



EUROPEAN OBSERVATORY ON NATIONAL FAMILY POLICIES

**Developments in
National Family Policies in 1994**

by

John Ditch, Jonathan Bradshaw and Tony Eardley

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The European Observatory on National Family Policies was established by the Commission of the European Communities in 1989. It is now coordinated from the Social Policy Research Unit at the University of York, United Kingdom. Members of the Observatory are independent experts from each of the countries of the European Union. The aims of the Observatory are to:

- * monitor trends in the diverse development of family forms
- * monitor developments in policies which impact on families
- * monitor demographic, socio-economic and political changes which impact on families
- * analyze policy and evaluate the impact of family policies
- * stimulate high quality and independent research on families and family policies
- * advise the European Commission about family policies
- * inform public and academic debate about family policies

Formal meetings of the Observatory take place in Brussels twice a year. Specialist meetings and conferences are organised by Observatory members throughout the European Union.

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DEVELOPMENTS IN NATIONAL
FAMILY POLICIES IN 1994

by

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PREFACE

The European Observatory on National Family Policies was established by the Commission of the European Communities to monitor changes in family forms and family policies (and other policies which impact on the family) in all member states of the European Union. Each year two Reports are produced: they are complementary and seek to achieve different objectives. The Synthesis Report analyses, on a comparative basis, the development of family policies and focuses on key themes and questions; emergent policy questions are identified and a contribution made to shaping the policy agenda.

This volume serves a separate purpose and reports, descriptively and schematically, on trends and developments within each country. The information reported relates to the period January 1994 - March 1995 and has been mostly obtained from experts in each member state using a pro forma questionnaire. Inevitably there is variation in the extent and detail of coverage. Attempting to describe developments which are so recent brings many challenges: the absence of comparable statistical data and the need for perspective on events are the two most obvious examples.

For this year we have largely followed the established model of previous years but with some important changes. Within the constraints of a 50,000 word volume each chapter will have three inter-related sections. The first is an overview which provides an orientation to the subject of the chapter and a link to policy and provision at the end of 1993; the second is a summary of key developments and changes (or confirmation of their absence when there were none); the third is a table presentation of developments which allows for easy comparisons between countries.

A volume such as this cannot satisfy all the possible expectations which might be placed upon it; for detail on demographic change the reader is requested to consult Eurostat Documentation and the Report on the Demographic Situation in the European Union, 1994; for details about social protection for the family there are the MISSOC Reports and the Annual Report on Social Protection. Detail on particular policies can be pursued through national reports and by consulting the references which are provided.

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This report would not have been possible without the contributions from members of the Observatory. We are particularly grateful to Helen Barnes and Emma Carmel of the University of York for their help in drafting chapters. In addition, comments were received (on a draft) from officials of each of the member state governments. The Family Policy Studies Centre, London, commented on the whole manuscript in draft form. We are grateful to them all for assistance and advice. However, it is to be emphasised that the contents are the responsibility of the authors alone. Hazel Parker, administrative secretary to the Observatory, was responsible for managing the flows of information and typed the final text: we are especially grateful to her.

We would be grateful for comments and suggestions about the structure and content of the report.

CHAPTER 1

The Socio-Economic Context

OVERVIEW

The standard of living of all families will depend crucially on the state of the economy in each country; levels of employment, inflation, economic growth and labour market changes will, in turn, be shaped by the inter-play of local, national and international forces. At the time of the Maastricht Treaty it was agreed that EU economies would pursue a coordinated (and in some respects a convergent) path. This chapter presents an overview of economic change in each country for 1994 and begins to assess the implications for families and family policies.

It is to be noted that in many cases data are not available for 1994 and therefore 1993 data are presented.

Table 1.1: Economic data: key indicators

Country	Growth Rate 1993	Inflation Rate 1993	Labour Force Participation Rates m/f 1993	Unemployment Rate 1994	Growth Rate in jobs 1992
Belgium	1	3.5	70/36	10	19.5
Denmark	3	1.4	89.79	12.6	1.9
Germany	-1.3	4.2	79/59	6.3	17.3
Greece	1.25	13.75	na	10.3	3.8
Spain	1.2	4.0	67/34	23.1	21.3
France	0.5	2.25	-	11.3	6.5
Ireland	3.7	1.5	70/34	14	15.8
Italy	1	4.2	78/35	11.5	7.5
Luxembourg	1.8	3.6	72.9	3.3	13.2
Netherlands	0.25	2.6	76/47	10	24.8
Portugal	1.5	11.75	86/74	6.2	11.9
UK	0	4	86/65	10	7.5

Source: OECD Country Reports, 1993, 1994, Eurostat, 1994

Table 1.2: Demography

Country	Population in millions 1990	Birth Rate per 1000 1992	Fertility Rate per woman 1992	Infant Mortality per 1000 1992	% of population 0-19 1992	% of population aged 20-59 1992	% of population aged 60+ 1992	% of population aged 80+ 1992	Lone ¹ parents as % of all families with children
Belgium	9	12.4	1.48	8.2	24.3	54.7	21.1	3.7	20
Denmark	5	11	1.76	6.6	23.8	56.1	20.1	3.9	18
Germany	79	11	1.30	6.28	21.5	58.1	20.4	3.9	17 ³
Greece	10	10	1.39	8.4	25.8	53.6	20.6	3.3	15
Spain	39	12	1.23	7.2	26.5	53.9	19.6	3.0	13
France	56	14	1.73	6.8	26.8	53.6	19.7	4	16 ²
Ireland	3.5	14.5	2.02	6.6	35	49	15.2	2.3	18
Italy	57	10	1.25	8.3	22.6	56.2	21.3	3.6	15
Luxembourg	3	13.2	1.64	8.5	23.3	57.5	19.2	3.3	17
Netherlands	14	13	1.6	6.3	24.6	57.8	17.6	3	14
Portugal	9	13	1.55	9.3	27.4	53.1	19.5	2.7	12
UK	57	14	1.8	6.7	24.3	53.5	22.2	3.8	21

Source: EuroStat, 1994; UNICEF, 1991

¹ Lone parents defined as living with at least one child under 18 years ² Lone parents defined as living with at least one child under 25 years³ Lone parents may be part of a cohabiting partnership

BELGIUM

In Belgium, GDP dropped by some 1.3 per cent during 1993. This drop was probably due to the continuation of a long period of slow-down in economic growth. According to the estimates of the National Bank and the European Commission GDP growth should have increased to 2.3 per cent in 1994.

There was a drop in the number of jobs, an increase in the working population and a rise in unemployment in 1993. The number of job seekers increased by 76,000 between June 1992 and June 1993. The rate of unemployment rose from 8.2 per cent in June 1992 to 9.5 per cent in June 1993. Whereas between January and November 1993 the number of unemployed increased considerably (32,000), in 1994 for the same period there was a drop in the unemployed by 19,000.

Inflation declined from 3 per cent in 1992 to 2.7 per cent in 1993. This trend continued in 1994. Although the rise in disposable income was modest in 1993, individuals achieved an all-time high in the rate of saving at 20 per cent of disposable income. On the one hand, income from property, which is saved to a greater extent than income from work, increased more rapidly than other components of income in the last few years. On the other hand, the deterioration in the short-term economic climate, together with the rise in unemployment, probably had an impact on the confidence of families, encouraging them to increase their savings for emergencies.

DENMARK

The general socio-economic climate in Denmark was stable in 1994. The standard of living is high when compared to other EU countries and is still rising. The national economy is growing at an unprecedented rate (approximately 5 per cent in 1994). Real wages are rising and unemployment has shown a tendency to fall in recent months. Interest rates were low in the first half of the year, affording families living in privately owned dwellings an unusual opportunity of refinancing mortgages on their homes and thereby reducing mortgage expenses considerably. Interest rates have however risen in the second half of 1994 bringing this development to a halt. House prices have at the same time been surprisingly stable. The combined effect has increased the mobility of families.

The consumer price index has maintained its low level of 2.0 per cent per annum. Food prices have risen 3.8 per cent, housing expenditure 2.9 per cent, transportation 2.3 per cent and energy -2.1 per cent. Nominal wage rates have increased by 3 per cent in industry, leading to a real wage increase of 1 per cent. Total labour market participation in Denmark is very high but also linked with high unemployment rates. During the year 820,000 persons (29.2 per cent of the labour force) have been registered as unemployed. This equals an average of 352,000 or 12.6 per cent. Unemployment is unevenly shared by the working population. Women (13.9 per cent) have a higher risk of being unemployed than men (11.4 per cent). The number of long-term unemployed has risen to 170,000 persons. 14.4 per cent of single persons are unemployed compared to 10.1 per cent of married and 19.8 per cent of divorced persons. There are widespread regional differences.

In October 1994 11.4 per cent of the labour force was registered as unemployed, down by 1 per cent from the 1993 level. The proportion of short-term unemployed (less than 10 weeks a year) has increased during the year. This indicates a relatively more flexible labour market.

GERMANY

In common with other countries the German economy appeared to improve during 1994. Inflation declined in both parts of Germany: from approximately 4.2 per cent in the old Federal Republic in 1993 to 3 per cent in 1994. In the new states it was about 8 per cent in 1993 and 3.4 per cent in 1994.

Growth in the former West was in the order of 2.8 per cent in 1994; in the former east it was 8.9 per cent. In the former west unemployment was 9 per cent in 1994 (steady increase since 1990). Unemployment peaked in the East in 1992 (1.17m) and went below one million for the first time in November 1994. Nevertheless, the unemployment rate still rose to 16 per cent in 1994 (15.8 per cent in 1993).

Disposable household income continued to grow; in the East it was DM 38,000 in 1993 (64 per cent of average in West).

Although economic prospects for 1995 are optimistic, there is an expectation that household incomes will decline as a result of the introduction of the solidarity surcharge of 7.5 per cent on the income tax liability as from 1 January 1995 and the introduction of the care insurance contributions. In public debate there is scepticism about whether the expected economic growth will result in higher employment.

GREECE

The rate of inflation, although high (11.0 per cent) in 1994 did decline from previous levels (14.4 per cent in 1993, 15.8 per cent in 1992). GNP grew by less than one per cent (0.7 per cent) but unemployment continued to rise: 10.3 per cent at the end of 1994, 9.7 per cent in 1993 and 8.7 per cent in 1992) and long-term unemployment - over one year - remained high at 50.5 per cent in 1994. Incomes rose: by 12.6 per cent in the private sector and 11 per cent in the public sector in 1994 - but declined in real terms. Purchasing ability declined in real terms by 4 per cent.

Analysis of unemployment data for 1993 indicates that 30 per cent of the unemployed were under 24 years (20 per cent of economically active men and 42 per cent of economically active women). This is contributing to a postponement of marriage and a decrease in fertility.

SPAIN

The Spanish economy continued to be weak during 1994; unemployment was 24 per cent and inflation still higher than forecast. There was no increase in household consumption, reflecting the high levels of unemployment.

FRANCE

1994 was characterized by a degree of stabilization in unemployment, which nevertheless remained high (12 per cent of the active population in December 1994, according to the ILO definition). However, while the position of men has improved, that of women has deteriorated further: in May 1994, the rate was 9.5

per cent for men, 13.6 per cent for women, and 23.5 per cent for people under 25 years. At the same time, precarious or atypical jobs (short-term contracts, temping, paid training courses, etc) recorded strong growth and represented almost half net job creation for the year. The uncertainties of the economic situation considerably affected the resources and well-being of families facing the problems associated with unemployment and low income. As a corollary, the phenomena of poverty and exclusion have become more extensive and resulted in an increase in the numbers of homeless people.

IRELAND

The economy in Ireland continued to grow in 1994 with an overall growth rate of 5.5 per cent and an inflation rate of 2.4 per cent. Unemployment, however, continued to be high, although the rate and the numbers on the live register decreased. In 1993, the seasonally adjusted unemployment rate was 15.8 per cent, while in 1994 it was down to 14.8 per cent. The numbers on the live register decreased from 297,089 in 1993, to 280,183 in 1994. Average industrial weekly earnings rose to £IRL295 per week, (March 1994). Average industrial earnings for all workers was £IRL250.70 per week in 1993 and £IRL259.72 at June 1994.

Unemployment continues to be a major problem and a high priority on the agenda of the Government and all political parties. Successive governments have been particularly concerned about the high rate of unemployment for those under 25 years and the plight of the long-term unemployed, especially families with children. The number of people unemployed for a year or more was 133,098, while the number of people under age 25 unemployed was 77,267. In 1993, 104,618 recipients of unemployment benefit and assistance had child dependants, representing 36.1 per cent of total recipients. All social welfare benefits were increased by 3 per cent with short-term payments rates increased by an additional 3 per cent in order to bring them into line with the priority rate recommended by the Commission on Social Welfare. These increases compare favourably with the overall rate of inflation of 1.5 per cent for the preceding year.

ITALY

Economic change in 1994 had a negative effect on families. One of the major factors affecting families is the labour market. Notwithstanding a relative growth in industrial production and GDP (especially in the second part of the year), there are no signs of recovery compared to the same period in 1993. The National Statistical Institute registered in the last quarter of 1994 a net reduction of the labour force equal to 421,000 units (-2.1 per cent). The most pressing problem, however, is widespread unemployment which seems impossible to reduce or even to contain except temporarily, and then only in certain areas of the country. The unemployment rate, which was 9.4 per cent in January 1993, rose to 12.1 per cent in October 1994. Unemployment is tending to become long-term, and affects above all the new generations, youth (34.5 per cent between the ages of 14 and 24), especially those living in the *Mezzogiorno*. There is an imbalance between the North and the South. According to the last official "labour force survey" (October 1994), 30 per cent of all employed, but 52 per cent of the unemployed, live in the South; in contrast, 51.4 per cent of the employed but "only" 28.6 per cent of the unemployed live in the North.

The implication is obvious: the decline in employment means a commensurate reduction in the net disposable family income. In the same period, welfare contributions from workers increased (+2.8 per cent), while tax pressures on disposable family incomes have slightly decreased (-0.6 per cent). The consequences were predictable: the recent economic recession has aggravated family difficulties. Recent investigations indeed show that families generally feel quite clearly that further hardships await them in the near future, whether because of reduction of the social protection network or because of the greater sacrifices required by the necessity of balancing the public budget. A survey in November 1994 by ISCO (*Istituto Nazionale per lo Studio della Congiuntura*) predicts that in the next twelve months the general economic situation will probably deteriorate further according to 33 per cent of Italian families; that only half of families will be able to balance their budgets; and that slightly more than a third of all families will manage to save.

LUXEMBOURG

In 1994 it was estimated that GDP growth was between 2.5 per cent and 3 per cent. Inflation declined to 2.2 per cent from 3.6 per cent in 1993. Unemployment increased to 2.7 per cent.

NETHERLANDS

In 1994 the general economic climate in The Netherlands was better than in the preceding years. The inflation rate was 2.6 per cent and mainly caused by higher rents of houses, higher costs of public transport, telephone costs and the costs of fuel; social security benefits and the tax system did not completely follow this inflation rate in 1994 and were updated using a separate index ('at a distance'). The expected inflation rate for 1995 is 2.6 per cent. The new government (a combination of two liberal parties, i.e. conservatives and left wing liberals) and the Labour Party (the so-called pink coalition) and also the labour unions and the organizations of employers repeatedly bring forward the slogan 'work, work, work'. A big problem for policy making in The Netherlands is the ratio between the economically active population and the so-called inactive population: about 87 working people versus 100 non-working (in 1994). Economic growth did not create the expected new jobs in 1994. Economists expect an increase in new jobs in 1995. The short-term policy is to create more part-time jobs, especially for women. Within the general economic climate and the social system no special attention is given by the government to families or family policy.

PORTUGAL

Economic growth in Portugal has declined during the 1990s. The annual growth rate of GDP was significant during the period going from 1987 to 1990 (with growth of GDP above 4 per cent per year), but went down to 2.1 per cent in 1991, to 1.5 per cent in 1992 and was negative (-1.0 per cent) in 1993. On the other hand, unemployment rates have increased, from 4.1 per cent in 1991, 4.2 per cent in 1992 to 5.6 per cent in 1993, 6.2 per cent during the last trimester of 1993 and 6.8 per cent during the first and third trimesters of 1994. The rate of growth in total employment was 0.9 per cent in 1992 and -2.0 per cent in 1993 while rate of

growth in inflation was 8.9 per cent in 1992 and 6.5 per cent in 1993. Indicators concerning income, expenditure and real wages also show a decline. Thus the rate of growth in the total income available for families was 3.1 per cent in 1992 and -2.7 per cent in 1993; rate of growth in private expenditure was 4.7 per cent in 1992 and 0.3 per cent in 1993; rate of growth in real wages was 4.4 per cent in 1992 and 0.1 per cent in 1993. Other indicators, such as the proportion of temporary contracts for wage earners, have not varied: in the third trimester of 1994, 11.2 per cent of contracts were temporary (the values are the same for the 3rd trimester in 1993); 52 per cent of temporary contract wage-earners are women and 44.6 per cent of permanent contract wage-earners are women.

Considerable effort has been made to improve the physical, social and transportation infrastructure.

UNITED KINGDOM

The impact of the economic climate has been very variable. Inflation has been low (the RPI rose from 141.9 in December 1993 to 145.2 in December 1994) and average earnings have risen (by 2.8 per cent between April 1993 and April 1994). Registered unemployment declined to 2,544,000 in December 1994, 8.7 per cent of the workforce, from 2,782,700 in December 1993, 9.9 per cent of the workforce. Research on the distribution of employment among families shows an increasing polarisation between 'work rich' and 'work poor' families. There has been a drop in one earner families and an increase in no earner families (as a result of unemployment and the increase in lone parent families) and in dual earner families which now make up more than half of all two parent families.



CHAPTER 2

Taxes and Benefits

OVERVIEW

Previous reports prepared by the Observatory have separated changes in fiscal provision from those affecting social security benefits. This reflects the fact that in many countries these policies are the responsibility of different government departments, which sometimes have conflicting agendas and interests. However, such a distinction is misleading in terms of the impact policies have on families and it seems more valid to treat them in this volume as linked. A key element in support for families in all countries is the combination of contributions and benefits, taxes and allowances which together, and variously according to family size, composition and income, constitute 'the family package'. All countries are experiencing expenditure constraints and seek to contain their social protection budgets. The importance attached to families in tax and benefit policies and the relative impact of policies on different types of family are a reflection of wider social policy priorities. This chapter reports on debates and developments in each of the EU countries.

BELGIUM

Fiscal policies

Government financial policies in 1994 were directed towards the reorganisation of public finances and the creation and distribution of jobs, whilst endeavouring to preserve the level of the lowest incomes.

The most important tax-related measure was the introduction of a new earmarked contribution scheme for social security. This is fixed at BFR 4,200 per annum where family income is between 750,000 and BFR 828,999, rising to BFR 24,000 on family income between 830,000 and BFR 2,000,000. If the total of deductions is greater than the special contribution actually due, the surplus can be charged to the income tax due. This difference is treated as an excess deduction.

Indexing of the tax scales was also suspended in 1994. Apart from this there were no other structural changes to the taxation system.

Family/child allowances

There were no changes to the structure of benefits in 1994, but the Global Plan for Employment, Competitiveness and Social Security, which aims for fundamental reform of the social security system, was approved by Parliament in Spring 1994.

This proposes abolishing the distinction between the existing three benefit sub-systems (employees, self-employed and civil servants) as they apply to health care and family benefits. It is not yet clear, however, whether a new structure of family benefits will be based on the employee scheme, which would be expensive unless the self-employed are prepared to pay extra contributions, or the less generous self-employed scheme, which critics argue would be indefensible from a social point of view.

Maternity grants/allowances

No change in 1994.

Other social security benefits affecting families

During 1994 the basis for uprating benefits was changed. A new 'health index' was introduced which does not include changes in the cost of spirits, cigarettes or petrol. The 'health index' is lower than the general consumer price index: to compensate for this change the minimum unemployment, pension and assistance benefits (only) were increased by an additional one per cent in June 1994.

Unemployment benefit

Stricter rules were introduced concerning the suspension of unemployment benefit for longer-term recipients, resulting in an increasing number of suspensions and exclusions.

The waiting period for young people over school age who have completed an apprenticeship or course was extended by three months.

The number of days of work required for entitlement to benefit was increased.

The second period of cover for unemployed cohabittees (which brings a higher allowance than that for a third period) was reduced from 18 to 15 months.

Retirement pensions

In 1994, in order to alleviate the financial deficit in the health insurance system and to increase solidarity between pensioners, a progressive 'solidarity deduction' was introduced on all pension incomes. This means that pensions will be reduced by 0.5 per cent per annum for each band of BFR 10,000 pension income, up to a maximum of two per cent, though the deduction does not apply to pension income below BFR 40,000 (where the pensioner has no family responsibilities) or below BFR 50,000 (where there are family responsibilities).

Also, from January 1995 there will be limitation on holiday payments in the first two years of pension receipt.

There were no significant changes in sickness/invalidity, survivors' or other social security benefits.

