at the same time it is important to implement an overall policy aimed initially at workers' interests by affirming that the economic, industrial and social aspects form a whole. In this context, the Commission wants to stress the importance it attaches to the monitoring and assessment of the intervention of the structural funds as primary instruments for contributing to employment development and job creation, particularly from the point of view of regional imbalances.

10. In most cases, the Commission has indicated the nature of the proposals to be presented : proposals for directive, regulation, decision, recommendation or communications, or again opinions within the meaning of Article 118 of the Treaty.

However, it has not indicated the legal bases on which proposals will be based. The legal bases to which the Commission could refer are set out in one of the recitals in the Charter. It would be premature, at this stage, to make a statement with respect to the legal bases for proposals to be made in the course of the next three years.

11. With respect to the implementation of this Action Programme, the Commission will present all the proposals set out in the second part of this Action Programme. The

first set of proposals, representing the most urgent priorities, will be put forward in the Commission's 1990 work programme. A second set will be included in the 1991 work programme. Any further proposals will be presented in 1992.

12. The Commission recalls that, in the context of the implementation of the Charter, it should also be instructed to present a regular report on the application of the Charter by the Member States and by the European Community.

The Commission therefore expects the Governments of the Member States to transmit an initial report by the end of 1990 stating how they have applied the principles of the Charter.

13. More generally, the Commission stresses that the Council should reach decisions without delay on the proposals it plans to present.

The Commission therefore asks the Council, as it did in 1974 at the time of the adoption of the social action programme, to undertake to adopt a decision concerning the Commission proposals within a period of 18 months, but in any case within two years at the outside, after transmission of the Commission proposals to the Council, the European Parliament, the Economic and Social Committee and the two sides of industry.

PART II

NEW INITIATIVES

1. THE LABOUR MARKET

A. INTRODUCTION

Development and the creation of employment are a priority for the Community. This conclusion of the European Council of Madrid assumes all the more importance when one considers that, for nearly two years now, we have been witnessing a reversal of the trend in this area; nearly 2.3 million new jobs have been created and the prospects for growth announced by the Commission in its last economic report (COM(89) 497 final) suggest that, in 1990, unemployment will fall to 8.7% (as against 9% in 1989). On the 1995 horizon, an extrapolation of the current growth figures (growth in employment of 1% p.a.) would mean 6.5 million more jobs and an unemployment rate of less than 7%.

It is in this context that the role and impact of the structural Funds should be situated following their reform of 1988. The concentration of the Funds' activities on a limited number of priority objectives should make a major contribution to the growth of employment :

- on the one hand, because of the horizontal intervention undertaken by the ESF in the context of objectives 3 (fight against long-term unemployment) and 4 (promotion of the professional insertion of young people);
- on the other hand, in the context of the interventions undertaken in relation to objectives 1, 2 and 5b for less-advantaged regions, regions suffering from industrial decline and rural areas.

The fact that the single market will most certainly be characterized by quite profound changes in the structure of employment and the labour market implies a need for permanent detailed analysis of the employment situation at both macro-economic and sectoral level as well as of trends in the structure of employment and changes in the very nature of unemployment, which remains very high despite a significantly high level of job-creation, especially as regards female employment. It is for this reason that the Commission intends to draw up a yearly report on employment as a complement to the annual report on the economic situation of the Community.

Furthermore, in order to ensure greater transparency on the employment market at Community level and thereby promote the

free movement of workers, a mechanism should be developed by means of which all interested persons can be informed in the Member States, if possible at regional level, of employment vacancies in the other countries of the Community.

The Commission considers that the SEDOC system, which has existed since 1972, is no longer suited to the situation of the labour market. It intends to improve it and will submit a proposal to the Council to this end.

Despite improvements in overall levels of employment, the problem of long-term unemployment remains extremely disturbing and continues to be one of the causes of the persistently high level of unemployment. The problems raised by long-term unemployment are difficult to solve because of the very nature of this type of unemployment. The Commission nonetheless considers that the Community should develop large-scale action based on the programmes currently existing under the European Social Fund and in particular its objectives 3 and 4, in order to be able to gauge both the problems raised by long-term unemployment and the methods used to solve them, especially at local and regional level.

The European Social Fund has become the principal instrument of Community action in the field of vocational training for young people under 25 years of age and the long-term unemployed.