Minimum incomes/social assistance

There were no changes to the Minimex or the other assistance benefits in 1994. As with other benefits, uprating is now based on the new 'health index' but with a one per cent extra compensatory increase.

Since January 1993 Minimex recipients under 25 years old have been obliged to sign social integration contracts which include work-seeking activity, and debate continues about the merits and effectiveness of this provision.

Child support/maintenance

There have been no recent changes in maintenance arrangements. The number of children benefiting from the advanced maintenance payment system operated by the local social welfare centres (CPAS in French and OCMW in Flemish) increased tenfold between 1989 and 1993.

DENMARK

Fiscal policies

The Danish taxation system is based almost entirely on the individual, so that everyone, including children, is taxed on their own income, irrespective of marital or family status. The only exceptions to this involve the tax on capital, which has special rules for married women in order to limit evasion, and the higher tax-free allowances available to couples where one spouse has little or no earned income (though housewives make up only around three per cent of the adult population). Economic redistribution is achieved through progressive taxation and a comprehensive system of social benefits, which are also subject to tax. In 1994 the first stages of a general tax reform were completed. This involved reductions in marginal income tax rates in order to improve working incentives. Tax bands were also rearranged.

Income tax is particularly important in Denmark because there has been no system of contributory national insurance. In 1994 a general compulsory labour market contribution scheme was introduced with the aim of making clearer to the population the connection between certain public expenditures (such as on unemployment and sickness cash benefits) and the arrangements for financing them. Contribution rates will be increased incrementally on an annual basis, starting in 1994 with a rate of five per cent payable on all earned income.

Environmental taxes have also been introduced to reduce over-consumption of products such as energy. As families are heavy consumers of services such as electricity and water there has been some debate on the impact of these taxes on families, but no compensation is planned. Overall, important as the tax changes are, they are likely to have only a minor impact on families.

Family/child allowances

There are two forms of family allowance in Denmark. First, the general family benefit scheme (introduced in 1987) provides non-means-tested and non-taxable payments for children in two age bands, with higher payments for younger children. In 1994 the annual rate of payment was DKR 8,300 for children aged under six years and 6,400 for those aged 7-18. Benefits are uprated annually in line with changes in tax allowances.

From 1 January 1995 an increase of DKR 1,000 per year was introduced for children under two. The background for paying extra benefit to very young children was the general political agreement on the Finance Bill for 1995 which included an increase in parents' payments towards public child care where families had more than one child in public day care. Parents will now have to meet 50 per cent of the costs for the second and subsequent child in day care.

In addition to the general scheme, non-taxable supplementary child allowances are payable in certain circumstances, including lone parenthood, both parents being in receipt of a social pension, or the death of one or both parents. Payments vary according to the child's circumstances, but there were no structural changes in allowances during 1994.

Family benefits and child allowances are payable until the child reaches the age of 18.

Other social security benefits affecting families

Apart from uprating, there were no changes to the following benefits during 1994: unemployment benefits, retirement pensions, survivors' benefits, sickness/invalidity benefits.

Minimum incomes/social assistance

The general means-tested social assistance scheme is open to all persons in need who are not entitled to support from other schemes. Until 1993 social assistance was calculated according to the following formula:

- a basic allowance covering daily basic needs and living costs;
- an additional allowance covering actual housing expenses;
- an additional child allowance for each child under the age of 18 years.

Since 1 January 1994 allowances have been calculated in a new way. First they have become taxable, in line with other social security benefits. Secondly, payments are now based on a proportion of the maximum rates of unemployment benefit - 60 per cent for people without children (DKR 6,652 per month from 1995) and 80 per cent where the claimant has legal custody of a child under 18 (DKR 8,852 per month). Housing benefits and child allowances are available to assistance recipients on the same basis as other individuals or families and are not deductible from assistance payments. The rationale for these changes was to put assistance recipients on the same footing as other members of the population. One important point to note is that although the income of a married spouse counts against the family's assistance entitlement, this does not apply to unmarried cohabitants, as there is no general responsibility of financial maintenance between cohabitants.

There is continued debate in Denmark, along the same lines as that in other European countries, about the increase in the numbers of people receiving assistance payments. The debate includes issues such as work incentives and 'workfare', the sustainability of benefit expenditures, the claiming of benefits while in informal work, and other forms of abuse. The general policy trend is towards small reductions in benefit levels and the introduction of incentives to increase work-seeking activities. From January 1995 a new system of computer data-matching has been introduced in order to combat social assistance fraud.

Child support/maintenance

All parents have a maintenance liability for their children irrespective of who has custody, and advance payments of maintenance can be made by the public authorities if there are problems with the regular payment of child maintenance to the parent who has care of the child. Advance payments are available until the child is 18 years old or until 24 if the child is in further education. The 1994 rate of maintenance allowance was set at DKR 8,436 per annum, which corresponds to the rate of special child allowance when paternity has not been established.

GERMANY

Fiscal policies

In 1992 the Constitutional Court ruled that income necessary for a basic level of subsistence must be exempt from taxation. Provisional rules were required for 1993-1996, with full regulations to be implemented for 1996 onwards. In 1994 the tax-free income level was set at DM 11,069 per annum for single people and DM 22,129 for married couples. The 1995 levels are DM 11,555 and DM 23,111 respectively.

The rate of tax on incomes between DM 11,070 and 13,607 for single people and between DM 22,140 and 27,215 for married couples was reduced in 1994. Otherwise the 1990 personal tax schedule remained unchanged. Following the 1992 court ruling new legislation must be passed in 1995 to take effect in 1996, and amendments are currently under discussion in the *Bundestag*.

An earlier Court ruling in 1990 had already stated that child tax allowances should be increased to a basic subsistence level and in 1992 they were raised to DM 4,101 per annum for each child. This was widely regarded as insufficient. The government has to bring in definitive regulations by 1996 and plans to increase the allowance to DM 6,264. A general reform of both child tax allowances and child benefit is also planned.

The effect of the Constitutional Court rulings is very significant for family policy as lower income groups, especially married couples, should benefit substantially and a large number of taxpayers will be removed from being on the margins of social assistance entitlement.

With effect from January 1994, tax allowances for children can be claimed by taxpayers within Germany for children living abroad, if it is 'necessary and appropriate according to the conditions in the country of residence of the child'. Allowances can also be claimed for young people aged 18-27 if their education has been interrupted by voluntary military service of up to three years. The household tax allowance for lone parents (DM 5,616) is now restricted to taxpaying lone parents resident in Germany and living with their children.

With effect from January 1995, the rate of property tax has been raised from half to one per cent, but only for real estate and other limited categories of property. The personal allowances for members of the tax assessment group (spouses and children) were increased from DM 70,000 to 120,000.

Also from January 1995, a 'solidarity surcharge' on income and corporation tax was introduced, at a rate of 7.5 per cent of tax liability.

Family/child allowances

Despite debate on increasing child benefit, in 1994 the rates were reduced again for families on higher incomes. This measure was part of a larger consolidation programme, passed in 1993, involving reductions in benefit and tax increases. In spite of the child benefit cuts, families in general were not greatly affected by the austerity measures.

The new monthly rates are:

1st child	DM 70
2nd child	DM 70-130 (depending on family income)

3rd child	DM 70-220 (depending on family income) - previously DM 140-220
Subsequent children	DM 70-240 (depending on family income) - previously DM 140-240.

For annual incomes between DM 19,000 (plus 9,200 for each child) and 75,000 (plus 9,200 for the fourth and subsequent children) (single parents) and between DM 26,000 (plus 9,200 per child) and 100,000 (plus 9,200 for the fourth and subsequent children) (married couples), the basic rate is DM 70 for the second child and 140 for the third and subsequent children, with reductions in benefit as income increases. If income is higher than these upper thresholds, benefit for the third and subsequent children is DM 70.

The coalition parties (Christian Democrats and Liberals) reached broad agreement on the new structure of family benefits coming into effect from January 1996. The dual system of tax allowances and cash benefits will be maintained, but there will be an option to choose between them. Child tax allowances will be raised, as described above, and child benefits will be increased to DM 200 per month for the first and second child and DM 300 for others. It is also planned to transfer administrative responsibility from the federally-organised local employment departments to the state finance departments, although there is opposition from the *Länder* because of the costs.

As from January 1994, the payment of child benefits to foreigners from non-EU countries was restricted. Only those with residence entitlement or permits will receive child benefit, and even then not where employment is only temporary.

Maternity grants/allowances

As from January 1994, entitlement to parental (child-raising) allowance is abolished for the first six months after childbirth if family income exceeds DM 75,000 per annum for single parents and DM 100,000 for married couples (plus, in each case, 4,200 per child). From the seventh month on, the regulations operating before 1994 are unchanged. The monthly rate of benefit is DM 600, available on an income-related basis for 24 months following a child's birth.

Other social security benefits affecting families

From January 1994, the rates of income replacement for unemployment insurance and assistance were reduced: for unemployment insurance, from 68 to 67 per cent of net earnings for people with children and from 63 to 60 per cent for people without children; for unemployment assistance (*Arbeitslosenhilfe*), from 58 to 57 per cent of earnings for people with children and from 56 to 53 per cent for those without.

Minimum incomes/social assistance

For the two years from 1/7/1994 - 30/6/1996, uprating of social assistance (*Sozialhilfe*) payment was limited to two per cent per year, and it must also be below the rate of increase in net wages in 1994 and 1995.

Child support/maintenance

In 1994, the rates of payment for advance maintenance were DM 291 per month for children under six years (DM 219 in the new *Länder*), and DM 353 for children between six and 12 years (DM 264 in the new *Länder*). It is paid for children under 12 for a maximum of six years. There were no other changes in legislation concerning child support.

GREECE

Fiscal policies

Fiscal policy in Greece tends to be more concerned with the pressing problems of public finances than specifically with addressing social needs through taxation policy. There were no major changes during 1994, but there has been discussion about the reduction of or even the elimination of some tax allowances. The 1995 National Budget is based on an expected 31.8 per cent increase in income tax receipts - an increase that may result from a more efficient collection of taxes but also from a review of tax deductions and exemptions. In addition to the basic DR 300,000 individual tax-free income area there are a range of other tax allowances, covering items including lawyers' remuneration, school fees and private health insurance, many of which go to families who are not in financial need. It is the elimination of some of these allowances which is under discussion.

Family/child allowances

Family allowances in Greece vary substantially according to whether parents are employed in the public or private sectors, and in the latter according to different agreements between unions and employers. All the different allowance schemes pay increasing amounts for second and subsequent children and there are additional allowances for families with three or more children.

There were no specific changes to family allowances during 1994 but there was considerable debate, particularly about the allowances for mothers of three or more and the parents of four or more children. In the first case the allowance (DR 34,000 per month) is only given to the mother after the birth of her third child and until this child reaches three years of age. In the 1994 budget the amount provided for this allowance has been DR 17 billion. In the second case the mother, or under certain circumstances the father, of four children born in wedlock or legally recognized by the father, receives a monthly allowance equal to 1.5 times the daily wages of an unskilled worker, for each child. The children have to be less than 25 years of age and not married. The 1994 rate of allowance was DR 7,400 for each child. Where a fourth child is born while the mother is receiving the allowance for the third child, she has the right to receive both allowances at the same time. The mother of four and more children (independently of their age, whether they are married or not, whether they are economically active or not) has the right to a life-long pension equal to four times the daily wages of an unskilled worker. The rate of pension for 1994 was DR 19,700 and in the 1994 budget the estimated expenditure was DR 56 billion.

The debate has hinged on the substantial costs involved at a time of severe public deficits and raises questions about whether the role of the allowances is primarily demographic - to ease the problems arising from low fertility and ageing - or social - to support economically dis-advantaged families and to promote equality. Critics argue on the one hand that the allowances cannot reverse demographic trends and are therefore wastefully high, and on the other hand that they are too low to counterbalance the financial pressures many large families experience (which are often aggravated by the difficulties mothers face in finding secure full-time work).

The debate will continue during 1995 and is likely to involve proposals to introduce income-testing for family/child allowances (as well as for other

allowances, subsidies and benefits). It is argued that this will both reduce expenditure and concentrate greater help on those in need.

Maternity grants/allowances

No changes during 1994.

Other social security benefits affecting families

No changes during 1994 in the structure of unemployment benefits; retirement pensions; survivors' benefits; sickness/invalidity benefits.

Health insurance

There were no changes during 1994, but debate continues on improvements to the national health service - about which EU opinion surveys have shown that the population of Greece has expressed particularly high levels of dissatisfaction. Expenditure is regarded as high in relation to the quality of service provided, consuming an estimated 28 per cent of the national budget in 1994.

Child support/maintenance

No change.

SPAIN

Fiscal policies

The family dimensions of the Spanish tax system are reflected in the option (available since 1992) for couples to submit either joint or individual tax declarations. In the case of separate declarations tax deductions for dependants are split between the two parties. The taxation system represents the main means of horizontal redistribution towards families with children in general, since direct benefits are only granted subject to a strict income test.

Changes affecting taxation of 1994 income

Changes affecting the calculation of income tax for 1994, which will be implemented when the corresponding declaration is submitted in May 1995, are contained in the State Budget Law for 1994 which was approved by the Congress of Deputies at the end of 1993.

Income tax bands themselves have remained unchanged, but given that part of the increase in incomes announced in 1994 is offset by price inflation this represents an increased tax burden.

Tax deductions for dependants also remain unchanged, with the exception of the deduction for the presence of a blind or disabled family member. This was raised in line with inflation from PTA 50,000 to PTA 52,000. The only other change in tax deductions was in the provision for the cost of renting the usual place of residence. The maximum taxable income threshold for entitlement to this deduction was increased from PTA two million to PTA three million for individual declarations and from PTA three million to PTA 4.5 million for joint declarations. The deduction limit remains at PTA 75,000.

Overall, the changes have only a limited impact on families.

Changes affecting taxation of 1995 income

The State Budget Law for 1995 introduced the following changes:

The thresholds for taxable income bands have been increased by 3.5 per cent, which is the rate of inflation forecast for 1995, in order to avoid an increase in the tax burden caused by a rise in money income.

Deductions for dependants were adjusted upwards in a proportion equal to the rate of inflation forecast for 1995 (3.5 per cent). The major change, however, is the introduction for the first time of differentiation between the level of deductions for dependent children on the basis of age. Income tax deductions in 1995 for dependants are now as follows:

	PTA
— taxpayer aged 65 years and over (not dependants)	15,500
— each dependent child (first and second only)	20,700
— third dependent child	25,000
— each dependent child (fourth and subsequent)	30,000
— allowance per disabled, blind or mutilated family member	54,000
— each dependent ascendant	15,500
— each dependent ascendant aged 75 and over	31,000

The maximum taxable income threshold for the rental costs deduction was again increased, this time from PTA three million to PTA 3.5 million for individual declarations and from PTA 4.5 million to PTA five million for joint declarations. The deduction limit remains unchanged.

The only change to indirect taxation was an increase from 15 to 16 per cent in the rate of value added tax (IVA) from 1 January 1995.

The uprating of tax allowances in line with inflation is significant in helping families to sustain the purchasing power of salaries (though there has been no recovery of the losses resulting from the failure to uprate since 1991). The increases in the allowance for rent have also been higher than required for inflation, reflecting wider policies encouraging renting in response to the housing crisis and also extending the benefits of the housing policy to middle income groups.

The appropriateness of encouraging larger families by the restructuring of child tax allowances is more controversial. While it represents a move towards equity between families its impact may be muted since larger families are now rare in Spain. Any beneficial effects are also likely to be diminished by the VAT increase.

Family/child allowances

Family allowances are targeted at low-income families who do not benefit from the child deductions available through the tax system. As such they do not constitute the central mechanism for providing financial help to families. The value of most of the allowances has been frozen since 1991 and as incomes increase the number of beneficiaries is likely to dwindle. Only the allowances for older disabled children have been uprated in the course of 1994 and 1995.

Changes for 1994

The changes which affect receipt of family allowances for dependent children are enshrined in the State Budget Law for 1994 which was approved by the Congress of Deputies at the end of 1993. The income threshold for entitlement to family

allowance was increased, for the first time since it came into effect in 1991, from PTA one million to PTA 1.035 million - in line with the forecasted 3.5 per cent inflation. The allowance for dependent disabled children aged 18 or over was also increased by 3.5 per cent at the beginning of the year and by an additional 0.9 per cent at the end of the year in line with the actual out turn of inflation (4.4 per cent). This is in accordance with a general agreement on pensions and social benefits. Other family allowances were not increased.

Changes for 1995

The State Budget Law for 1995 (approved at the end of 1994) introduced further uprating for family allowances. As in 1994, the changes only affect the income threshold and allowances for disabled children aged 18 years and over. The income threshold has been increased to take into account both forecast and out-turn inflation during 1994, while the allowance for a disabled child aged 18 years and over was again increased in line with the inflation forecast for 1995.

Maternity grants/allowances

These do not exist in Spain.

Other social security benefits affecting families

Unemployment benefits

Allowances for unemployed people in Spain come in two forms: unemployment benefit, based on insurance principles, and unemployment assistance, which is mainly aimed at those without insurance entitlement and is based on the existence of dependants and related to household income.

In 1994 a number of measures significantly altered the conditions of entitlement to both forms of benefit, though these were determined primarily in relation to labour market considerations rather than being motivated by family policy. Unemployment insurance benefit, which was previously equal to the minimum wage for all recipients, was reduced to 75 per cent of the minimum wage where there are no dependent children. Benefit also became taxable and contributions were increased. Conditions of entitlement to unemployment assistance were also restricted. Previously those classed for benefit purposes as dependants, could include the spouse and other relevant relatives up to the second degree: now only the spouse and children under 26 count as dependants. The threshold for the family income test was reduced from 100 to 75 per cent of the minimum wage and the benefit became taxable.

Retirement pensions

The only changes in 1994 were that extra uprating of pensions will now take place each year if actual inflation exceeds that forecast and included in the first round of uprating. However, a controversial debate began on the pensions and social security system as a whole. A parliamentary committee is expected to announce proposals for reform in 1995.

Survivors' pensions and sickness and invalidity benefits were similarly uprated in line with actual inflation and there were no changes of significance for families.

Minimum incomes/social assistance

The non-contributory minimum pension was uprated in 1994 and 1995 in line with inflation. Assessment of the implementation by the Autonomous

Communities of the minimum integration benefit (*Ingreso Mínimo de Inserción*) is still in its early stages. The indications are that in Madrid the main beneficiaries are female lone parents and unemployed men between 25 and 45 years.

Child support/maintenance

A heated debate has taken place in the last two years about maintenance arrangements. An organisation for separated fathers has argued that custody too often goes automatically to women and that Article 159 of the Penal Code, which states that children should remain with the parent of their own choosing, has not been fully implemented or enforced. Fathers have also submitted a claim to the constitutional court that child support payments should not be taxable. Women's organisations on the other hand have argued that maintenance payments are often insufficient and are frequently not paid, and have called for firmer penalties for default.

The controversy has tended to overshadow other debates about the establishment of a guaranteed maintenance scheme, proposals for which have been made unsuccessfully by both regional assemblies and the Ministry for Social Affairs. A draft law on divorce reform is likely to be submitted in 1995 which is expected to tackle this problem in ways which reflect both changing family situations and the growing equality of women.

Other social security benefits affecting families

The government had promised to reduce to three the number of children required to be counted as a 'large family', which brings entitlement to special benefits. It was thought that the financial implications would mean that this promise could not be kept, but it was finally included in an all-purpose law (the Law of Accompaniment) which was approved at the same time as the State Budget Law for 1995. In future benefits for large families will be adjusted according to proposals from the recently-established Parliamentary Commission on Families. The declining number of larger families makes this change largely symbolic, except in relation to higher education payments for students born in an earlier period of high fertility, but it is seen as increasing horizontal equity between families.

FRANCE

Fiscal policies

In 1994, the government reduced the number of tax brackets from 13 to seven with a view to simplification, and reduced tax by six per cent on average, in order to stimulate consumption. Various tax thresholds were uprated: the dependants' tax free allowance was raised from FF 15,400 to 15,620 per half tax unit; the ceiling for the benefit relating to the first dependent child for a single person increased from FF 19,060 to 19,330; and the limit for application of tax relief from FF 4,180 to FF 4,240. The allowance per married child at home rose from FF 27,120 to FF 27,500. 360,000 additional (notional) tax payers were exempted from tax in 1994, accounting for 49 per cent of notional tax payers in 1993.

The 1995 budget raises the various allowances by the 1994 consumer price index, minus tobacco (1.4 per cent).

Apart from the revision of the income tax scale, the bulk of fiscal measures in favour of households and families were centred around assistance to local service jobs and occupational support:

- raising the ceiling on tax reductions for employment in the home: as of 1995, the tax reduction for the full-time employment of a domestic service worker will rise from FF 13,000 to FF 45,000 per year (that is, half the sum spent up to a limit of FF 90,000). This tax credit can only be fully used by households whose taxation is equal to the threshold.

The measure complements three other provisions:

- an increase in the child care at home allowance (*Allocation de Garde d'Enfant à Domicile*): as of 1 January 1995, this will be raised to almost FF 3,800 per month and entitlement extended until the child's sixth birthday;
- the establishment in December 1994 of the 'service voucher' which will simplify the obligations of family employers in declaring information to Social Security agencies;
- raising the ceiling on the tax reduction for expenditure on major repairs to the main dwelling: tax reduction equal to 25 per cent of the amount, within a ceiling of FF 15,000 for single people and FF 30,000 for married couples (an increase of 50 per cent on the former amounts). This measure applies to expenditure incurred as of 1 October 1994.

These changes are intended to combat unemployment by stimulating household consumption and job creation for people with low skills, but they have been criticised by opposition parties and the trade unions, who argue that they tend to favour elderly couples and well-off families.

Family/child allowances

The only structural change to benefits paid in relation to children was that under the Family Law of 25 July 1994, the parental child-rearing allowance (*Allocation Parentale d'Éducation*) was extended to families with a second child. Other family benefit levels were increased slightly in January 1994.

However, there has been debate about conditions of eligibility for child benefits and in particular whether they should be means-tested, a move which the UNAF and the CGT Trade Union, in particular, have strongly opposed. Attention has also focused on the possibility of taxing the benefits.

Finally, to take account of the difficulties young people face in entering the job market and the tendency to stay longer at school, the government intends (1) to extend the right to family allowance for all children under 20 who are dependent on their parents (provided that their income does not exceed 55 per cent of the gross minimum wage); and (2) to extend payments of family and housing benefits up to the age of 22 for apprentices, young people undergoing professional training and students (provided that the child's income does not exceed 55 per cent of the gross minimum wage). A total of 580,000 families will receive help at a cost of FF 8.5 billion.

These measures will be implemented gradually: the timetable for enforcement will depend on the financial position of the Family Allowance Funds (CAF).

However, the government has set 31 December 1999 as the deadline for this improvement in benefits, even if the family sector is in deficit at this time.

Maternity grants/allowances

The young child allowance (*Allocation pour Jeune Enfant*) was increased in the event of multiple birth. As many allowances will now be paid as there are children, up to the age of 18 months instead of the present 12 months. The benefit will be FF 5,664 for families with twins and FF 11,328 for families with triplets.

Other social security benefits affecting families

There were no structural changes to either unemployment benefit or retirement pensions during 1994. However the Family Law of 1994 instituted a gradual increase in the rate of derived pensions for those in the general scheme from 52 per cent to 60 per cent, starting in January 1995 with 54 per cent. This affects around a million people aged over 55 whose spouse has died, mostly women.

Health insurance

A law dated 27 January 1993 put the finishing touches to a gradual development, which began in 1945, in the definition of the 'family' for the purposes of health insurance - that is, those people who are entitled to health/maternity insurance on the grounds of their connection to the insured person. Before 1993, a non-working spouse, children (up to the age of sixteen as a general rule and twenty when they were still studying), dependent ascendants and descendants and dependent cohabitants (as of 1975) could thus benefit as eligible persons from cover provided through the person insured. From 1993, any other person living with an insured person who is totally and permanently dependent on him/her is also eligible, including, now, homosexual companions.

Minimum incomes/social assistance

In October 1994 the government announced a series of measures to combat poverty and exclusion, aimed at helping RMI recipients to get back into work. They included social insurance contribution exemptions and cash payments for employers taking on a recipient unemployed for over two years, and funds to create 'socially useful employment' schemes.

Child support/maintenance

No change during 1994.

IRELAND

Fiscal policies

There were no changes in either the standard or higher income tax rates. However, the personal allowance was increased by £IRL 175 for a single person, and by £IRL 350 for a married couple. This was the largest single increase in the personal allowance since 1984. In addition, the standard rate tax band was extended from £IRL 15,350 to £IRL 16,400 for a married couple and from £IRL 7,675 to £IRL 8,200 for a single person. (There were comparable increases in the widowed, single parent and widowed parent allowances). These changes mean that the thresholds for the higher rate of tax for most employees was increased to £IRL 22,186 if married, and £IRL 11,636 if single.

Two changes were introduced for low-paid workers: i) the child addition to the exemption thresholds was increased by £IRL 100 per child for all children, and ii) the marginal relief rate of taxation, which is the effective marginal tax rate for many lower-paid people was reduced from 48 per cent to 40 per cent.

Further changes in taxation affecting families consisted of a phased reduction in mortgage interest relief and in Voluntary Health Insurance relief. Tax relief for both of these is to be reduced gradually to a standard rate of 27 per cent. This will primarily affect those paying tax at the higher rate of 48 per cent.

The integration of the taxation and social security systems has been the focus of much public debate. There is an expert working group preparing a report on the integration of these systems, as successive Governments have committed themselves to the eradication of poverty traps. The extent of the problem was highlighted when the then Minister of Finance, in reply to a *Dáil* (Parliament) question, revealed that the net disposable income of a couple with four children on a gross pay of £IRL 8,000 amounted to £IRL 9,261, which included Family Income Supplement and medical card value; this compared to a family on £IRL 15,000 gross income that did not qualify for these and other benefits such as differential local authority rents, and had a net income of £IRL 9,743 (though this applied only to a very small proportion of the employee workforce). The Committee on the Integration of the Tax and Social Welfare Systems is due to report to the Government in 1995.

Family/child allowances

Further increases in Child Benefit were announced in the January 1994 budget. The higher rate of Child Benefit was increased in September 1994 from £IRL 23 to £IRL 25 per month and this rate now applies to the third and subsequent child(ren) in a family. Previously the higher rate applied only to the fourth and subsequent child. An additional 97,000 families/children now receive the higher rate. There has been debate on proposals that the child dependant allowance should be frozen and eventually phased out, and replaced by a substantially increased Child Benefit. One of the principal arguments in favour of this recommendation is that it would reduce poverty traps.

The Minister for Social Welfare was given responsibility for the IYF (International Year of the Family 1994). A conference was held in September 1994 at which the Minister announced the setting-up of a Committee to cost and review proposals for improvements in Child Benefit. The Committee is to make recommendations regarding the future development of Child Benefit and report to the Minister before the 1995 Budget.

Maternity Benefit: The full Child Dependant Allowance is now payable to the spouse where she/he is receiving a social welfare payment.

From July 1994, the rate of Maternity Benefit payable may not be less than the rate of Disability Benefit which the woman would receive if she were entitled to Disability Benefit. This change is in line with EC Directive 92/85 on the Protection of Pregnant Workers.

Adoptive Benefit: Adoptive Benefit will be introduced by the Department of Social Welfare when the Department of Equality and Law Reform has implemented the relevant legislation. A Bill providing for Adoptive Maternity Leave was

introduced in the *Seanad* (Upper House) and has passed all stages. The Bill will come before the *Dáil* at the earliest opportunity.

Other social security benefits affecting families

New Survivor's Scheme: The new Survivor's Contributory Pension came into operation on Friday 28 October 1994. This scheme allows men - with or without dependent children - to receive a contributory pension on becoming widowed. Prior to this, the only pension which widowers were entitled to was Lone Parent's (Widowed Persons) Allowance, which was only available to widowers with children. It is expected that 8,000 to 10,000 widowers will eventually qualify for the pension. The full annual cost for the new scheme will be of the order of £IRL 28m.

Child Dependant Rates: A single Child Dependant rate of £IRL 15.20 is now payable for all qualified children to people receiving a contributory retirement or invalidity pension. Previously there were two rates - £IRL 14.90 for the first and second child, and £IRL 12.80 for each additional child.

Pensions for Homemakers: An important development in 1994 was the practical recognition of the work undertaken by parents and carers by the introduction of Regulations, whereby time spent caring in the home for young children or elderly and incapacitated people will no longer put such persons at a disadvantage in terms of their pension entitlements. Up to 20 years, credits are now given for carers of children up to six years of age or while caring for an elderly/disabled person.

Carer's Allowance: The 1994 Budget provided for an improvement in the means testing arrangements for Carer's Allowance. From July 1994, the initial weekly income disregard of £IRL 2 was increased to £IRL 6. A new earnings disregard of £IRL 100 per week was also introduced in cases where the spouse of the carer is in employment.

Lone Parents: There have been significant improvements in the position of lone parents:

The 1994 Budget provided for improvements in the means test for Lone Parent's Allowance where recipients have income from employment or self-employment. The previous earnings disregard of £IRL 6 a week for each child was replaced with a flat rate disregard of £IRL 30 (inclusive of the initial disregard of £IRL 6). A 50 per cent taper was also introduced for earnings above the disregarded level. These improvements came into force on 21 July 1994.

Working lone parents are also eligible for Family Income Supplement which is not counted as income in the means test. Those in receipt of a social welfare widows pension or medical card are also exempt from the health contribution and employment training levy.

Lone parents are also eligible to participate in Community Employment which came into operation in April 1994. Access to educational schemes such as the Vocational Training Opportunities Scheme, the third Level Allowance Scheme and second level courses was extended to lone parents in 1993. In addition, third level grants are disregarded in assessing means for lone parent's allowance where recipients are participating in second chance education.

Health and Safety Benefit: A new Health and Safety Benefit was introduced by the Department of Social Welfare on 19 October 1994 for working women who are pregnant, have recently given birth, or are breastfeeding and who cannot continue at their job because of a risk to their health and safety in the workplace.

A Housing Review Group has been set up consisting of representatives from the Departments of Environment and Finance, local authorities and health boards under the chairmanship of the Department of Social Welfare to examine the role of Supplementary Welfare Allowance in housing provision. The group is to report to the Minister for Social Welfare in April 1995.

Minimum incomes/social assistance

There is no general guaranteed minimum income scheme in Ireland. A 1994 report from the Economic and Social Research Institute (ESRI) examined options for basic income schemes in Ireland and concluded that a basic income for children and an integrated child benefit offered many of the advantages of the more radical schemes without the attendant high tax rates. The new coalition government published its programme in December 1994 ('A Government of Renewal'), in which it promised to work towards a basic income for children by improvements in child benefit.

In July 1994, the minimum Unemployment Assistance payment for people living at home and assessed on their parents' income was increased from £IRL 5 to £IRL 10 per week.

Provision was also made in the 1994 Act to amend the definition of a child dependant for Supplementary Welfare Allowance purposes, to enable an increase to be paid in respect of a person aged 18 and over for a period of three months after completing the Leaving Certificate Examination or leaving second level education.

Child support/maintenance

No change during 1994.

ITALY

Fiscal policies

There were no structural changes in taxation arrangements during 1994. Tax allowances for dependants were increased from LIT 757,000 to LIT 791,588 for a spouse, from LIT 121,000 to LIT 125,445 for other adult dependants, and from LIT 87,500 to LIT 91,438 for minors (though dependent child allowances vary according to family circumstances and the number of children). The basic level of tax-free earnings from employment rose from LIT 727,000 to LIT 759,715. The income threshold which defines whether a spouse is considered 'dependent' was raised from LIT 5.1 to LIT 5.3 million. When the annual family income does not exceed LIT 14.5 million the tax payer is allowed a further deduction of LIT 237,215.

For lone parents the tax allowances are substantially higher. They equal the amount of the dependent spouse plus double the amounts for each dependent child (multiplied by the number of dependent children), minus double the amount for one child. For example, where there is one child, dependant's allowances in 1994 amounted to: LIT 791,588 + 2 (1x182,875 - 182,875) = LIT 791,588; for two children: LIT 791,588 + 2 (2x182,875 - 182,875) = LIT 1,157,338. In

general, this system gives lone parents tax advantages relative to couples. However, the tax allowances provided for dependent children to couples are split between the parents (even if separated or divorced). In specific situations, the allowance is allotted to one of the parents only, but then the amounts are doubled.

From January 1995, Decree n.725 of 23/12/94 allocated LIT 600 billion for further increases in tax allowances. This was on the basis that increases have to be in proportion to the number of children after the third child, that cohabiting disabled family members and other family members over 70 years will be given the same allowance as children, and that access to increased allowances will be based on the same income formula as for the *Assegno al Nucleo Familiare* (family allowance) and will only go to the recipients of the *Assegno*.

Overall these changes are not likely to have a major impact on families given the relatively low level of tax allowances in comparison with the costs of cash family allowances.

Family/child allowances

Family allowances in Italy act as a supplement to wages, other social security benefits or pensions, according to the number of children and the level of family income. Until the mid-1980s they were small but universal. Since 1988 entitlement has been narrowed down to wage earners and pensioners, with the result that a number of family types without a wage earner or insurance pensioner have lost benefit.

There were no changes during 1994 in the structure of the allowances. The income thresholds were updated, but not the benefit level itself, which is fixed. This non-uprating has resulted in an estimated cut of 40 per cent of its value in real terms since 1988. Family allowances were at the centre of the political debate in the last election and the incoming government promised a reform which would guarantee that contributions made for family allowances would be effectively redistributed to families with children. This reform has not yet taken place, as was pointed out by the organisations participating in the International Year of the Family activities.

Maternity grants/allowances

There are no national allowances given to women in Italy on the birth of children. Only the autonomous region of *Trentino-Alto Adige* has passed regional legislation (n.4/1992), which included the introduction of a special birth or adoption allowance based on voluntary contributions with an amount set at LIT 3.8 million.

Other social security benefits affecting families

There were no significant changes in unemployment benefits.

There were also no changes to retirement pensions, although they are the subject of continuing debate. A private member's Bill was put forward in the national legislature proposing the establishment of a special voluntary fund to provide pensions for women who do not participate in the labour market and stay at home looking after their children, and thus at present have no direct access to insurance pensions in their own right. The other, wider, debate concerns the problems of pension scheme affordability in the context of an ageing population and declining fertility. It has been estimated that without some reform a payroll tax of over 57 per cent would need to be levied by 2025 to meet pension obligations, and

expenditure on pensions and survivors' benefits already consumes around 14 per cent of GNP.

There were no changes or substantive debates on survivors' benefits.

Minimum incomes/social assistance

Although there has been substantial debate over the last 20 years about introducing some form of general minimum income guarantee in Italy, this debate has if anything declined in the recent years partly because of budgetary constraints and widespread opposition to new welfare spending. A series of Commissions on Poverty have reported, the most recent of which issued a preliminary report in July 1994. This and other academic studies have suggested that over two million families are in poverty, with a strong North/South divide and particular concentration of poverty in large families and among households headed by women.

Although a number of regions have taken initiatives in the last few years in social assistance provision to certain groups such as young pregnant women, there were no significant developments during 1994, with the exception of the region of *Liguria*, which introduced a range of measures providing studentships for young people in economic hardship (art.7, L.R., n.11, 8 March 1994, *Interventi regionali in favore della famiglia*).

Child support/maintenance

There were no changes in the arrangements for child maintenance.

LUXEMBOURG

Fiscal policies

The main changes which occurred in 1994 related to tax allowances for dependent children and the different income thresholds for single and two parent families. The threshold rose from LFR 726,210 (1993) to LFR 754,080 for one parent families and from LFR 1,188,000 (1993) to LFR 1,239,000 for two parent families, with an allowance of LFR 229,000 in 1993 and LFR 237,000 in 1994 per dependent child. Where income exceeds the ceilings given above, the tax reduction for children rose from LFR 57,000 (1993) to LFR 60,000.

In a statement of 22 July 1994, the government announced the setting up of a working group to study the contribution system and to improve co-ordination of social welfare benefits with a view to greater harmonisation of financial policies towards families. The same statement expressed the government's intention to continue the existing direction of fiscal policies.

One important change came in the law of 17 June 1994 which increased excise duties, especially on petrol, in order to provide extra financial support for the Employment Fund. This followed recommendations in the European Commission White Paper on Growth, Competitiveness and Employment. The new law was strongly opposed by the Supreme Council for the Family and Children, which condemned it as a regressive tax which impacted on household budgets without taking account of the number of children.

Family/child allowances

1994 brought no major change other than the indexing of benefits. The law dated 17 June 1994 did make some alterations to the system of funding family

allowances - the system of apportionment of social security contributions - by setting up a reserve.

Maternity grants/allowances

The maternity and childbirth allowances were not altered in 1994, except for uprating. However, in March 1993 judgement was given against Luxembourg in the European Court that by operating residence conditions for these allowances it did not meet EU regulations on the free movement of workers. A Bill was tabled in 1994 to bring earlier relevant legislation in line with this judgement.

Sickness/maternity benefits

Legislation, as completely modified and reformed by the law dated 27 July 1992, came into force on 1 January 1994. These benefits are designed to provide employed and self-employed women with replacement income during their maternity leave or to cover medical costs related to childbirth. Women (waged and self-employed) who are covered by one of the social insurance and sickness schemes during the year preceding maternity or adoption leave, are entitled to maternity benefit. The benefit cannot be received concurrently with sickness benefit or maternity allowance, and is also suspended during any periods where legal or contractual agreements give women continued pay from their employers. There are two sorts of benefit:

Benefits in kind

Maternity insurance benefits in kind are in principle the same as those under sickness insurance; in addition, on giving birth, insured women are entitled to the care of a midwife, medical assistance, accommodation in a maternity ward or clinic, pharmaceutical supplies and dietary products for infants. The current regulations, applicable since 1 January 1994, stipulate that the fixed benefit includes:

- medical assistance in childbirth, including post-partum treatment, in accordance with a standard list of services;
- the services of the midwife and costs incurred during childbirth, such as delivery room charges, costs of analysis, drugs and dressings as well as post-partum expenses including accommodation for the mother and child;
- the costs of dietary products or breast-feeding aids.

Cash benefits

The benefit in kind may, where appropriate, be supplemented by the financial maternity allowance. This is designed to off-set loss of salary during pre- and post-natal leave. It is counted as a wage and may be the subject of distraint or transfer.

The allowance is paid to insured waged or self-employed women who are pregnant or who have given birth, for the two months preceding and two months following the birth. When birth occurs later than the presumed date given on the medical certificate, entitlement to the allowance is extended until the actual date of delivery. In the event of death of the mother in childbirth, the allowance is paid to the person who undertakes to care for the child.

Other social security benefits affecting families

There were no changes, other than upratings, to other benefits affecting families.

Minimum incomes/social assistance

There were no substantive changes during 1994 to the minimum income schemes, other than upratings, though there is an ongoing debate about whether to extend entitlement to the *Revenu Minimum Garanti* (RMG) to political refugees.

Child support/maintenance

There were no changes in child maintenance arrangements during 1994.

NETHERLANDS

Fiscal policies

There were no changes to the structure of taxation in 1994. The basic tax free income threshold was HFL 5,925 per annum. A married or cohabiting adult may transfer the tax-free allowance to his/her spouse/cohabiting partner under certain conditions, for example, when the other spouse/cohabiting partner has no income or earns an income below the tax-free allowance. The maximum amount of tax-free allowance was HFL 11,850 and was applicable to married income-earners whose spouse had no income or an income below the tax-free allowance. Similar conditions apply to cohabitantes, except that there are some further restrictions regarding the duration of cohabitation (one year at least) and age limits are also applied.

Lone-parent tax payers benefit from an additional tax-free allowance of HFL 10,660 if they support a child below the age of 27. If the income-earner is employed and supports a child younger than 12 years he/she is entitled to an additional tax-free allowance equal to six per cent of earned income, up to a maximum of with a maximum of HFL 4,860. The annual maximum tax-free allowance of one parent families, when all deductions are included, may come to HFL 15,526.

The most important tax deductible allowances related to family circumstances are as follows:

- alimony to the former spouse(s);
- high expenses due to sickness, disability, adoption or childbirth if these are not refunded by health insurance or another insurance scheme;
- the costs of children under 27 for whom no child allowance is due and where the child is not entitled to receive a student grant under the Study Finance Act;
- the remittance of money to nearest relatives to cover their subsistence costs. Parents are allowed to donate an annual tax-free amount of up to a prescribed level, along with a one-off tax-free lump sum.

Tax allowances will be raised by 2.5 per cent in 1995, in line with forecast inflation.

Family/child allowances

There were no changes to the structure of child benefits in 1994, but at the end of 1994 the government announced that from January 1995 child benefits would be reduced by abolishing the proportionate increase in amount per child as the size of the family increases. This change provoked relatively few protests, although the Netherlands Family Council pointed to the adverse effects on poorer families and lone parents.

Maternity grants/allowances

There are no maternity allowances in the Netherlands.

Other social security benefits affecting families

There were no significant structural changes in 1994 to unemployment benefits, retirement pensions, survivors' benefits, sickness and invalidity benefits, health insurance or housing assistance.

Minimum incomes/social assistance

In 1994 the rates of payment of general assistance (*Algemene Bijstand*) were altered to reduce payments to people under 21 and to those aged 21-26 for a six month period following the end of full-time education. There were also amendments to the definition of what constitutes individual or shared accommodation for the purposes of housing assistance.