Lastly, it should be borne in mind that many points concerning employment and the labour market also concern the social dialogue and that reference will be made to them in the section dealing with the development of collective bargaining.

B. NEW INITIATIVES

- *"Employment in Europe" report*
- *"Observatory" and documentation system on employment*
- *Action programmes on employment creation for specific target groups*
- *Revision of Part II of Regulation 1612/68 on the clearance of vacancies and applications for employment and the related procedural decisions (SEDOC)*
- *Monitoring and evaluation of the activities of the European Social Fund*

"Employment in Europe" report

The Report published in 1989 is the first of a series which will be produced annually.

It will contain a fixed part, which will analyse the situation and prospects of the economy and employment from a macroeconomic point of view, structural shifts in employment in both its industrial and occupational dimensions, the problem of unemployment, the situation of particular groups, such as women, in the labour market and the policies concerning all those aspects implemented at Community and at national levels.

It will also contain a variable part given over to a more detailed analysis of certain specific aspects. This Report should be seen as a necessary complement to the yearly Economic Report and the Commission has already underlined the necessity to consider them together.

It is intended to provide a sound basis for debate and discussion about the future development of employment in the Community and will be transmitted to the European Parliament, the Economic and Social Committee and the two sides of industry, where it will be the subject of a formal debate, every year. It will also be discussed in the Standing Committee on Employment and in the Council of Ministers.

"Observatory" and documentation system on employment

The acceleration of structural change in employment to be expected particularly from the establishment of the internal market, as well as imbalances between supply and demand in the labour market made evident by the recovery in employment levels during the last few years, require anticipation of the problems through forward-looking management of human resources at all levels.

At Community level, this function will be developed through the setting up of an "observatory" of employment, designed to forecast, analyse and monitor the main trends in employment, in collaboration with the labour market authorities of the Member States.

This new action will integrate the already established systems of information on employment policies (MISEP), the employment situation in the Member States (SYSDEM) and on local employment development (ELISE).

Action programmes on employment creation for specific target groups

With the aim of helping to increase the effectiveness of Community and national measures for employment creation targeted on specific groups or areas, the Commission has developed programmes which, combining research and action, try to identify the most successful experiences and to disseminate information about them.

Two such programmes are now in operation : LEDA and ERGO.

The LEDA (local employment development action) programme seeks to identify successful local responses to employment problems. It is practical - drawing on concrete experiences in 24 participating areas as well as other experiences - and it is broad - encompassing local development strategies as well as specific job-creation initiatives.

The ERGO action-research programme is designed to identify successful programmes and projects which benefit long-term unemployed adults and young people.

In the light of the evaluation report on these two programmes, the Commission may, by reference to the 1986 Council Resolution on growth and employment, make proposals regarding the full extension of LEDA and ERGO.

Revision of Part II of Regulation 1612/68 on the clearance of vacancies and applications for employment and the related procedural decisions (SEDOC)

In its current wording, Regulation 1612/68 lays down the obligation for the Member States to exchange vacancies and applications for employment which have not been satisfied at national level.

In order to comply with this obligation, in December 1972 the Commission adopted two decisions establishing the SEDOC (European system for the international clearance of vacancies and applications for employment).

The radically changing face of today's employment market necessitates a complete overhaul of SEDOC.

Given that employment remains one of the priority objectives in the single market, a better balance will have to be sought between employment supply and demand. The design of the new SEDOC system in collaboration with the competent national authorities and other bodies would thus contribute to greater transparency on the labour market in parallel with other Community initiatives such as current work concerning the comparability of vocational qualifications.

At a later stage and in liaison with the two sides of industry, consideration could be given to any further information requirements implied by the creation of a European labour market.

Monitoring and evaluation of the activities of the European Social Fund

According to Article 6 of Regulation 2052/88, the effectiveness of the activities of the structural Funds is subject to monitoring and ex ante and ex post evaluation.

The impact of the activities will therefore have to be evaluated in relation to the objectives of the European Social Fund which concern chiefly unemployed young people and long-term unemployed people of more than 25 years of age. More particularly in the regions covered by Objective No 1 (regions whose development is lagging behind), their effect on specific structural problems will also have to be gauged.