Child support/maintenance

In 1994 divorces in the Netherlands involved around 25,000 dependent children. In 80 per cent of cases custody went to the mother and around two-thirds of lone parents receive social assistance. Thus there is an undisputed relationship between lone parent status and dependence on social assistance. Only about nine per cent of divorced women receive maintenance and the Government is trying to increase this proportion. The municipal social services have both the right and the duty to collect maintenance payments and in 1993 and 1994 former husbands faced a stricter policy of maintenance collection because of financial pressure on the local authorities. Proposals from the government to place further legal obligations on local authorities to enforce maintenance payments have not, however, been implemented, because of opposition in Parliament.

PORTUGAL**Fiscal policies**

In 1994, the structure of taxation is basically that single taxpayers have a tax-free allowance of ESC 30,100 and married taxpayers ESC 22,800 (each). Cohabitees are treated as two single people. These amounts are increased by 60 per cent when the tax payer or a dependent child is disabled. Child dependant allowances are ESC 16,500 and 'dependants' are defined as those who are not wage-earners or who earn less than the national minimum salary, and are under 25 years of age (or 18 if they are no longer students). Families are not entitled to deductions for other dependent relatives, which has been the subject of some discussion since people with elderly relatives in residential care can deduct these expenses (within limits) from tax.

Families are also entitled to deduct certain other expenditures from their income, namely expenditures relating to health care, education, insurance, and equipment for renewable energy, up to a maximum of ESC 145,000 for single persons and ESC 291,000 for couples. One small change introduced in 1993, but taking effect from 1994, was that people no longer automatically receive half this maximum miscellaneous deduction even if they do not put in any supporting evidence of expenditures.

Tax allowances for family members are raised every year in line with inflation. Apart from this there were no other changes in 1994.

Family/child allowances

There have been no changes in conditions of entitlement. Family allowance is a contributory benefit which can be claimed for each child. Monthly payments are low and a small additional payment (related to family income) is available for the third child and subsequent children. The maximum amounts paid went up from ESC 2,330 in 1993 to ESC 2,450 in 1994 for the first two children and from ESC 3,500 to ESC 3,680 for the third and subsequent children.

Maternity grants/allowances

The birth grant is a contributory benefit paid once when the child is born (ESC 22,260 in 1994). The nursing allowance is also a contributory benefit paid to mothers during the first ten months after birth, regardless of parents' income (ESC 4,100 per month in 1994).

Paid maternity leave (with entitlement to 100 per cent of the average daily wage) can be claimed by insured women. Criteria for eligibility and duration (90 days) have not been changed but this has given rise to public debate. Trade unions as well as women's organisations have protested against the fact that maternity leave has not been increased to 14 weeks, as laid down in the European Directive (92/85). However, a Bill to bring arrangements in line with the Directive received the approval of Parliament in April 1995 and is awaiting the signature of the Prime Minister and President.

Other social security benefits affecting families

- the national minimum wage, which is used as the basis for unemployment social allowance, was raised to ESC 49,300 in 1994. Claimants are entitled to 100 per cent of this amount if there are four or more members in the family; to 90 per cent if there are two or three members; to 70 per cent if they are single;
- the social pension, a non-contributory benefit for those over 65 who are not entitled to a pension under the contributory scheme and have income below a certain level, was increased from ESC 15,700 in 1993 to ESC 16,600 in 1994;
- regulations concerning the conditions of entitlement of cohabiting spouses to survivors' pensions, to the death allowance and to the allowance for the permanent care by a third person were issued in January 1994 (Statutory order n° 1/94 of 18 January). Claimants have to prove that they had been living as husband and wife for at least two years prior to the death of the partner.

Child support/maintenance

There have been no major developments or legislative initiatives in this area.

UNITED KINGDOM

Fiscal policies

Tax allowances are updated every April. The tax allowances in 1994/5 per annum were:

Personal allowance:	£3445 (aged 65-74: £4200 and aged 75+: £4370)
Married couple:	£1720 (aged 65-74: £2665 and aged 75+: £2705)
Additional Personal Allowance:	£1720
Widows Bereavement Allowance:	£1720

There are no allowances for children. Between 1990/91 and 1992/3 a husband could only transfer part or all of his married couple's allowance to his wife if he was unable to make full use of the allowance himself. From 1993/4 all or half can be transferred if the couple have agreed beforehand. The wife has the right to claim half the allowance. However, from April 1994 the value of the Married Couples Allowance and the Additional Personal Allowance (received by lone parents) has been capped. These allowances now reduce the tax payable (rather than reduce taxable income) and the rate is restricted to 20 per cent of the allowance (i.e. £344) for all tax payers. Higher rate tax payers therefore pay more tax than previously and proportionately more than standard rate payers. The same cap now applies to the tax relief given on mortgage interest payments.

There were no other structural changes affecting families.

Family/child allowances

There were no changes in 1994 to the structure of child benefit. Benefits are uprated in line with inflation each April and the 1994/5 rates were:

Child Benefit (for only or eldest child):	£10.20 per week
Child Benefit (for other children):	£8.25 per week
One Parent Benefit	£6.15 per week

There has been some debate about Child Benefit in the context of reform of social security. It is argued that when expenditure cuts are necessary, non-means-tested benefits like child benefit should be the first to go because they are poorly targeted. On the other hand it is seen as effective in redistributing income over the life cycle, acts as society's contribution to the basic costs of children and goes directly to the parent with main responsibility for the care of the child. There are no official plans for change at present.

Maternity grants/allowances

In order to comply with European legislation, several changes have come into force in the laws affecting maternity rights from October 1994. The qualifying period for higher rate statutory maternity pay (90 per cent of earnings for six weeks) has been reduced to six months service with the same employer, from two years for full-time workers and five years for part-time workers. Statutory Maternity Pay has also increased from £48.80 per week to £53.50.

In addition, the pregnancy and maternity provisions implementing the European Directive (92/85) came into force, also in October. As a result, regardless of length of service or number of hours worked, all working women are:

- entitled to 14 weeks maternity leave, with all contractual rights (except pay) preserved and they also have the right to return to work;
- automatically deemed 'unfairly dismissed' if they lose their jobs because they are pregnant;
- entitled to 18 weeks maternity pay if they have completed six months service by the week before the expected date of delivery.

Other social security benefits affecting families

Unemployment benefits

The Government has published a White Paper laying out the details of a forthcoming benefit for those looking for work. The Jobseekers Allowance (JSA) will replace the current Unemployment Benefit and Income Support for

unemployed people looking for work in April 1996. Contributory JSA will be paid to those who have made the required national insurance contributions. However, it will be payable for six months instead of the current 12 months. No allowances will be paid for dependants (either partners or children). For those who do not have the required contributions, or who have received JSA for six months, the benefit will be means-tested in the same way as Income Support. In addition, since the contributory JSA will not include any payments for dependants, it is likely that more families with children and/or an unemployed partner will move on to the means-tested benefit immediately. Payment of the JSA will be conditional on claimants agreeing to follow individual back-to-work programmes - the 'Jobseekers Agreement' - which will be reviewed regularly. There will also be a 'Back-to-Work Bonus' - a cash incentive of up to £1,000 to work part-time, as a springboard to full-time employment. This incentive is aimed at those who might have been deterred from seeking work because, under current rules, any earnings above £5 are deducted from benefit.

Retirement pensions

There were no significant changes in retirement pension, apart from the Pensions Bill which will go through Parliament in 1994/95. The Pensions Bill will incrementally raise the pension age of women currently aged under 44 years to men's pension age of 65. It will also improve security, equality and choice in non-state pensions. This will include setting up a new Pensions Regulator.

Sickness and invalidity benefits

In April 1994 the Statutory Sick Pay Act 1994 came into force, abolishing the 80 per cent reimbursement of employers' statutory sick pay costs.

Preparations were made in 1994 for the replacement in April 1995 of Sickness and Invalidity Benefits with a new Incapacity Benefit. All new claimants and about half the existing IVB claimants will have to undergo a new test to determine capacity for work, concentrating on functional limitations and removing consideration of age, work experience and skills.

Housing assistance

The 1994 Budget introduced regional rent ceilings for Housing Benefit. Income support rules on payment of mortgage interest have also been restricted for those recently unemployed, and private insurance to cover this situation is being encouraged.

Minimum incomes/social assistance

There were no structural changes to Income Support (the main means-tested benefit) during 1994, apart from uprating.

Family Credit is the main means-tested benefit for working families with children. The amount paid depends on the level of earnings and the number and ages of children. The benefit is only available to those in full-time work, which is defined as at least 16 hours per week. A new child care disregard was introduced by the Government in October 1994 for families receiving Family Credit. This means that parents reliant on means-tested in-work benefits such as Family Credit or Housing Benefit can deduct child-care expenses of up to £40 a week from their earnings before benefit is calculated, if they have a child under 11. This can result in an increase of up to £28 per week in Family Credit.

Child support/maintenance

Concern over the problems surrounding the Child Support Act and Agency has prompted Parliamentary scrutiny by the House of Commons Social Security Select Committee, which has produced two reports so far. The first, in December 1993, led to revised Regulations being passed by Parliament in February 1994. These were mainly intended to alleviate the impact of maintenance claims on absent parents by changes such as increasing the level of protected income and the abolition of a collection fee in some cases. The second report, in November 1994, suggested that maintenance awards should allow for previous 'clean break' settlements as in cases where a mother keeps the family home. It also proposed that the assessment formula should take into account the absent parent's costs in travelling to work, an allowance for stepchildren and for any new partners' housing costs.

The Child Support Agency itself has admitted in its annual report to not meeting its targets for 1993-94. The benefits savings had been estimated at £530 million but fell short of that by £112 million, and more than 40 per cent of applications took longer than 12 weeks to process. It did however stay within its budget and this budget has been increased by 40 per cent to allow for a further 700 staff to be recruited.

In January 1995 further major changes were announced to the child support legislation. These include:

- the CSA will not now take on the cases of parents with care (i.e. lone parents) who are in employment in 1996, as intended;
- an appeal mechanism will be introduced in 1996/7;
- from April 1995 there will be changes to the formula, such that no absent parent will be assessed to pay more than 30 per cent of current income in child support, 'clean break' settlements will be taken into account, travel-to-work costs will be allowed, housing costs will also include allowance for a new partner and step-children, there will be a cap on how much high earners will have to pay;
- from April 1997, lone parents will build up a 'maintenance credit', to be paid if they go back into full-time employment.

Table 2.1: Taxes and benefits: main changes and debates 1994/95

COUNTRY	FISCAL POLICIES	FAMILY/CHILD ALLOWANCES	MATERNITY ALLOWANCES	OTHER SOCIAL SECURITY BENEFITS	MIN. INCOMES/ SOCIAL ASSISTANCE	CHILD SUPPORT
BELGIUM	<p>Special contribution scheme for social security introduced.</p> <p>Indexing of tax scales suspended.</p>	No change in 1994, but Global Plan approved, which proposes abolishing distinctions between employer, self-employed and civil servants' schemes for family benefits.	No change	<p>New 'health index' for benefit uprating introduced – lower than CPI: minimum benefits uprated by extra 1%.</p> <p>Restrictions on eligibility for unemployment benefit.</p> <p>Solidarity deduction from pensions introduced to help finance health insurance.</p>	No change	No change
DENMARK	<p>First stages of comprehensive tax reform completed in 1994: reductions in marginal rates and rearrangement of tax bands.</p> <p>New employee contribution scheme introduced. Rates will be increased incrementally, starting at 5% in 1994.</p> <p>Environmental taxes introduced to limit overconsumption of energy etc. Criticised because of their regressive impact on families.</p>	From January 1995, increase of Dkr. 1,000 pa for children under 2 in general family benefit scheme. Compensates for introduction of higher charges in public day care for second and subsequent children.	No change	No changes in 1994. Debate on the health of children: Bill submitted in 1995.	<p>New method of calculating social assistance rates introduced. Now based on proportion of unemployment benefit rates and taxable. Child benefits and housing assistance available in addition.</p> <p>Continuing debate about increase in SA numbers, work incentives and abuse. New system of data-matching introduced in Jan. 1995 to combat fraud.</p>	No change

Table 2.1: Taxes and benefits: main changes and debates 1994/95 *continued*

COUNTRY	FISCAL POLICIES	FAMILY/CHILD ALLOWANCES	MATERNITY ALLOWANCES	OTHER SOCIAL SECURITY BENEFITS	MIN. INCOMES/ SOCIAL ASSISTANCE	CHILD SUPPORT
GERMANY	<p>Tax-free income levels provisionally raised to subsistence level following 1992 Constitutional Court ruling. Permanent legislation required for 1996 currently under discussion. Changes will benefit families significantly.</p> <p>From Jan. 1995, solidarity surcharge on income and corporation tax, at 7.5% of tax liability.</p> <p>Plan to increase child tax allowance from DM 4,104 per child to DM 6,264 per child per annum.</p>	<p>Child benefit rates reduced in 1994 for higher income families, as part of a wider consolidation programme.</p> <p>New structure of child benefits/allowances planned from January 1996: dual system will continue but with option to choose. Child benefit will be raised to DM 200 pm for 1st and 2nd child and DM 300 for others.</p> <p>1/94 restriction on access to child benefits by foreigners without residence permits and permanent employment contracts.</p>	<p>From Jan 1994, no entitlement to parental allowance for first 6 months after birth for families over specified income levels.</p>	<p>From Jan. 1994, rates of unemployment benefit and assistance reduced.</p>	<p>For 1994 to 1996 uprating of social assistance rates limited to 2%, and must be less than increase in net wages.</p>	<p>No change.</p>
GREECE	<p>No changes, but discussion about reducing or elimination some tax deductions affecting people not in financial need.</p>	<p>Debate about allowances for larger families and their role in demographic and social policy. May lead to proposals to income test allowances in order to reduce expenditure and improve targeting.</p>	<p>No change.</p>	<p>No change, but continued debate about improvements to health care system.</p>	<p>No change.</p>	<p>No change.</p>

Table 2.1: Taxes and benefits: main changes and debates 1994/95 *continued*

COUNTRY	FISCAL POLICIES	FAMILY/CHILD ALLOWANCES	MATERNITY ALLOWANCES	OTHER SOCIAL SECURITY BENEFITS	MIN. INCOMES/ SOCIAL ASSISTANCE	CHILD SUPPORT
SPAIN	<p>1994: tax bands were not updated, resulting in increasing tax burden. Dependant tax allowances also unchanged except for blind or disabled family member.</p> <p>1995: income thresholds and dependant allowances raised in line with forecast inflation. Differentiation introduced in child tax allowances according to number of children. 1% increase in VAT (to 16%).</p> <p>House rental allowance was increased both years by more than inflation.</p>	<p>1994: income threshold for entitlement to family allowance increased for first time since 1991. Allowance for disabled dependant over 18 years also updated. Other allowances unchanged.</p> <p>1995: again only income threshold and disabled dependant allowance updated.</p>	No change	<p>Unemployment benefit reduced from 100% of minimum wage to 75% where claimant has no children. Benefit became taxable and contributions increased.</p> <p>For unemployment assistance, definition of 'dependant' restricted to spouse and children. Threshold for family income reduced from 100% to 75% of minimum wage and benefit became taxable.</p> <p>Debate on pension and social security funding expected to lead to proposals in 1995.</p>	No change	<p>Heated debate on child support polarised between separated fathers' and women's organisations. No progress on guaranteed maintenance scheme. Draft law on divorce expected in 1995 will include proposals for tackling maintenance problems.</p>

Table 2.1: Taxes and benefits: main changes and debates 1994/95 *continued*

COUNTRY	FISCAL POLICIES	FAMILY/CHILD ALLOWANCES	MATERNITY ALLOWANCES	OTHER SOCIAL SECURITY BENEFITS	MIN. INCOMES/ SOCIAL ASSISTANCE	CHILD SUPPORT
FRANCE	<p>Simplification of tax bands. Tax reduced by 6% to stimulate consumption.</p> <p>Main changes centred on stimulating employment in local and domestic services, including raising tax allowance for employing a person f/t in the home, and increase in child care at home allowance. Measures have been criticised as benefiting mainly elderly couples and higher income families.</p>	<p>Child-rearing allowance (APE) extended to families with 2nd child.</p> <p>Debate about possible means-testing or taxing of child benefits.</p> <p>Government intends to extend family allowances to dependant children under 20, and family and housing benefits to apprentices, trainees and students aged 20-22 (on income-related basis).</p>	<p>From 1/95, maternity payments increased in cases of multiple births.</p>	<p>1994 Family Law introduced gradual increase, from 52 to 60%, in rate of derived pensions for people in general scheme. Starting with 54% in 1995. Affects around 1m people aged over 55 whose spouse has died, mainly women.</p>	<p>1994: government introduced measures to help RMI recipients back to work, including social insurance exemptions and cash payments for employers and funds to create 'socially useful employment'.</p>	<p>No change</p>

Table 2.1: Taxes and benefits: main changes and debates 1994/95 *continued*

COUNTRY	FISCAL POLICIES	FAMILY/CHILD ALLOWANCES	MATERNITY ALLOWANCES	OTHER SOCIAL SECURITY BENEFITS	MIN. INCOMES/ SOCIAL ASSISTANCE	CHILD SUPPORT
IRELAND	<p>No changes in standard or higher income tax rate. Personal allowances increased by largest amount since 1984. Standard rate tax band also extended.</p> <p>For low-paid workers, increase in child addition to exemption threshold and marginal relief rate reduced from 48% to 40%. Reduction in mortgage and voluntary health relief, mainly affecting higher rate taxpayers.</p> <p>Continuing debate about integration of tax and benefit systems. Committee on this topic to report to government in 1995.</p>	<p>1994: higher rate of child benefit increased from £23 to £25 per month and now applies to 3rd and subsequent children. Additional 97,000 families now receive higher rate.</p> <p>Question of whether child dependant tax allowances should be phased out and replaced with increased child benefit is being examined by government Committee, which will report before 1995 Budget.</p> <p>Programme of new government in December 1994 promised to work towards basic income for children through improvements in child benefit.</p>	<p>New benefit for families adopting children to be introduced once legislation is completed.</p> <p>From July 1994, rate of maternity benefit payable may not be less than the rate of disability a woman would receive if entitled (in line with EC Directive 92/85).</p> <p>New Health and Safety Benefit introduced on 19/10/94, for working women who are pregnant, have recently given birth or are breastfeeding and cannot continue at their workplace because of a risk to health.</p>	<p>New Survivors' Contributory Pension came into operation from 28/10/94, providing pension for widowers.</p> <p>Homemakers' pension credits introduced: up to 20 years credit available for periods of caring for children up to 6 years, elderly or disabled people.</p> <p>Earnings disregards increased in means test for Carer's Pension.</p> <p>Two rates of Child Dependant addition for contributory retirement and invalidity pension replaced with single rate and raised to £15.20 pw.</p> <p>Earnings disregards increased for Lone Parent Allowance, from £6 pw per child to flat-rate £30 pw. Withdrawal rate of earnings above this level also reduced from 100% to 50%.</p>	<p>From July 1994, minimum Unemployment Assistance payment for young people living at home and assessed on parents' income was increased from £5 to £10 per week.</p> <p>Definition of child dependant for Supplementary Welfare Allowance amended to enable increase to be paid for those 18+ for 3 months after completing secondary education.</p>	No change

Table 2.1: Taxes and benefits: main changes and debates 1994/95 *continued*

COUNTRY	FISCAL POLICIES	FAMILY/CHILD ALLOWANCES	MATERNITY ALLOWANCES	OTHER SOCIAL SECURITY BENEFITS	MIN. INCOMES/ SOCIAL ASSISTANCE	CHILD SUPPORT
ITALY	<p>No changes to fiscal arrangements in 1994. 600b lire allocated for 1995 for increased tax allowances: to be allocated in favour of large families, and disabled family members and those over 70 to be given the same allowances as children.</p> <p>Minor effect on families given the low level of tax allowances.</p>	<p>No change, but only income thresholds updated. Benefit level fixed. Non-uprating has led to estimated 40% drop in real value since 1988.</p> <p>Family allowances were at the centre of debate in last election, but promised reform has not materialised.</p>	No change	<p>No change, but continuing debate on pensions. Private Bill put forward to create voluntary fund for female homemakers.</p> <p>Wider debate on pension affordability in context of ageing and declining fertility.</p>	No national change, but some regional developments in assistance provision for specific groups, such as young pregnant women.	No change
LUXEMBOURG	<p>In July 1994 government set up working group to study the contribution system and improve co-ordination of social welfare benefits for families.</p> <p>Excise duties, especially on petrol, increased to help finance Employment Fund. Change was opposed by Supreme Council for the Family and Children because of regressive effect on households with children.</p>	No change, apart from the setting up of a reserve for funding family allowances.	<p>1992 legislation on maternity allowances and childbirth medical services came into effect in Jan. 1994.</p> <p>No structural changes in 1994 but Bill tabled to remove residence conditions, in line with 1993 European Court judgement.</p>	No change	No change, but continuing debate about extending entitlement to RMG to political refugees.	No change

Table 2.1: Taxes and benefits: main changes and debates 1994/95 *continued*

COUNTRY	FISCAL POLICIES	FAMILY/CHILD ALLOWANCES	MATERNITY ALLOWANCES	OTHER SOCIAL SECURITY BENEFITS	MIN. INCOMES/ SOCIAL ASSISTANCE	CHILD SUPPORT
NETHERLANDS	No change in tax structure.	No changes in the structure of family allowances in 1994, but from 1995 child benefits to be reduced by abolishing proportionate increase in amount per child for larger families. Change has provoked few protests, in spite of adverse effect on lone parents and poorer families.	No change	No change	Social assistance payments reduced for those under 21 and to those aged 21-26, for 6 months after finishing f/t education. Also changes in definition of individual and shared accommodation for housing assistance.	Government has attempted to encourage local authorities to enforce maintenance payments more strictly.
PORTUGAL	No structural changes, except no longer automatic awarding of half maximum miscellaneous tax allowance (for health insurance, education etc.) even if no specific claim entered.	No change	No change	Regulations issued in Jan. 1994 on entitlement to survivor's pension, death grant and care allowance by cohabiting spouses. Claimants must prove residence as husband and wife with the deceased person prior to her/his death.	No change	No change

Table 2.1: Taxes and benefits: main changes and debates 1994/95 *continued*

COUNTRY	FISCAL POLICIES	FAMILY/CHILD ALLOWANCES	MATERNITY ALLOWANCES	OTHER SOCIAL SECURITY BENEFITS	MIN. INCOMES/ SOCIAL ASSISTANCE	CHILD SUPPORT
UNITED KINGDOM	Married Couples Allowance and Additional Personal Allowance (for lone parents) was capped in 1994. Rate or relief restricted to 20% for all taxpayers. Same cap also applies to mortgage interest relief.	No change to structure of child benefit, though continuing debate in the context of wider social security reform and expenditure cuts.	In order to comply with EU legislation, qualifying period for higher rate statutory maternity pay reduced from 10/94 to 6 months, from 2 years for f/t workers and 5 years for p/time workers. Pregnancy and maternity provisions of EC Directive 92/85 also implemented in 10/94.	Jobseekers Allowance to replace unemployment benefit and income support for the unemployed from April 1996. Contributory JSA will only be paid for 6 months (from 1 year) and not for dependants. Also package of other 'back-to-work' measures. Pensions Bill will incrementally raise pension age for women currently under 44 to men's pension age of 65. From April 1995, sickness and invalidity benefits will be replaced with new Incapacity Benefit. Number of recipients likely to be substantially reduced and benefit levels cut for new claimants.	No structural changes to Income Support, but restrictions introduced on payment of mortgage interest for those recently unemployed. New child care disregard introduced in 10/94 for Family Credit and Housing Benefit. Recipients with a child under 11 can deduct formal child care expenses of up to £40 pw from earnings before means test is applied.	Following controversy over operations of the Child Support Agency and the Act, a series of changes have been made. Level of protected income for maintenance-payer was increased and collection fee abolished in some cases. Further changes announced in Jan. 1995 include introduction of right of appeal in 1996/7, changes to maintenance formula, taking into account of 'clean break' settlements, inclusion of maintenance payer's travel to work costs, increase in allowance for housing costs, and cap on amount paid by higher earners. From April 1997, lone parents will be able to build up a 'maintenance credit' on income support, payable if they go back into full-time employment.



CHAPTER 3

Reconciling Work and Family Life

OVERVIEW

Developments within this area follow two main themes: a general movement towards more flexible labour markets in terms of flexible working patterns and career breaks, and a concern to provide child care for those who want or need it. Most countries reported the implementation of the EU Directive of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health of pregnant workers and workers who have recently given birth. In Italy this was preceded by a lively debate, since Italian legislation is more favourable in this respect and there were concerns that approval of the Directive might weaken working women's conditions.

All countries are promoting flexible working patterns for those with child care responsibilities. In France and Denmark this takes the form of recommendations that more part-time work should be developed, while in Greece official reports have suggested that jobs should be offered on a shared basis wherever possible. Belgium is encouraging part-time working with the introduction of an incentive bonus for those reducing their hours while in the United Kingdom employment protection rights for part-time workers have recently been improved following a court ruling. In Germany civil servants have a right to work part-time for family reasons and in Greece there are provisions for flexible working hours, job sharing, career breaks and domestic purposes leave. In Portugal either parent with a child under 12 years of age is entitled to part-time or flexible working and in addition parents are allowed to miss up to 30 days work caring for sick children under ten years of age.

A number of countries have introduced statutory provisions for career breaks including Belgium, Denmark, France, Ireland and Luxembourg (for public employees only). In Belgium, Denmark and Portugal parental leave is available for both parents. Paternal leave is not available in Ireland but a recent Commission recommended its introduction by 1995. Use of career breaks and schemes for parental leave remain limited by the fact that many schemes are unpaid or available to only a minority of workers.

The provision of child care is another central issue. In Belgium, recognised and subsidised care is provided for children under three, with parents making a contribution to the cost according to their income. In Denmark child care is provided mainly by the local authorities and parents pay a fixed amount towards

the costs. Demand is high since 90 per cent of Danish mothers are in the labour market and the government has committed itself to a general 'child care guarantee' for all children aged one to five before 1996. In France around 30 per cent of the 2.26 million children under three attend public child care facilities with a further 220,000 cared for outside their homes by registered child minders. The government has made provision for the creation of 100,000 additional places in crèches and day nurseries over the next five years.

Both Ireland and the United Kingdom report limited public provision of child care, the gap being filled by private nurseries/crèches, pre-school playgroups and registered child minders. In the UK there is now a commitment to provide, over time, nursery school places for all four-year olds whose parents want them.

In most countries demand for public child care services exceeds supply. There is continuing debate as to the best form of provision and the best way of meeting the cost.

BELGIUM

Protection of pregnant women in the workplace

On 1 July 1994, the Council of Ministers approved a Bill which gives greater protection to pregnant employees, in line with the EU Directive of 19 October 1992. The Bill grants expectant mothers the right to be absent from work for pre-natal consultations if these can only take place during working hours. The employer must warn pregnant employees of the risks likely to be attached to their work and the preventive measures available.

Flexible working

The Government's 1993/4 'Global Plan' for the economy included measures to reduce unemployment by encouraging the redistribution of work time. Where firms and trade unions agree on practices which lead to job creation, the employer's social security contributions can be reduced for these extra workers. Such measures can include job-sharing, reduction of working hours, reduction of overtime, career breaks and shiftwork. So far this policy has not been a great success, and only a small number of agreements was reached.

Women's movements, unions and families are of the opinion that flexible working is dictated in particular by economic necessity and that it is often unfavourable to the family. By contrast, employers' organisations argue that a positive approach to flexibility is possible.

A national agreement reached between employers and unions in December 1994 created a second chance for further negotiations. From now on the redistribution of work will be negotiated at industry level and then at the level of individual firms.

The unions and employers also signed an agreement on 9 January 1995 concerning night work. This remains in principle forbidden. However, the agreement includes a proposal to apply future exceptions to this principle equally between men and women. In practice this means a considerable extension of the possibilities of night work for women.

Part-time working

From 2 March 1994 an incentive bonus for part-time work was introduced in the Flemish region. The bonus is fixed at BFR 5,000 per month for those changing from full-time to half-time and at BFR 3,000 per month for those reducing their working time by 51 - 80 per cent of full-time. The bonus applies for maximum of two years and cannot be combined with unemployment benefit or with a second part-time wage. The claimant must have worked full-time for one year preceding the application for the incentive bonus.

Maternity/paternity leave and temporary or partial career suspension

Private Sector: Maternity leave includes a compulsory post-natal leave of eight weeks and an optional pre-natal leave of a maximum of seven weeks. The unused part of the pre-natal leave may be transferred to the end of the post-natal leave. This leave is paid. The employee has protection against redundancy during the period of pregnancy and during maternity leave. Employers cannot act unilaterally to terminate the employment after they have been informed of the pregnancy and up to one month after the end of the post-natal leave, except in the case of reasons unconnected with the pregnancy or the confinement.

Public sector: Pregnancy leave is regulated in the same way as in the private sector. It amounts to fifteen weeks and it starts, at the earliest, six weeks before the anticipated date of confinement. The eight weeks of pregnancy leave after confinement are compulsory. During their maternity leave government officials are paid their full salaries.

Parental leave

Private sector: Employees (father or mother) who in order to devote themselves to the education of their child wish to stop work or work part-time are protected in the event of unemployment. Periods of career suspension or shortened working hours are considered as working periods, provided that the request for unemployment benefit is lodged at the earliest six months after the date of birth and at the latest one day before the child reaches the age of three.

Public sector: On the birth of a child, three months leave may be granted to the father or the mother. This leave must be taken in the year of birth of the child, and it is not paid. For social security rights it is treated as work. At the birth of a child, fathers have a right to three days paternity leave. Since the royal decision of October 17 1994 (BSB Nov. 9), it is possible to convert maternity leave into paternity leave, in case of death or hospitalisation of the mother.

Career breaks

Since the agreement of July 1993, contracted by both sides of industry, the right to a career break has been extended to the private sector. This right is however limited by the rule that only one per cent of the average number of employees may benefit from it. There is an obligation to replace a person who interrupts his career with a completely unemployed person. Career breaks are covered by an allowance of BFR 11,597 per month for a full-time employee. This amount is increased for second and third children.

Home-based working

There have been important developments in this area. A Bill was passed on 27 January 1995 creating a legal framework for home workers. This makes provision

for a written contract of employment, hours limits and other terms and conditions of employment.

Child care

Care is provided during the day for children up to the age of three; for children aged between three and six, there is care outside class hours and during the holidays. There are also a few (limited) possibilities of care at weekends or at night.

Care services recognised and subsidised by the community include:

- crèches: with a minimum of 23 places for children up to the age of 36 months;
- day nurseries: care for up to 20 children between the ages of 18 and 36 months;
- services for foster families: organising the care of children in families.

The parents pay a contribution for the above-mentioned care services according to their taxable income (between BFR 60 and BFR 530 per day). Reductions are granted to families with at least two dependent children, provided that the care involves several children from the same family. For the care of children up to the age of three, parents may benefit from a tax deduction for the costs of care in crèches, nurseries and foster families.

Care services operating under the supervision of the community but not recognised or subsidised include private fostering and institutions with an inspection certificate. These services can take in a maximum of five children below the age of six. The inspection certificate guarantees a minimum quality, but charges are not fixed by law. In addition there are unregistered child minders. Unless they are relatives up to four times removed of the child for whom they are caring they must in principle declare their activities to the authorities. Parents using this type of care do not receive any tax deductions.

The costs of child care are subsidised by the Communities: in 1993, the Flemish community granted BFR 1,822.2 million to nurseries and BFR 623 million to foster family services; in 1993, the French community granted BFR 1,991.5 million to care centres.

The law of 10 June 1993 introduced an employers' contribution of 0.05 per cent of gross wages for the promotion of initiatives for the extra-school care of children between the ages of three and 12.

In the Flemish community parents pay a contribution according to their taxable income, of between BFR 60 and BFR 530. In 1993, parents paid an average of BFR 397 for a day's care in a crèche, BFR 279 in a nursery and BFR 409 in foster services. In the French community the contribution amounts to a maximum of BFR 577 to BFR 649 for an aggregate net monthly income of BFR 118,000.

Status and role of fathers

Research evidence suggests that the division of labour in families in Belgium is still fairly traditional. Despite the increase in female labour market participation women still do most of the housework and other household tasks, and it is their patterns of work which are flexible rather than men's. For most men the

traditional pattern of continuous, life-time, full-time employment still prevails. There is no evidence available about men's involvement as fathers, but there are few signs of change.

DENMARK

Protection of pregnant women in the workplace

In accordance with the EU Directive of October 1992 on protection of mothers, legislation has been implemented giving the mother two weeks compulsory leave after birth.

Flexible working

The Ministry of Finance published a programme in 1993 setting out policy guidelines for a more family-oriented personnel policy in the public sector. This initiative emphasized that high priority should be given to the implementation of family policies on the labour market. To improve possibilities of reconciliation of family life and working life, the Ministry of Finance suggested that the option of flexible working hours for employees with children should be more extensive, part-time work should be a right, parents should be given preference in decisions on the planning of holidays, and workplaces should introduce improved leave arrangements when children are sick or otherwise in need of care at home.

Recognizing that both parents have to fulfil their obligations as parents and employees, the Inter-Ministerial Committee on Children encourages employers to create more family-friendly workplaces.

Maternity/paternity leave and temporary or partial career suspension

All employed and self-employed women are entitled to maternity leave and cash benefits for four weeks before expected confinement and for 14 weeks after birth. Cash benefits amount to 90 per cent of earnings up to a general maximum of DKR 2,546 per week. State employees are entitled to eight weeks of leave before confinement.

Parental leave - after maternity leave - entitles both (employed) parents to a combined leave of 10 weeks. Parental leave can be taken by either father or mother as long as the combined leave does not exceed 10 weeks. Employed and self-employed fathers have a right of two weeks paternity leave within the span of the mother's 14 weeks of maternity leave. The father can be entitled to the entire maternity leave if the mother is taken seriously ill. Leave can be extended by up to three months if the child is hospitalized. The 24 weeks of leave will then commence when the child has been discharged. State employees are entitled to full pay.

Improvements to parental leave arrangements have recently (January 1995) been negotiated within the bi-annual collective bargaining round. Improvements include full pay for leave in most of the private sector and more flexible leave arrangements. Paternal leave has existed since 1984 and remains a subject of debate. These rights are under-used at present.

Leave for child care reasons and sabbatical leave was paid at 80 per cent of a set rate (DKR 2,036 per week in 1994). These rates are being reduced with effect from

1 January 1995 to 70 per cent and from 1 April 1997 to 60 per cent, because public expenditure on leave provisions was seen as too high.

With effect from 1 January 1995, child care leave has been made permanent - previously it was a temporary measure. Child care leave covers all working parents (employees and self-employed persons) with children up to the age of eight years. No consideration is taken of the parents' unemployment insurance circumstances.

Parents receiving unemployment benefits and social assistance are entitled to leave on equal conditions with working parents. Leave has to be taken in a continuous period of at least 13 weeks and not more than 52 weeks for each child. Parents can take leave separately or simultaneously and it may be spent abroad. If a parent is on leave she/he is not entitled to a place in a public child care facility if the child is under the age of three years. If the child is between three and eight years of age there is an entitlement to a half-time place.

Labour market leave - for all reasons - was granted to a total of 141,000 persons in 1994, of whom 45 per cent were unemployed persons. Fifty seven per cent of leave takers took leave for child care reasons and 91 per cent of child care leave takers were women. Fifty three per cent of child care leave takers were employed in the public sector. Leave was especially popular in sectors employing female employees, such as nursing and child minding, and in general in the public sector. In 1995 the number of child care leave takers is expected to decrease slightly because of reduced rates of compensation.

Child care

The Danish day care system is regulated by the Social Welfare Act. The Act stipulates that local authorities have an obligation to make available the necessary number of day care facilities for children and young people.

The decentralized system has the aim of achieving the best and most flexible structure taking all local circumstances and requirements into consideration. This is the typical Danish approach which strengthens local involvement, develops a wide-ranging selection of different day care opportunities and supports continual development due to local dialogue and debate between parents and local government.

There is a considerable demand for day care provision, not least because the majority of Danish mothers - about 90 per cent - are in the labour market. Although the number of places have increased threefold in the last 20 years, many municipalities still have waiting lists. The percentage of places in publicly financed day care for different age-groups of children is: six months to two years: 58 per cent, three to five years: 79 per cent, six to ten years: 46 per cent and 11 to 13 years: 18 per cent (National Bureau of Statistics).

For many families without direct attachment to the labour market, loneliness and isolation may present problems for both parents and children. In order to deal with these problems the government has allocated DKR 150 million a year in 1994 and 1995 to municipalities in order to provide alternative 'open' day care facilities for both parents and children. These centres provide parental participation, flexible opening hours and teaching assistance according to need. Institutions are cheaper than ordinary day care facilities because of shorter opening times and no

direct child care staffing. Places are only available to families with children up to the age of five years.

Parents pay a fixed amount for public child care calculated as a percentage of the total expenditure for child care arrangements (excluding expenditure on rent and property). In 1994 maximum payments for parents were 30 per cent of expenditure. Free care is available where parental income is below DKR 89,000 and reduced fees apply if income is below DKR 190,000.

Continuing debate on the shortage of day care places led the Government in 1993 to promise parents a general 'child care guarantee' for all children aged between one and five years by 1996. Since the responsibility, for providing child care is a local responsibility the child care guarantee was negotiated with the local authorities in the spring of 1994. To prevent excessive increases in local expenditure it was also agreed to look at ways of increasing supply and decreasing demand.

The Ministry of Finance carried out a survey of about 1,000 parents in October/November 1994 on their experience of child care. The main results were as follows:

- 70 per cent of parents have children in public child care. Asked why, 62 per cent said that they need child care because of work and 23 per cent that their children needed to be together with other children;
- where children were not in public day care, 47 per cent of parents were at home on labour market leave, 24 per cent were out of the labour market and 13 per cent were unemployed. Five per cent of children were taken care of by grandparents and eight per cent were in private day care;
- asked whether they would consider caring for the child themselves if they were given DKR 1,000 tax free per month, 28 per cent of parents liked the idea, with a somewhat higher proportion of women in support.

Status and role of fathers

The changing role of the father is the subject for much public debate: networks are being established including networks of researchers on the role of fathers; the Council of Equal Rights has recently established an innovatory group on men and equal rights; and a forthcoming proposal on the equal rights of unmarried fathers with respect to parental rights is being considered.

Both biological parents are obliged by law to provide for their children. This obligation is based on parenthood and not on parental custody. If a responsible parent does not fulfil his obligation to pay maintenance the local authority will grant an advance payment to the mother. The authority seeks reimbursement by agreement or, where agreement is not reached, by legal procedures including distraint and attachment of earnings orders.

GERMANY

Protection of pregnant women at the work-place

No change during 1994.

Flexible working

In 1994 the 'Law for the Standardisation of Hours of Work and Rendering them more Flexible' was passed (Hours of Work Law - ArbZRG of 6 June 1994; came into force on 1 July 1994, apart from Articles 2 and 20; the amendment of the Federal Holiday Law only came into force on 1 January 1995). The public statutory hours of work regulations which had been in force for five decades were abolished on 1 July 1994. The law came into being after intensive consultations with associations, the churches and the Federal states, and after several applications to the Upper House of Parliament (*Bundesrat*) for amendment.

An amendment to the Job Creation law was also passed in 1994. It provides a continued safeguard within unemployment insurance when an individual changes from full-time to part-time employment. In the Civil Service sector the Law for the Amendment of Service Rights came into force on 1 June 1994. It extends the possibility of part-time employment and leave of absence for civil servants. The previous maximum limit for part-time employment for family reasons has been removed.

The 'Law for the Implementation of Equal Rights for Women and Men' (Second Equal Rights Law - 2.GleichBG, passed on 24 June 1994) came into force on 1 September 1994. It consists of several separate laws: Law for the Promotion of Women (FFG), the Job Protection Law and the Law Governing Appointments for Federal Committees (BGremBG). The law stipulates that posts be offered and advertised in both full-time and part-time form, that an adequate supply of part-time posts be created and that civil servants have a fundamental right to part-time work for family reasons if no pressing official reasons preclude this. Article 1 of the law deals with the promotion of women and the reconciliation of family and work in the Federal administration and the Courts of the Federation (Promotion of Women Law - FFG). The objectives are to promote women while "observing the priority of suitability, competence and specialist performance" (§ 2 FFG, Federal Law Gazette I, 1406) and to contribute to the reconciliation of family and work for women and men. The law covers those employed by the central government (civil servants, judges, salaried workers and workers and trainees as well as office-holders).

A women's promotion plan is drawn up and every three years a comprehensive and detailed report is required (§ 4 FFG). The proportion of women should be increased; § 15ff concerns the appointment, the duties and rights of women commissioners (Federal Law Gazette I, 1408ff). § 9 of the law contains (imprecise) regulations for hours of work conducive to family responsibilities. Within the framework of statutory, contractual and other regulations in individual cases, the employed person with family obligations should be granted, if required, altered daily and weekly hours of work (Federal Law Gazette I, 1407).

Employed persons with family obligations have the right to determine to a greater extent their hours of work (part or full-time). Keeping in touch with work and returning to work must be made easier for employees given leave of absence for family reasons. Part-time workers and those granted leave of absence for family reasons should not be disadvantaged in their careers (§ 12 FFG). Family obligations exist according to the law when an employed person "actually looks after or cares for at least one child under the age of 18 or some other dependent in need of care according to medical opinion" (§ 3 FFG, Federal Law Gazette I, 1406).

Maternity/paternity leave and temporary or partial career suspension

No change in 1994.

Child care

By international standards child care provision is fairly extensive in Germany, but a substantial shortfall exists, particularly for children aged under three years and in nursery schooling for those aged three to six. Provision is also unevenly distributed, with relatively higher coverage in the former East German states in spite of the closure of many factory nurseries and crèches.