It should be pointed out that the principles and methods of evaluation must be clearly defined in the Community support framework and discussed with the Member States in the partnership context. The Commission is therefore now engaged with the Member States in determining the data, methodological criteria and structures most useful to the evaluation which has to be carried out at the various levels of activity, i.e. at the Community, national and regional levels. In the Commission's opinion, the evaluation exercise should focus on employment and training policies in relation to the activities of the Fund, more especially as regards the following :

- observation and evaluation of the labour market,
- observation and evaluation of occupations and vocational qualifications,
- analysis of infrastructures and methodologies of activities for the promotion of employment and vocational training.

On the basis of the evaluations made at national and regional level, an overall evaluation could be made for the Community as a whole.

The results of the evaluation will be presented once a year to the European Parliament and the Economic and Social Committee in the context of the annual report on the activities of the structural Funds.

They will also be referred to in the annual report on employment.

2. EMPLOYMENT AND REMUNERATION

A. INTRODUCTION

The Commission considers that, in matters of employment and remuneration, responsibility and, therefore, initiative lie mainly with the Member States and the two sides of industry according to national practices, legislation and agreements.

One aspect of this section of the draft Charter is that of equal treatment between men and women in matters of remuneration, which is laid down in Article 119 of the EEC Treaty and defined in Council Directive 75/117 while Regulation 1612/68 ensures equal treatment between national workers and workers who are nationals of another Member State.

The Commission nonetheless considers that in a Community of 12 industrialized countries, an equitable wage should be guaranteed to one and all. It is in this spirit that it intends to act in close contact with Member States by delivering an opinion.

The Commission also takes the view that, faced with the considerable development of very varied forms of employment contracts other than those of an open-ended type, 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 increase the transparency of the labour market at Community level. In this connection, it should also be mentioned that two proposals for directives were submitted to the Council in 1982 - the directive on voluntary part-time working and the directive relating to temporary work and fixed-term contracts. The Commission considers that these directives should be updated and will make a proposal to this effect.

B. NEW INITIATIVES

- *Opinion on the introduction of an equitable wage by the Member States*
- *Directive on contracts and employment relationships other than full-time open-ended contracts*

Opinion on the introduction of an equitable wage by the Member States

In the Commission's view, wage-setting is a matter for the Member States and the two sides of industry alone. Indeed,

wages are often determined in the context of collective agreements or by reference to them according to the practices in force in the different Member States.

It should be added that the majority of the Member States, either through their constitution, their ordinary legislation or by means of the international agreements to which they are party, guarantee the right of workers to sufficient remuneration to provide them and their families with a decent standard of living. The fact remains however that the difficulties encountered on the labour market have led to the development of wage practices which no longer afford those concerned a decent standard of living. The reasons for this situation are very complex. They can in some cases be attributed to the current economic situation or the lack of vocational training and inadequate qualifications.

It is not the task of the Community to fix a decent reference wage. This concept corresponds to different criteria from one country of the Community to another and should be defined at the level of the Member States.

Nonetheless, the Commission considers that in this field it does have a responsibility to assert its views on an important problem for a not inconsiderable proportion of the working population by delivering, in close contact with the Member States, an opinion. In the same optic, account should be taken of another specific issue which is the maintenance of remuneration in respect of periods of leave or sickness.

Directive on contracts and employment relationships other than full-time open-ended contracts

Two proposals for directives in this field were presented by the Commission in 1982.

The first was a proposal for a directive concerning voluntary part-time work (modified by the Commission in 1983) and the second a proposal for a directive relating to temporary work and fixed-term contracts.

Neither of these proposals has been adopted, the second never having been discussed in detail by the competent Council group.

The Commission considers that the proposals in question now have to be revised and adapted in the light of the present situation in the field concerned. It is for this reason that it intends to present a single proposal for a directive.

In the eyes of the Commission, this proposal is of great importance. More precisely, even if what are termed "atypical"

forms of employment are contested in some quarters, they nonetheless constitute an important component in the organization of the labour market. For example, part-time working in all its forms, casual work and fixed-term working have grown considerably in recent years, often in a quite anarchical manner.

Unless safeguards are introduced, there is a danger of seeing the development of terms of employment such as to cause problems of social dumping, or even distortion of competition, at Community level.

This proposal would therefore lay down at Community level minimum requirements, concerning working conditions and social protection in particular, which would have to be complied with in contracts or employment relationships of this nature in all the countries of the Community.