The 1992 Pregnant Women and Family Assistance Act introduced a right to nursery schooling for all children from 1996 - a move which has been strongly opposed by the local authorities, who have called for a postponement or more gradual phasing in of the entitlement. The cost of providing the additional places required has been estimated as DM 21 milliard in capital finance and annual running costs of DM 4 milliard. Local authorities have called for more financial help from central government and have stated their intention to increase fees and relate them to parental income.

There have been no specific moves to increase provision for children aged under three, partly because the implicit objectives of policy for this group is to support decisions by mothers to stay at home to look after young children. Nursery schooling is seen as conceptually different, addressing the educational and social needs of children rather than being aimed at supporting labour market participation by mothers.

GREECE

Protection of pregnant women in the workplace

By Law 2224/1994 art.9, the provisions of the General National Work Agreement of 9 June 1993 concerning paid maternity leave of 16 weeks have been ratified. Consequently, arrangements for the protection of motherhood are the following :

- protection against dismissal, covering pregnant women, mothers of children of up to one year old and women unable to work because of health problems due to pregnancy or birth. The protection against dismissal is guaranteed by Law 1483/84.
- maternity leave for 16 weeks (eight before and eight after the birth of the child). In the case of a premature birth, maternity leave after the birth is increased by the corresponding number of remaining pre-natal weeks of leave. Maternity leave brings full pay in both the public and (following Law 2224/94) private sectors.

Flexible and part-time working

No changes during 1994.

Maternity/paternity leave and temporary or partial career suspension

No changes during 1994.

Child care

In 1994 there were 1,120 public nursery schools, 38 public day care centres, and 38 day care centres run by PIKPA (a non-profit organisation), 103 nursery schools run by the National Welfare Organisation, 40 day care centres run by specific day care institutions and 36 nursery schools and day care centres run by charitable institutions. In addition there were around 100 day care centres and facilities in the private sector.

Public nursery schools and day care centres are free - but the child is accepted, only if the mother is working outside the home and/or the father is unemployed (only if there is no demand from those categories are children of non-working mothers and less needy families accepted). All the above categories (with the exception of private nursery schools/crèches/day care centres as well as of nurseries/day care centres run by charitable organizations) have staffing problems due to severe budget cuts. The problems are evident both in terms of gross staffing levels and in staffing ratios.

SPAIN

Protection of pregnant women in the workplace

Spain has ratified the international Conventions on protecting the health of pregnant women. There is no specific legislation of a restrictive nature in this area and there were no new developments in 1994.

Flexible working

Flexible hours, particularly for starting and finishing work, are fairly widely used, without explicit reference to the family. The degree of flexibility is generally quite limited and core time of between five and six hours each day is maintained. There is no official policy on the subject.

Maternity/paternity leave and temporary or partial career suspension

Amendments adopted in 1994 which will come into force from 1995:

- the blanket Law accompanying the State Budget Law for 1995 (Law 42/1994 of 30 December - *Medidas fiscales, administrativas y de orden judicial*) [fiscal, administrative and legal measures] extends social security protection to the area of maternity.
- a maternity allowance (*subsídio por maternidad*) has been introduced to replace the benefits previously received under the heading of temporary incapacity for work. The benefit rate of this new allowance is 100 per cent of the reference remuneration (*base reguladora*) as against the former rate of only 75 per cent. As was also the case previously, a woman must have paid social security contributions for a minimum of 180 days during the five years preceding the birth in order to qualify for this new allowance.

Child care

The progressive implementation of LOGSE (1990 Law governing the reform of the education system) in pre-school education has led to an increase in the proportion of children in education, particularly four year olds. Whereas virtually all children aged four and over are receiving education, only 27.6 per cent of three year olds and 5.7 per cent of two year olds were in education in 1990-91. Attention

is currently focused on the provision of schooling for three-year olds, which should increase over forthcoming years.

Whilst nearly two thirds of children aged four or five attend state establishments, more than two thirds of younger children attend private centres. The Church plays an important role in this latter category. The proportion of all pre-school education provided by the state is growing, increasing from 56 per cent in 1981-82 to 64.7 per cent in 1992-93.

Home-based working

The question of home-based work is rarely discussed in Spain, other than in the context of future opportunities which may be offered by new technologies. There is no government policy on the subject and no stand has been taken by employers and trade unions. This method of working is very uncommon in Spain, with the exception of certain regions (for example Valencia) and certain sectors (toys, textiles). All instances of home-based work occur in the older and less productive industries rather than in the high-tech sectors. No recent data on the subject are available.

Status and role of fathers

From the legal point of view, family responsibilities are shared between the mother and father (obligation for the spouses to assist each other, parental rights). However, the traditional model according to which the man goes out to work and the woman looks after the house and children is still dominant. This model represents the norm, even when a woman is in paid employment.

FRANCE

Protection of pregnant women in the workplace

Labour regulations provide that an employer cannot use the pregnancy of a woman as a reason to refuse to hire her, to cancel her contract during the trial period, or to transfer her (except for medical reasons); they also forbid the sacking of female employees who are pregnant or who are on maternity leave and during the four weeks following such leave.

There were no legislative or policy changes during 1994.

Flexible working

Many measures were taken at the end of 1993 and during 1994 to encourage the development of part-time working (at the initiative of the employee or employer) and to enable work patterns to become more flexible, in particular by facilitating adjustment in working times. The five year law on employment dated 20 December 1993 (and the 1994 enforcement provisions) and the Family Law of 25 July 1994 embodied these changes.

Part-time working

In recent years, part-time working has developed considerably (11.9 per cent of the active population in work in March 1991 and 14.8 per cent in December 1994), especially among women (28 per cent of economically active women in December 1994 compared with 4.7 per cent for men), who currently represent 85 per cent of part-time workers.

The five year law on employment (December 1993) introduced further categories of part-time contracts: possible individual part-time contracts on a weekly, monthly or annual basis (TTPA - Annualized Part Time Work); and collective agreements for sectors, companies or establishments allowing working hours to be adjusted. Civil servants have the right to work part-time to bring up a child under the age of three or to care for their spouse, child or older relative. The Family Law also seeks to foster the development of part-time work by granting the parental child-rearing allowance (APE) on a pro-rata basis.

Maternity/paternity leave and temporary or partial career suspension

There were significant changes in this field in 1994, in connection with the Family Law:

- as of 1 January 1995, irrespective of the size of the company and whichever parent asks for it, an employer will no longer have the power to refuse such leave if the employee has one year's seniority at the date of the child's birth (formerly, a company with less than 100 employees could refuse 'on economic grounds');
- there will be a guaranteed return to employment in the same or a similar job and, as of 1 January 1995, employees on parental leave can undertake training during their leave (previously, this right was only available at the end of the leave);
- people who have taken career breaks for at least five years to care for at least two children will be eligible for professional training;
- retirement provision for parents receiving pro-rata child rearing allowance (APE) will be improved through old-age insurance for parents at home as of 1 July 1994;
- extension of APE to the second child: coming into force on 1 July 1994 for children born after that date.

Parental leave

The number of employees on parental leave in 1994 was approximately 95,000, about 10 per cent of households with two working members who have at least one child under three.

Child care

The CAFs (Family Allowance Funds) devoted more than FF three billion in 1993 to the development of child care facilities (from a total of FF eight billion allocated to child care services by the state, local authorities and CAFs).

Over ten years, the number of places in public or parent-run crèches has increased by 65 per cent, reaching the figure of 188,900 in 1994, distributed as follows:

- 114,600 in public crèches;
- 8,300 in parent-run crèches;
- 66,000 with registered child minders.

250,000 children under three are already attending a nursery school (open all day from 8.00 am to 5.00 pm as a rule) which always has a canteen. Moreover, many day nurseries (325,000 places), which take in children on an occasional basis or for a few hours during the day, supplement this provision.

In total, of the 2,260,000 children under three, about 30 per cent attend public facilities during the day. Furthermore, 34,000 children under six (including about 220,000 under three) are cared for outside their homes by registered child minders (180,000 in 1994). By the end of 1993, 1,500 'child care contracts' had been signed with the communal authorities. Under the Family Law, it is planned to develop these contracts (the CAFs cover 40 to 60 per cent of the operating expenses of crèches).

The government has made provision for the creation of 100,000 additional places in crèches and day nurseries over the next five years, as part of 'local development schemes for the care of young children' (costing FF 600 million in 1995, and 1.2 billion in 1996):

- to help parents meet expenses for the care of young children, a series of financial benefits are available;
- the AFEAMA (Assistance to families for the employment of a registered child minder), instituted in 1991, financed by the *Caisse Nationale des Allocations Familiales* (CNAF) and paid directly to the URSSAF (the body responsible for collecting social security contributions), which corresponds to the social security contributions due when the child is entrusted to a registered child minder. Parents who place their child with a child minder also receive FF 530 per month if the child is under three and FF 318 per month if the child is between three and six years of age. These families (where both parents are working) also enjoy a tax reduction of FF 313 per month. One of the aims of this benefit was to bring the undeclared work of child minders out of the informal economy.

As of 1 January 1995, supplementary assistance to families for the employment of a registered child minder will be increased to FF 800 per month (FF 400 for children between the ages of three and six).

Assistance to parents will thus rise to FF 2,100 per month on average (FF 800 direct assistance, FF 313 tax benefit, FF 970 exemption from AFEAMA to cover social security contributions), representing about 70 per cent of the total gross cost.

As of 1 January 1995, the allowance for child care at home (AGED) will rise from FF 2,000 to about FF 3,700 per month. Half the AGED will be paid when the child is between three and six years of age. At the same time, administrative procedures will be simplified.

IRELAND

Protection of pregnant women in the workplace

Under the 1994 budget (Social Welfare Bill 1994), the minimum rate of maternity benefit was increased from £IRL 65 to £IRL 74.20 per week. If a woman was entitled to more from Disability Benefit than Maternity Benefit she will now get the higher amount. Maternity benefit will now be payable to women who have a stillbirth after 24 weeks of pregnancy rather than after 28 weeks. The EU Directive on the Protection of Pregnant Women at Work has now come into effect. The legislative provisions in Ireland are contained in S.I. No.312 of 1994 and in the Maternity Protection Bill 1994.

Flexible working

There is no national policy on flexible working or part-time working. In February 1994 a Working Group on Child Care Facilities for Working Parents (Government Publications, Dublin) reported to the Minister for Equality and Law Reform. This report emphasised the value of workplace adjustments such as part-time work, job sharing, flexible working hours, career breaks, and term-time work. However, it reported that such schemes are mainly confined to the public sector and the banking and financial services sectors. The context of the discussion in the document was in relation to measures to reconcile family life and working life.

The Report of the Second Commission on the Status of Women recommended that the Minister of Labour should request the Industrial Relations Commission to draw up a Code of Practice which would facilitate the increased provision of flexibility and set generally agreed standards and categories. They also recommended that all jobs, where possible, should be made available on a shared basis in response to demand and that career breaks should be available to all employees on the basis of negotiation. The report of the Working Group on Child Care Facilities for Working Parents (1994) recommended the development of government policy and action which would encourage initiatives by employers and that part of these initiatives should take the form of adjustments to the work schedule.

The Programme for Competitiveness and Work (February 1994) stated that the Department of Enterprise and Employment had initiated a study on the issue of work-sharing, working time and holidays to consider devising an appropriate scheme to include the impact on employment/unemployment; income sharing; incentives; costs; long term impact; gender and disability issues; shift work; overtime; career breaks; parental and family leave; educational leave and job sharing.

The First Progress Report of the Monitoring Committee on the Implementation of the Recommendations of the Second Commission on the Status of Women (May 1994) reported that in the case of civil servants arrangements are in place in relation to flexible working hours, job sharing, career breaks, adoptive leave and leave for domestic reasons. In the case of the defence forces, a scheme for career breaks is under consideration at present. Leave for domestic reasons is also available. All local authorities have been asked to consider the introduction of flexible working hours, job sharing schemes and career break opportunities.

Maternity/paternity leave and temporary or partial career suspension

No change in maternity leave. Paternity leave is not available in Ireland. The Report of the Second Commission on the Status of Women (1993) recommended that statutory paternity leave should be introduced to allow fathers to fulfil their family responsibilities on the birth of their child. The Commission recommended a minimum of five days (to be introduced by 1995) and the establishment of a statutory scheme of leave for family reasons, also to be introduced by 1995.

Parental, paternity and family leave entitlements are under consideration in the context of the proposed EU Directive on Parental Leave. The Minister for Equality and Law Reform indicated Ireland's support for the Draft Directive at a meeting of the Council of Ministers in 1994, and the Government indicated that consultations would be held with the social partners.

In 1993/4 there were approximately 1,350 civil servants on career breaks. Of these, 44 per cent were for child care and domestic reasons, 35 per cent for travel abroad, 13 per cent for further study and eight per cent to take up another job or start a new business (it is no longer possible under the regulations to take a career break to take up another job or start a new business). In the same year there were 902 primary teachers on career breaks. It is not known what percentage of these were for family reasons.

Child care

The Working Group on Child Care Facilities for Working Parents (1994) stated that:

"The continuing absence of a national strategy for the development of child care services and the fragmentation of responsibility for child care issues at the level of government indicated ... a need for a national policy.... a policy vacuum exists".

In Ireland there is very limited public provision of child care for working parents. What public provision does exist is designed to meet the needs of children who are at risk or whose parents are chronically ill, and the children of lone parents where the parent is obliged to go out to work and is unable to make alternative child-minding arrangements. The overall policy objective of such facilities is to contribute to the alleviation of stress situations and prevention of family breakdown.

Non-subsidised or private workplace nurseries: There is very limited development in this area in Ireland. As far as is known there are only two of them in existence. The situation in this area has been static during 1994.

Private day care: The gap in provision of child care facilities is currently being filled by private nurseries/crèches, pre-school playgroups and family day care. No data are available. However, the 1994/5 business telephone directory for the Dublin Area alone has over 200 entries advertising crèches and nurseries. From anecdotal evidence it would appear that there is growing provision in the area of after-school care. Currently there are 1,355 pre-school playgroups registered with the Irish Pre-School Playgroups Association. However, there is no compulsory registration so the numbers may well be much higher. In addition private Montessori and Steiner schools provide services for the three to six age group, the exact numbers of which are not known. Playgroups are not intended to be a service for working mothers and are not structured as such, providing two to three hours per session with the emphasis on the developmental needs of the child.

Other measures geared at reconciling work and family life

Lone Parents: In 1994 the Government began to move towards an employment policy, rather than a welfare-led policy, towards lone parents by introducing new means-test regulations for lone parents wishing to re-enter the labour market. The most important change in the means test for Lone Parents' Allowance was that a substantially increased flat-rate disregard of £IRL 30 per week was introduced and, in addition, only half of any earnings over £IRL 30 per week are now counted as resources. As before, any necessary childminding and travel costs are also disregarded in the means test.

Lone parents are also eligible to participate in the new 'Back to Work' scheme, where they can retain 75 per cent of their allowance in the first year and 50 per cent in the second together with their secondary benefits while seeking out employment opportunities, including self-employment, employment in the voluntary and community sectors and in indigenous industry.

Under the Programme for Competitiveness and Work (1994) the Government and social partners agreed that in view of the contribution which child care provision can make in promoting equal opportunities in employment, progress will be made on the development of facilities in regard to child care for working parents.

Status and role of fathers

Family responsibilities continue to be divided primarily along traditional lines. The most recent evidence shows that fathers do very little housework or child care in families. Mothers are the managers of the family and undertake either on their own or with their husbands or children most of the housework and child care. However, the status of being a father is going through a process of radical change as fathers have lost or are losing most, if not all, of their traditional roles and functions in the family.

ITALY

Protection of pregnant women in the workplace

In 1994 the EU Directive n.85/1992 concerning the protection of working mothers' health and maternity leave was ratified. Its ratification was preceded by a lively debate. As the Italian legislation is more favourable than the Directive (as regards, for example, the length of the compulsory leave of absence), trade unions and women's movements feared that the approval of the Directive might weaken working women's conditions and hinder future improvements in the legislation. Currently the political debate concerns the extension of maternity benefits to economically 'inactive' women (housewives, unemployed and student women) and the generalized increase of the amount of the compulsory maternity benefits (from 80 per cent of the salary to 100 per cent), as is already provided in the public sector and in some collective agreements in the private sector.

In February 1995 the Chamber of Deputies passed a resolution calling on the Government to pursue a range of measures for families, including fiscal and housing provisions, increase in family allowances, provisions for reconciling work and family life, support for Family Advisory Centres, the establishment of a permanent observatory on family matters, and maternity benefits for economically inactive women.

Flexible working

The political programme of the government appointed in May 1994 envisaged measures aiming to reconcile family and work responsibilities; among them the development of part-time work. The 1994 Finance Act (Act 23.12.1994 n.724) included changes to public employment conditions, including the possibility for employees (men and women) to choose part-time work. This opportunity is available to 25 per cent of public employees. Civil servants are also allowed a year-long career break for family purposes. Employers are reported as being reluctant to create part-time jobs, as there are economic disincentives to do so created by social security provision.

There is general agreement among both political groups and trade unions about the need to increase the flexibility of the labour market, including more part-time work. However there is also an awareness of the risk that part-time workers (especially women) can face in respect of career development and social security entitlements. These contradictions have been limited to the development of part-time work up to now.

Maternity/paternity leave and temporary or partial career suspension

Current provisions depend largely on the sector in which parents are employed, leading to considerable inequalities. While this issue has been debated, no legislative or policy changes have taken place.

Parental leave

There has been considerable debate on parental leave. Proposals for extending current provisions and introducing a broader policy on leave for caring purposes, which failed to go through Parliament in previous years, were put forward again in 1994. The Government has indicated that it is in favour of some extensions but no action has been taken as yet. There is also serious discussion about extending leave for family reasons, which is available for up to one year to public sector employees, to those in the private sector.

Child care

Recent Regional laws provide for:

- more flexibility in the organization of the service, to meet the needs of families, particularly one-parent families;
- increasing the number of day nurseries, also by agreements with private institutions with quality standards approved by the Region;
- organizing educational and recreational activities and structures for children and their families (*Regione Marche*, Regional Act 2.6.1992, n.22, Regulations for the promotion and support of the family and the individual; *Regione Friuli Venezia Giulia*, Regional Act 24.6.1994, n.49, Regulations for the support of families and the protection of minors).

The most recent Regional law supporting families (*Regione Liguria*, Regional Act 8.3.1994 n.11, Regional interventions for family) includes provisions for meeting the costs of day nurseries and nursery schools (for no more than five years and no more than two million lire per child).

At the national level, proposals have been presented to Parliament, aiming to improve both the quantity and quality of day nurseries.

Status and role of fathers

The role of fathers in Italian families remains fairly traditional. Recent research indicates that gender roles still tend to become more entrenched in families with children, as women tend to reduce their paid working time to carry out child care and household work, while men tend to increase their working time to meet family financial needs. There is little indication of new paternal models making a major impact.

LUXEMBOURG

The government issued a policy statement on 22 July 1994:

"The government will pay particular attention to enabling parents freely to choose their family lifestyle. It will ensure that parents, when one partner chooses to stay at home to look after the children, will have their loss of income partially off-set. In the same way, it will extend measures enabling women to return more easily to the job market. In addition, the government will support and encourage greater provision of day care centres, nurseries, etc in order to enable both parents to continue their professional activity and also to support single parent families. It will help people bringing children up at home and introduce leave for family reasons."

Protection of pregnant women in the workplace

A 1992 law introducing new maternity insurance benefits was introduced in 1994 (see Chapter Two).

Flexible working

In 1994, a second law relating to flexible working was adopted, following the law dated 26 February 1993 covering part-time work. This law regulates temporary work and 'loans of labour', these types of working relationship having operated until that date in an almost total legal vacuum. They will now be subject to very strict supervision. The loan of labour will now only be possible in very particular circumstances and must be authorized by the Ministry of Labour.

Temporary employment agencies must receive authorization from the Ministry of Labour. Temporary working is governed by a double contractual obligation, between the temporary employment agency and the employing company on the one hand and between the temporary employment agency and the employee on the other. These two contractual relationships are the subject of written contracts containing a certain number of compulsory matching items. Resort to temporary work is restricted to the same circumstances in which resort to fixed term contracts is allowed. A temporary employment contract cannot last for more than 12 months, including extensions. The rights of temporary workers (pay, working conditions, health and safety) are exactly the same as those of a permanent employee of the company involved.

Maternity/paternity leave and temporary or partial career suspension

Private sector: There were no developments in 1994. It should, however, be noted that alongside the proposed EU Council Directive relating to parental leave and leave for family reasons, there is still a Bill outstanding, dated 6 July 1983, to introduce parental leave. This law has still not been adopted and the debate comes up again from time to time.

Public sector: The law of 8 June 1994 introduced a second year of unpaid leave and co-ordinated partial career suspension (part-time working). Public employees now have the right to two years unpaid leave with the right to take up their posts at the end of such leave and, "if during the first two years of part-time working..... a pregnancy or adoption occurs, part-time provision ceases and the employee has the right to maternity or adoption leave.....". At the end of unpaid leave or part-time working, employees may be authorized to cease working temporarily to

bring up one or several dependent children under 15. They may then ask to return to work full-time in their original public service department. Where families have three or more children two further 'baby years' are available.

The first two years of maternity leave guarantees protection of the woman's pension entitlement and the right to be considered for promotion. A new provision allows the third and fourth years to be considered in pension calculations if, at the time of the birth or adoption of the child, the employee is bringing up at least two other children, or if the child is disabled, ill or experiencing substantial developmental problems (permanent reduction of at least 50 per cent of 'normal' physical or mental capacity).

Child care

The number of day care and 'drop-in' centres continued to increase in 1994. In relation to government-regulated day centres only, the number of places rose from 818 in 1993 to 986 for 1994.

Company nurseries: At the moment, despite numerous discussions, opinions are divided as to the merits of promoting company crèches. In a response to a parliamentary question in March 1994, the Minister for the Family indicated that a subsidy to companies setting up crèches will be available up to the LFR eight million allocated in the 1994 budget to encourage the establishment of day care centres.

Nursery education: A regulation dated 2 September 1992, the National Education Ministry of the Grand Duchy made it compulsory for every child reaching the age of four before the 1 September of the current year and not yet eligible for school to attend play school as from the year 1993/94. In April 1994, a circular from the Minister clarified such compulsory attendance and indicated that if the child did not attend, a combination of encouragement and last resort measures could be implemented by a designated social worker.

Home-based working

No legislative developments during 1994.

Status and role of fathers

No legislative change or substantive debate during 1994.

THE NETHERLANDS

Protection of pregnant women in the workplace

No legislative changes during 1994.

Flexible working

The majority of working mothers are employed in part-time jobs. Working hours and flexible working were major issues in the 1994 wage negotiations. The main result has been the extension of shop opening hours.

Maternity/paternity leave and temporary or partial career suspension

No changes in legislation. The labour force participation of woman in the Netherlands is increasing, and fewer mothers are leaving the labour force, but the trend, even among the youngest cohorts of mothers, is still to stop working or change from full-time to part-time work on the birth of a child.

Parental leave

Parental leave of up to six months for either partner was introduced in 1991. The basic scheme is unpaid, although collective agreements with some employers provide for full or partial payment and various extensions to the time. The take-up of parental leave varies across employment sectors and is often related to whether it is paid or unpaid. Workers in the non-profit sector, where leave is more often paid, for example, are more likely to take leave than those in private industry where it is mostly unpaid.

There were no changes to legislation during 1994.

Child care

Child care provision increased by 50 per cent between 1989 and 1992, most of the increase being accounted for by day care places. Availability remains very low, however, at only 3.2 places per 100 pre-school children. There has been a stagnation in the provision of day care by companies. Most child care for working parents is provided by the other parent or by a member of the extended family. Even in the formal system the borderline between formal and informal child care is not always clear, as volunteers play a substantial role in the day care system.

Home-based working

Tele-working appears to be largely practised by men. Women are being encouraged to start businesses during the 1990s, which has led to some increase in home-based self-employment.

Status and role of fathers

No legislative change. The traditional division of labour is prevalent, though it is beginning to be debated.

PORTUGAL

Protection of pregnant women in the workplace

There have been no changes in the protection of pregnant women against dismissal or in job security.

Flexible working

In 1994, in order to reconcile work and family life, wage-earners are legally entitled to the following (Statutory order n° 4/84, of 5 April, with regulations set out in statutory orders n°s 135 and 136, of 3 May 1985):

- either parent is entitled to miss work up to 30 days per year to care for a sick dependent child under 10 years of age;
- a wage-earner is entitled to miss work up to 15 days per year to care for a sick dependant over 10 years old, a spouse or a relative in ascending line;
- either parent with children under 12 years of age is entitled to part-time work or flexible working;
- subsequent to maternity leave, either parent is entitled to special leave (unpaid) to care for children. This leave may be granted for six months and can be extended to two years.

There have been no recent changes or extensions in the area of flexible working.

Maternity/paternity leave and temporary or partial career suspension

There has been no debate on the subject of temporary or partial career suspension and there are no legal provisions concerning career break schemes. Regulations of law n^o 4/84 were set out in two separate statutory orders, one for the civil service sector and another for private entities. The two schemes are very similar but one difference is entitlement to two days paternity leave for wage-earners in the civil service sector. Trades unions also refer to a stronger tendency in the latter sector for use to be made of legal provisions.

Child care

Levels of fees paid by parents for child care services vary according to the type of child care service and family income. In 1994, the maximum fee paid in the establishments directly administrated by the Ministry of Employment and Social Security (MESS) was ESC 23,300 (47 per cent of the national minimum wage). Amounts take into account per capita family income and, according to social security statistics, a high proportion (63 per cent in 1992) of families using these establishments have a monthly per capita income below the national minimum wage. In 1994, families with a monthly per capita income below the national minimum wage would pay fees ranging from several hundred escudos to ESC 14,790 (this would include meals).

Private profit-making school establishments charge higher fees for pre-school nurseries, ranging in September 1994, in Lisbon, between ESC 30,000 and ESC 46,000 (with meals included) or ESC 13,000 less with no meals included.

The issue of pre-primary education has been taken up lately not only by the National Council for Education, which produced a report on pre-primary education in 1994 and has insisted that higher take-up rates should be put into effect, but also by the opposition parties, particularly the Socialist party, which has included pre-school education as a main topic in its agenda on education policy. It is also an issue which is periodically discussed in the context of the costs and the quality of educational establishments. A survey carried out by DECO on crèches and nursery schools in Lisbon and Porto, showed in 1993 that the quality of pre-school child care was often mediocre (too many children, poor security conditions etc.), due to lack of surveillance and lack of resources.

Status and role of fathers

There have been no legislative changes during the period. Surveys reveal that attitudes are changing, with most respondents expressing commitment to a 'symmetrical' family structure, but the actual allocation of household tasks is little altered.

UNITED KINGDOM

Protection of pregnant women in the workplace

There have been several important rulings relating to the protection against dismissal of pregnant women. The European Court of Justice has ruled that the termination of a contract on the grounds of pregnancy constitutes direct sex discrimination and that it is inappropriate to distinguish between pregnancy and the consequences of pregnancy or to compare pregnancy with illness.

The European Court of Justice also ruled that a Ministry of Defence regulation relating to the dismissal of pregnant workers was in breach of European legislation. As a result, in 1994 the Ministry accepted liability for an estimated 3,500 workers who had to cease their careers after becoming pregnant. However the level of compensation to be paid out is being contested by the Ministry after several exceptionally high payments were awarded.

Flexible working

Part-time work is still the most common form of flexible working, with figures for winter 1993/94 showing that 92 per cent of mothers with children under 16 working part-time did not want to work full-time. Only 11 per cent of women working part-time were doing so because they could not find full-time employment.

In March 1994 the House of Lords ruled that British law on the rights of part-time workers was in breach of European legislation. As a result of this judgement, any employee can claim unfair dismissal, or be eligible for statutory redundancy payments, whether they are employed full-time or part-time providing they have worked for the past two years, rather than five years as was previously the case. Although the government opted out of the European Directive on the protection of part-time workers against unfair treatment by employers, in a written reply in the House of Commons in December 1994 the Employment Minister has agreed to comply with the Law Lords judgement.

Opportunity 2,000, a campaign launched by a group of major companies, aims to increase employment opportunities for women at all levels. It has called for a more family friendly workplace, concentrating on flexible working arrangement, child care provision and consideration of the needs of employees caring for elderly relatives. One practical measure concerning flexible work put forward in 1994 was a Family Friendly Employment Agenda produced by the UK Association for the International Year of the Family. It consists of a step-by-step guide containing 36 practical action points, that can be used as a starting point in all organisations. Examples of best practice collected throughout the year were presented at a conference on changing work practices in November 1994, to explore how to make policies work in the commercial reality of an international company.

Maternity/paternity leave and temporary or partial career suspension

There has been some debate about parental leave sparked off by the Employment Minister's decision to opt out, under the Maastricht Protocol, of the European Directive on Parental Leave whereby a father could voluntarily take leave to care for an older child on his own. Unfortunately, press reporting of this has confused parental and paternity leave.

Child care

There is a wide variety of formal arrangements for child care in the UK. These include child minders, playgroups, nurseries, crèches. There are around four million children under five years old in the UK. In principle, the Department for Education is responsible for pre-school education whilst the Department of Health is in charge of child care.

Although the extent of provision for under five-year olds has been increasing, it still remains meagre. A 1994 survey of employer-sponsored nursery provision found that less than one child in 250 (0.4 per cent) had access to an employer-sponsored nursery place. Of the 482 workplace or partnership nurseries in the study, more than half (57 per cent) were partnerships. Employers in the public sector provided or subsidised the majority (67 per cent) of nurseries, with 18 per cent by the private sector. The average weekly cost of a place in such a nursery is £76.00.

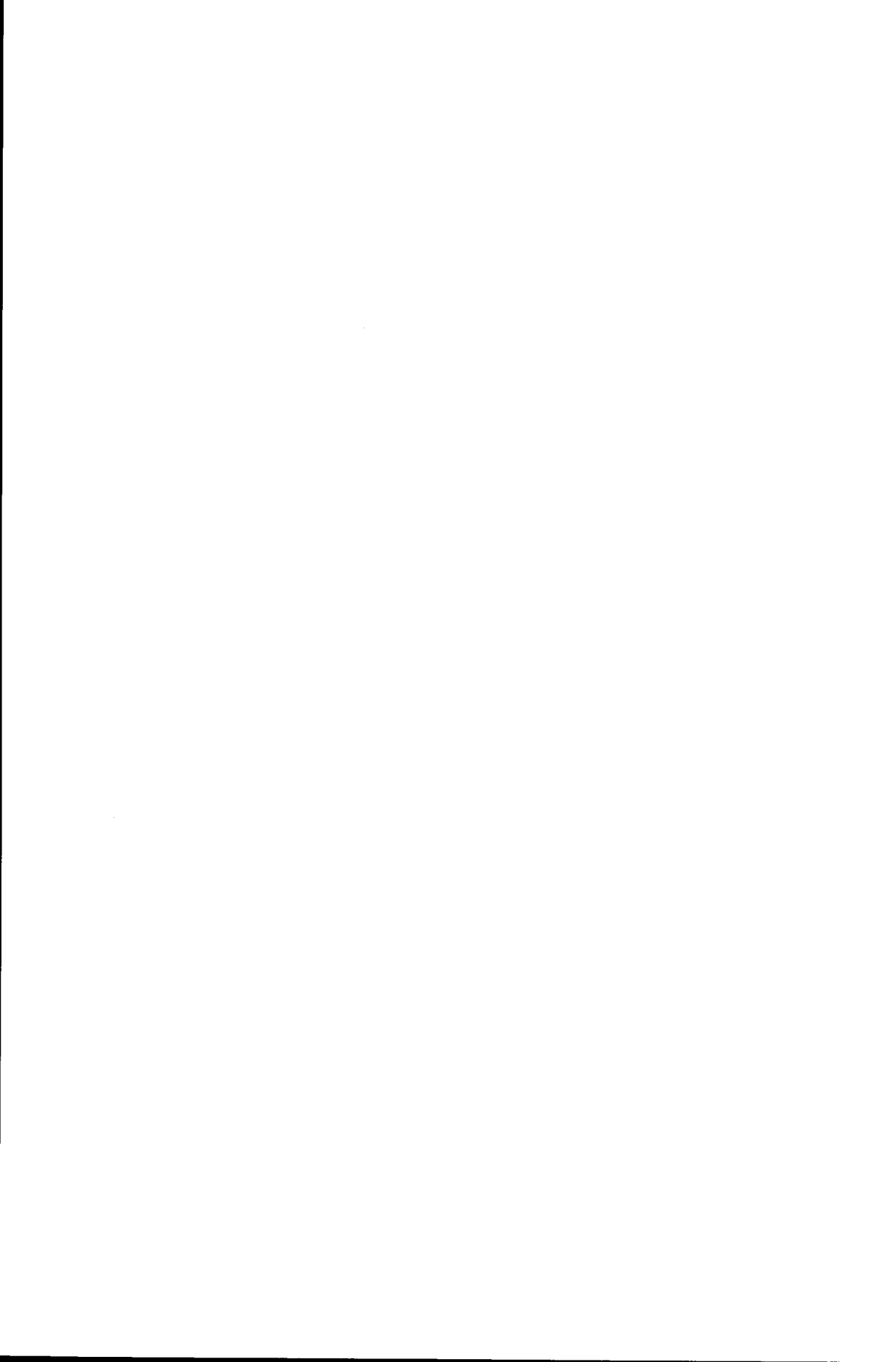
Much of the debate in this area has been around the provision of education to children below compulsory school age. At the Conservative Party conference in the Autumn of 1994, the Prime Minister pledged to provide, over time, places for all four-year olds whose parents want places for them. The Education Minister has set up a taskforce to carry this out. The taskforce is currently consulting with the parties currently providing places for young children, such as playgroups, private and voluntary establishments and local education authorities, and wants to maintain the diversity of provision currently available.

In August 1994 the Secretary for Health decided to clarify the law relating to the physical disciplining of children as a result of a High Court ruling earlier in the year overturning a council's decision to ban a child minder who had refused to give an undertaking not to smack children in her care. It had initially been planned that under the new law child minders would be grouped with parents and close relatives who have the right to physically discipline children in their care, subject to their parents consent, but this may have to change in line with the High Court ruling.

Home-based working

Some home-based work has come in the form of small businesses or other types of self-employment, often involving women. Self-employment nearly doubled in the 1980s, bringing in a high proportion who are women, young people or formerly unemployed. Many self-employed people have low incomes and limited entitlement to social security.

According to the latest Labour Force Survey estimates there were about 2.4 million homeworkers in Britain in 1993 (about one in ten of the population in employment), with half of those often working outside the home but using their home as a base. Most of those working 'from home' were men, whilst those working 'at home' were predominantly women.



CHAPTER 4

Care and Family Obligations

OVERVIEW

The European Union, in common with the whole of the industrialised West, is experiencing demographic changes which will result in 20 per cent of the population being aged 65 or over within the next two decades. Historically, the care of elderly and/or disabled people has been considered a private matter. Concerns about the implications of demographic trends, together with the influence of feminist analyses of family-based care have ensured that the issue is now a subject for public debate across Europe. Policy responses vary widely and are informed by differing attitudes to the role of the family. The 'welfare mix' in each country is also characterised by a particular set of relationships between public, private and not-for-profit institutions. A number of considerations, however, are common to most countries of the European Union.

Privatization

The private sector is the major provider of residential care in some countries, such as Spain and Portugal. Other countries, such as the Netherlands and the United Kingdom, are moving towards an increased use of the private sector. Where the costs of residential care are borne by the state, as in Ireland, there have been moves to restrict eligibility. High costs to individuals restrict access in other countries, such as Spain. Charging for domiciliary services is widespread, although charges are typically remitted on the basis of low income or a high level of need. There is evidence of a 'dualisation' of service provision, with those who can afford it purchasing services in the private sector, leaving the less well-off to rely on increasingly residualised public sector provision.

The adequacy of elderly persons' income; pensions and care insurance

An expansion in the numbers of residential homes for the elderly in several countries has been no guarantee of their affordability, with many considerably beyond the means of a typical pensioner. Germany has been the first country to introduce compulsory insurance against the risk of needing nursing care, in keeping with that country's tradition as a pioneer in the field of social insurance. Luxembourg is also actively considering the introduction of insurance. In other countries the necessity of funding long-term residential care has led to the exhaustion of personal capital which would otherwise have been inherited by the next generation. The majority of the elderly poor are women. The incomes of women in retirement are inextricably linked to their earlier roles as carers of children and for elderly and disabled relatives.

Carers and expectations about the role of family members

The concept of 'caring' as a specific activity is not readily understood in all countries. Mestheneos and Triantafillou, writing in 1993, stress that the concept is both new and alien in Greece. They make the important point that elderly people typically play a reciprocal role, by providing capital or property, or by assisting with child care, so that the relationship is not perceived as one of dependence. Pitaud (1993) makes a similar point with reference to France, arguing that the concept of solidarity is a key to understanding informal social support in that country. Feminists in Italy and Spain appear to have concentrated their energies on child care problems, so that the debate on caring remains relatively unarticulated. In noting a particular propensity for the Mediterranean countries (Italy, Greece, Spain and Portugal) to have poorly developed services both for the provision of domiciliary care and for the support of carers it is difficult to assess the relative contribution of entrenched family and gender roles and a low level of economic development. What is clear, however, is that traditional role expectations are becoming increasingly strained, with carers reporting feelings of stress and isolation, and instances of elder abandonment being noted (Twigg, 1993). Rising employment levels for women aged 25 to 49, which are projected to continue for the next 30 years (European Commission, 1994) suggest a declining 'pool' of potential carers.

Table 4.1: People aged 60 and over and 80 and over as per cent of population in the EU 1990–2020

Country	60 – 1990	60 – 2020	80 – 1990	80 – 2020
Belgium	20	28	3.5	5.6
Denmark	20	26	3.7	4.2
Germany*	21	30	3.8	6.3
Greece**	20	–	3.0	–
Spain	19	25	2.8	4.5
France	19	26	3.7	4.2
Ireland	15	22	2.1	2.9
Italy	20	30	3.1	6.2
Luxembourg	19	26	3.2	4.8
Netherlands	17	25	2.9	3.9
Portugal	18	26	2.5	5.4
United Kingdom	21	24	3.6	4.6
EU 12	20	26	3.4	5.2

Source: McGlone and Cronin, 1994, Eurostat, 1992

* excludes former East Germany ** Data not available for 2020

Table 4.2: Supply of residential care places in the EU (per cent)

Country	Places per 100 people 65 and over – all residential care	Places per 100 people 65 and over – nursing homes
Belgium	7.8	2.1*
Denmark	13.2 (11.3)	5.3
Germany	5.4	2.3
Greece	0.5	–
Spain	2.0	0.2
France	5.1	2.4*
Ireland	5.0	–
Italy	2.3	–
Luxembourg	7.8 (6.8)	1.4
Netherlands	12.3 (9.7)	2.6
Portugal	2.0	–
United Kingdom	10.0 (5.0)	–

Source: Walker et al., 1993

* includes long-stay geriatric/hospital beds

Figures in brackets show places net of sheltered housing provision

Note: because of differences in categorisation of accommodation, data should be treated as giving approximate trends only.

BELGIUM

As Belgium is a federation with French and Flemish speaking communities there are some variations in family policy. However, there are some nationally agreed policies. At the national level there are three types of services designed to cover the expenses of assistance by a third person. Policies for disabled people encompass two non-contributory benefits provided by the state: the allowance for aid to elderly persons (APA) and the integration allowance (AI). Policy on disability and industrial accidents and diseases makes provision for aid by a third person, which is funded by Social Security (compulsory insurance). Finally there are career break allowances in the context of unemployment insurance. These allowances are increased for persons interrupting their careers for family reasons. It is planned to extend career break allowances to public and private sector employees providing up to 2 months palliative care to a terminally ill person in the near future.

It is estimated that about one household in seven is involved in providing care for an elderly person. Services which are available at the local level include 'sitting' services which allow short breaks from caring, and day care centres which provide respite care. In the Flemish community, there are a variety of home-based services available. Charges are levied according to income. There are also

allowances, usually paid to the person providing care, in about a quarter of the Flemish municipalities. These, however, are paid at a low rate, never exceeding BFR 5000 per month.

DENMARK

It is not common for adult children to be the prime carers of the elderly nor is this likely to change in the near future. In the 1980's compensation was introduced for those who wished to care for dying relatives at home. The maximum amount of compensation awarded is aligned with the wage of a paid home help. Take-up has been low: claims were made in respect of only 670 of the 60,000 deaths in 1992.

Another issue of concern in Denmark is informal intra-generational care: spouses are generally expected to help each other, and are in reality the most important source of help and care. The principle of individualisation is therefore disregarded. Recent debate in certain municipalities has focused on the potential for older children in the household to provide assistance.

There is a general duty on local authorities to provide necessary home help services to the elderly free of charge, and home-help, meals on wheels and home nursing services are available in all areas of the country. There has been no privatization of service and care except for the contracting out of "meals on wheels" and cleaning services in a few areas. Some voluntary organisations also provide visiting services. There is ongoing public and government discussion on the contracting out of services for the elderly and on charging for supplementary services. The underlying rationale is not one of shifting responsibility to the children, but rather of ensuring that the coming generation of elderly people pay directly for the expanded services that they will demand.

Home help can be given occasionally to relieve parents with a disabled child at home. Below a certain income (assessed in relation to the level of old-age pension) this is free of charge. Above this level there is an income related payment. If a daily help is needed the costs will be covered by the municipality. These rules were introduced as a consequence of the policy of de-institutionalization. There are also two new initiatives funded by the Ministry of Social Affairs which involve pilot schemes for relatives caring for severely disabled individuals who would normally be in an institution and for parents who have received compensation for the care of a disabled child.

The current position is that the private sector does not play a role in the provision of residential and nursing homes for the elderly. The government has submitted a Bill to Parliament proposing reductions in the taxation of inheritance, with the aim of facilitating inter-generational transfer of capital.

Family help/respite care

Provisional (short-term) home help is available for those who are unable to take care of their home or children due to sickness. Payment for this service is calculated according to household income. Persons who are permanently disabled are offered the service free of charge. The Social Welfare Act stipulates that local authorities should provide relief measures for parents with disabled children living at home.

GERMANY

Families as providers of care

After long and controversial discussion the Care Law was passed on 26 May 1994 ("The Law for the social cover of the risk of being in need of care"; Care Insurance Law). It comes into force in 1995.

The purpose of the law is to help those in need of care to lead as independent and self-determined lives as possible. The law intends to facilitate freedom of choice between residential establishments, social (ambulatory) services and cash benefits to (private) care providers (§ 2 PflegeVG). Home care by relatives and neighbours should, however, have precedence. The law extends the definition of those in need of care, which was limited to those in severe need under the previous health insurance regulations.

There are three levels of need, determining the benefit claim. The requirement of 90 minutes of care per day is the bottom limit for Level 1 (DM 400 per month). Care Level II (DM 800 per month) covers those seriously in need of care and Care Level III (DM 1300 per month) those most seriously in need of care. There are, in addition, benefits in kind including ambulatory care and institutional care. Social Security is also available for care providers who are not otherwise employed: the amount paid is based on the Care Level required and on the amount of care actually provided. Children in need of care also have the right to claim benefits. Here the need for help is measured in comparison with a "normally" developed child of the same age group. The care funds examine applications and determine the level of need of care. At least 1.1 million claimants living at home are anticipated. A further 450,000 persons, in need of care, live in nursing homes. It may be assumed that these are persons most severely in need of care. All persons who were already receiving benefits from the sickness insurance funds were automatically allocated to Level II, on request an upgrading to Level III can, however, also be arranged.

All persons insured in either the statutory health insurance or in a private health insurance scheme are liable for care insurance. People with voluntary health insurance are also compulsorily insured for care insurance. In practice only a small proportion of the population is excluded from compulsory insurance.

Family insurance (§25 PflegeVG; Federal Law Gazette I, 1023) guarantees, as in health insurance, a non-contributory joint insurance of family members. This includes the spouse entitled to maintenance and not liable for social insurance, and children up to 18 years of age. These age limits do not apply to disabled people, and are raised to 23 in the event of their not being in gainful employment, and to 25 in the event of schooling or professional training and voluntary years (extended by the period of basic military service or alternative national service). Strictly speaking, this applies, however, only for social care insurance, not for private care insurance.

The emphasis is on benefits for home care, which began on 1 April 1995. Benefits for residential care do not begin until 1 July 1996. It is the person in need of care and not the care provider who is entitled to benefit. All benefits are paid independently of income and assets. Benefits for home care include both the Home Care Allowance and benefits in kind.

In 1994 a petition against care insurance was submitted to the Federal Constitutional Court. A family supported by the "German League for the child in the family and society", argued that their disposable income would drop as a result of the deduction of contributions for care insurance and that they would thus almost approach the level of needing social assistance. The Court accepted the petition for a preliminary hearing.

Debates on the care law centred around three issues. The first criticism was that quality of care services would not be improved. The second was that by giving allowances to those cared for, there would be escalation of costs, or carers who previously worked for nothing would now demand payment. In fact compensation to carers was an important aim of the legislation. Residential care costs may increase, however, so that they outstrip the care benefit. Thirdly, the system may also experience financial difficulties, although it is too soon to say if these anticipated problems will occur.

GREECE

Care of elderly or disabled people, and of other dependent persons

There have been no recent changes or developments, and there is no recent evidence on the role of family or friends in relation to 'informal' welfare. There is no formal support and there have been no changes in provision for carers. Although the number of elderly people in nursing homes is increasing, their proportion of the total elderly population remains very low.

There have been no developments affecting the rights of inheritance during 1994. Although in some cases savings and even capital sums are being used to pay for care (both for care in the home and for care in a private nursing home), there are no data concerning the extent of the phenomenon.

SPAIN

Care of elderly or disabled people, and of other dependent persons

Tax allowances

Tax deductions are awarded once a year to families with elderly or disabled adult dependents. In 1995 this deduction represents PTA 15,500 per dependant, increasing to PTA 31,000 if the dependant is over the age of 75 years, and with an additional sum of PTA 52,000 (which may be added to the other deductions) for any disabled person regardless of his or her age. The level of these benefits remained unchanged between 1991 and 1994 and has just been increased by a percentage which is aimed at off-setting the rate of inflation forecast for 1995.

Informal care

The Spanish Institute for Social Services (INSERSO) which organises public awareness programmes about the elderly, such as the Spanish Gerontological Project, has launched a comprehensive survey in this area in collaboration with the Centre for Sociological Research. Preliminary results indicate that 25 per cent of people aged 65 years and over require assistance with their daily activities and with personal care. This percentage rises to 53 per cent amongst those aged 80

years and over. It is estimated that 90 per cent of home-based assistance is currently provided by families.

Financial support

Apart from tax allowances, there are no other formal systems of support for carers. A scheme of allowances for families in this situation was introduced by the Catalan Autonomous Government approximately two years ago. Entitlement to the allowance was so stringently means-tested that it was deeply unpopular, and the scheme never achieved the success expected.

Residential homes for the elderly and the private sector

According to an estimate by INSERSO, around 70 per cent of places in residential homes for the elderly are the direct responsibility of the private sector. The cost of staying in these residential homes, at around PTA 300,000 per month, represents more than three times the average retirement pension and is equivalent to the maximum amount set for public pensions (including supplementary pensions). This means that these residential homes are beyond the reach of the vast majority of elderly people. A common practice would seem to be that of using capital from property (usually a flat). Private residential homes appear to be involved in suggesting and organising this course of action. If these practices are confirmed, they could encroach upon the interests of the elderly person and possibly also of his or her heirs.

Use of capital

No specific regulations exist governing the use of capital (real estate assets, in particular) by elderly persons either to obtain a life annuity or to pay for the cost of residential care. Some banks offer investment income, often coupled with a mortgage guarantee.

Family help/respite care

Systems exist to give families temporary relief from their responsibilities as carers. First, there are Day Centres (*Centros de Día*) which are aimed at people in need of rehabilitation under medical supervision and at those suffering from conditions such as dementia which pose special problems for the families providing care. These Centres allow, in relatively serious situations, the carer to reconcile her work outside the home and the care needed by her relative. For periods of a few days or of a few weeks, temporary stays in residential and nursing homes are also possible. Short-term stays are possible in state homes but seem to be far more common in private residential homes. Given their prohibitive price, these private homes are sometimes used on a sporadic basis, with an elderly person alternating between staying with his or her children and staying at the home.

Household work

Proposals have been made concerning some benefits which might be awarded to those who work full-time in the home (particularly the acquisition of future pension rights), but these have not been followed through and have merited little discussion. The government of the Autonomous Community of Andalusia recently promised a subsidised holiday programme for women home-makers with low or average incomes. This was an electoral promise by the Party which won the 1994 elections, the intention apparently being that it will be fulfilled in 1995.

FRANCE

Family help/respice care

In 1993, 8,500 family workers helped out families in difficulty in two ways, either by assisting or replacing parents in material tasks or by educational and prevention activities. About 94 per cent of family workers are employed by specialist services, mainly by charities. These services also pay 2,900 home helps and thus operate at two levels. They provided almost 12 million hours of work in 1992 at the homes of 130,000 families. More than two thirds of their activities are funded by Social Security agencies. Since 1987, there has been a reduction in the number of family workers.

IRELAND

Care of elderly or disabled people, and of other dependent persons

The Carer's Allowance was introduced by the Department of Social Welfare in November 1990. It is a means-tested payment which is payable to carers who are providing elderly or incapacitated pensioners with full-time care and attention. An income disregard of £IRL 6 per week was introduced in July 1994, for claimants of Carer's Allowance. There is also a new earnings disregard of £IRL 100 per week where there is a working spouse. A pensioner previously living alone can now retain the Free Telephone Rental Allowance where she/he is being cared for by a person in receipt of a Carer's Allowance.

Carer's Allowance is paid to some 4,500 persons at an annual costs of about £IRL 14.5m, and is designed to assist carers on low incomes. The maximum weekly rate of Carer's Allowance (at July 1994 rates) is £IRL 61.00. The Carers' Association in Ireland estimate that there are 100,000 carers in the country, of whom some 30,000 are providing care on a full-time basis. It is estimated that almost 80 per cent of carers are female.

There are two mechanisms for securing accommodation in nursing homes for the elderly. The first is through the Regional Health Boards. Welfare homes are run by the Health Boards for older people who need a high level of care. A full medical assessment is required, usually by a gerontologist and payment of a portion of the resident's pension is required. The Health Board pays a subvention towards the cost of helping the person in care in these homes. This is subject to a means test. Public welfare homes provide 1,600 beds for ambulant patients while public geriatric hospitals and homes provide 7,000 beds. The second mechanism is through private nursing homes run by voluntary groups or private individuals. Of a total of 19,000 long-stay beds for elderly persons in 1992, over 9,000 were provided by nursing homes which were run either by charitable and voluntary bodies or on a commercial basis.

The Health (Nursing Homes) Act 1990, which came into effect in September 1993, provided a new system for registration of nursing homes and for subventing people who use nursing homes. Within a year of the Act coming into effect (i.e. September 1994), all nursing homes were obliged to register with a Health Board. The Nursing Homes (Care and Welfare) Regulations 1993 deal with the standards which apply in registered nursing homes. The rules on entitlement to subventions are contained in Nursing Homes (Subvention) Regulations 1993. The rules, which are quite complex, specify both financial and medical eligibility criteria for subvention.

Family help/respite care

A Respite Care Fund was set up by the Minister for Social Welfare in 1993, to assist voluntary and community groups who provide a broad range of respite care service and facilities. The service and facilities provided may be for people who are full-time carers of elderly people or people with disabilities. The aim of the fund is to support both the carers and the person being cared for. Grants are made to a range of organisations and groups providing respite service. Funding in 1994 was £IRL 500,000.

Other support services

A home-help service is provided on a limited basis by the Regional Health Boards to low-income families in special circumstances.

ITALY

Care of elderly or disabled people, and of other dependent persons

The social and economic crisis that has affected all welfare states in Europe has caused the Italian government to review its social programmes and introduce some corrective measures. The increasing inadequacy of public services has led to greater pressure on the family to satisfy the needs of the elderly or disabled relatives. The family is predominantly responsible for meeting the needs of the elderly and disabled. This is particularly the case in the South due both to the "traditional" solidarity of the kinship network and a deficiency of specialized services.

Despite changes in society and the structure of the population it is the family which still has the responsibility for meeting the needs of citizens. Aid to families is still in the form of money. Since the 1980s this has been reserved primarily for the less well off. A universal policy on services for the elderly and children has never been developed. There is no nationally developed framework law on social assistance. Attempts have been made to fill this gap created by granting monetary aid administered regionally and by local authorities. This provision is very uneven, and at most serves to complement the service already provided by the family.

There is no form of support nationally for people caring for other family members. There have been some initiatives at the local level, however. The Act introduced in 1993 (Act n.49) by the *Regione Friuli-Venezia Giulia* has introduced a benefit for care-giving families. This is an alternative to residential services for elderly or disabled people, or persons who are at risk. It is given on condition that the yearly family income is lower than LIT 40 million. The benefit allotted cannot exceed 60 per cent of the average cost of a residential service (art.23).

Similar measures have been adopted by the *Regione Marche* in 1992 (R.L. n.22, 2 June 1992). Article 6 of this Act provides economic assistance consisting of contribution of a maximum of six monthly payments of an average industrial salary. This will be given to care-giving families undertaking voluntary or brief periods of care for elderly people, patients who are not self-sufficient, disabled people, or persons exposed to risk of dependency and social marginality. Similar measures for families providing care for dependent elderly or disabled members are provided in the Act by *Regione Liguria* (Act n.11, 8 March 1994, art.6).

Family help/respite care

Services of partial and part-time professional help in the household are provided for care-givers who care for the frail elderly, disabled people, and some other people. The aim of this is to prevent people being placed in institutions. Recent surveys have shown that a high proportion of families and households depend on respite care. This is used principally by households where a single person (known as 'non-family household') is caring for a disabled individual. For example, 'non-family' households that include a blind person amount to 19.2 per cent of all households using respite care services.

The Act n.27/1989 of *Regione Emilia Romagna* provides domiciliary services which allow mothers to have break from their daily responsibilities. As in the *Regione Marche* the intention is to provide more kindergartens. The Act n.49/1993 of the autonomous *Regione Friuli-Venezia Giulia* wants to increase the number of places in kindergartens and create more play centres (art 12). Finally, Act n.11/1994 of the *Region Liguria* provides a cash benefit of up to LIT 2 million over five years to cover the pre-school costs of families experiencing economic hardship and with disabled children.

Locally there are initiatives to reconcile professional commitments and the demands of bringing up children. They include the following:

- cultural and recreational activities aimed at integrating disabled people in to their community and to include plays, movies, concerts, exhibitions, the theatre and sporting events. Often these events have a high proportion of disabled people involved in them;
- summer camps are organized by the Commune and the Local Health Board (USL). They take place in a wide variety of places and consist of small groups of 12-15 people. These include disabled people and care assistants.

LUXEMBOURG

Care of elderly or disabled people, and of other dependent persons

In 1992, in a document entitled "National Programme for Elderly People" (1992) the government identified two priorities regarding policies for elderly people: keeping people at home on the one hand and developing residential infrastructure on the other.

The government programme put before Parliament on 22 July 1994 reaffirmed these priorities:

- support can be provided on private, commune and state initiative. Co-ordination and supervision of such initiatives is a matter for the CERPA (Regional Centre for Elderly People). Five regional centres have been set up around the country;
- the co-ordinating conference, the kingpin of the CERPAs, is responsible for co-ordinating activity in institutions and in the outside environment, including home help and care services and the RBS "*Recherche, Bildung, Schoulung*" service.

Day centres

These units are able to take in elderly people to help them with day to day activity. There are 21 day centres in the country. In 1993, there were 328 available places, twice as many in 1989. There are no figures available for 1994.

Telephone alert service

This system enables elderly people living at home to call their families, neighbours or a telephone alert exchange if they need assistance. The scheme has developed considerably during 1993 and 1994.

Benefits

Care allowance

The allowance, paid to people who take care of dependent people in their homes, was increased by 15 per cent in 1993. This benefit is means-tested. In December 1994, the number of allowances paid was 1,721. During the year 418 allowances were suspended due to death and 565 new requests were accepted. The number of beneficiaries has thus increased slightly in comparison with 1993.

The system of crediting years devoted to bringing up children or care of dependants towards pension rights already existed for the private sector, but was extended to public service in 1994. The law of 8 June 1994 (modifying the law dated 16 April 1979) raises the number of "baby years" from 1 to 2. In the case of large families or disabled children, it is planned to credit 4 years.

A second law dated 8 June 1994 (revising laws dated 29 July 1988, 27 January 1972, 25 July 1985 and 22 June 1963) enables state employees to count years devoted to care in calculating pension rights: the following are counted as periods of service, for the purpose of making up the number of years service required for entitlement to an old age pension. Periods after 31 December 1989 during which a person provided care before the age of 65 to a beneficiary of a care allowance or of a special allowance for seriously disabled people or of an enhanced pension following an accident according to the social insurance code or an enhanced supplement to the guaranteed minimum income as per article 3, paragraph 4 of the revised law dated 26 July 1986.

In its statement dated 22 July 1994, the Government also indicated that people who had given up time from work to look after their family may in future be allowed to 'buy back' insurance periods, and for dependency insurance, proportional credits would be reimbursed.

At the end of 1994, the Ministry of Social Security set up an inter-ministerial group to assess existing measures and needs and to study the costs and implications of introducing dependency insurance. This stems from the government's stated intention (22 July 1994) that dependency insurance should be introduced to guarantee the right of older people to care, whoever provides it.

NETHERLANDS

In 1994 after a long debate, the government changed the Disablement Benefits Act (WAO). The old method was based on seven classes of disablement (15 per cent - 80 per cent and more) and on a percentage of the daily wage. The new calculation has greatly reduced benefit amounts and consists of two phases: the loss of

income benefit and the duration of the claim. The duration of the claim depends on the age of the claimant (for example people of 59 years and above have an entitlement up to their 65th birthday). The benefit is calculated for each year that a person is over 15 on the date on which the benefit takes effect. About 2 per cent of the difference between the previous wage and the minimum wage is added to the minimum benefit. Under the new method the benefit is awarded for a standard period of five years. After that the claim is re-assessed.

Care of elderly or disabled people, and of other dependent persons

Care by family members or others is considered as an essential service by the government. On average, family members spend 5 hours per week on care. The National Council of Health finds that family members already offer their maximum in care and help.

People who give financial support to other family members, can sometimes, under certain conditions, get a tax reduction. In some cases volunteers who give support to someone are provided with free transportation or coffee and tea money by the municipalities or the organisations in which they work. There are no specific provisions in respect of carers within the Dutch social security system.

It is impossible to make a clear distinction between private and public or non-profit and profit organisations in services for disabled and elderly people. The provinces (the government and the municipalities) subsidize both forms of organisation. There is a tendency, however, to growth in private sector provision.

In general, care is not free, and many benefits are means tested. In many cases savings and capital sums are being used to pay for care. It is common for single people over 18 and couples who are married or living together and who are in an institution or home on the basis of the General Act on Exceptional Medical Expenses (AWBZ), to pay an income-related contribution of a maximum of HFL 1,350 per month (for nursing home patients 65 and over, the maximum is HFL 2,200 per month). In general, a patient is only obliged to pay a personal contribution after six months. Psychiatric and rehabilitation patients pay nothing at all during the first year of their hospitalization.

A minor change in 1994 is that under the provisions for the Handicapped Act, municipalities are (since April 1994) responsible for transport facilities, wheel chairs and adaptation to the home.

Family help/respice care

There is no system of respice care. Home help services are provided by local and regional agencies. There are a number of agencies, varying considerably in size, in most large cities and in the provinces the services are provided by the smaller municipalities. Home help services are accessible throughout the country. In principle home help is available to all households. Recently there has been a substantial shift in the categories of persons receiving service while the service itself has considerably improved. The increase in the number of very old people and of elderly people living alone, together with the fact that policy is geared toward reducing the need for placement in nursing homes and homes for the elderly, has led to an increasing demand for more continuous home help and more specialised services. This results in co-operation with other services and increased co-ordination with other services such as district nursing.

Government and home help service agencies have tried to bring services more closely in line with the needs of the clients. The original provision of help for five days a week has evolved into a system offering a far wider range of options. Home helps may visit clients several times a day if necessary. Recently it has also become possible to obtain home help outside business hours, during the evening and at the weekends. A responsive service tailored to the needs of the client is particularly important to people requiring intensive support.

PORTUGAL

Care of elderly or disabled people, and of other dependent persons

There have been no marked changes in policy or provision. The National Commission for Third Age Policy created a programme for Integrated Support for the Elderly, aimed at providing finances for projects assisting elderly people in need (Regulations set out in Statutory Order 166, July 1994). Financial provision for elderly people by the state is organized along two main lines. First there is the social security old age pension scheme which entitles insured persons over 65 to monthly old age pensions. Secondly there is the non-contributory old age pension scheme, entitling people over 65 with low incomes (less than 30 per cent of the minimum national wage) and who are not eligible for pensions under the contributory scheme to a "social pension". Levels of payments are low and often below subsistence level for the majority of pensioners.

Three main types of services are available:

- residential care in homes (collective lodgings which provide permanent services);
- day by day care in centres which receive elderly people during the day;
- home care, whereby food and housekeeping is taken to the elderly person's home.

According to social security statistics, the majority of homes in 1992 were provided by private organisations (mostly non-profit social solidarity institutions) that had agreements with the regional centres (there were 24 official establishments, and of 651 not-for-profit establishments, only 75 did not have agreements with the centres).

Day centres and domiciliary help are more recent features of care for the elderly in Portugal and are still being developed. Day centres in 1992 (85 per cent were private establishments which had agreements with social security centres) have increased in number since 1987. The numbers of people benefiting from this is up from 11,370 in 1987 to 27,967 in 1992. These centres play an important role in keeping elderly people in the community. All types of service share difficulty in meeting demand and cover only small proportions of people in need. Attention is currently focusing on the need to improve both the quantity and quality of services offered. Recent evidence based on studies of small communities shows that the gaps in formal services are met in a variety of ways. One way is through informal networks based on the family and on neighbours (an elderly person may be taken in during the day or given meals by another household; physically dependent parents are often taken in by one or by several of their children). Support groups are also established by local authorities and churches.

There is no form of support for carers themselves. Disabled and elderly persons who need permanent care from another person can claim a small supplement over and above their pension. According to social security statistics, pensions constitute the main source of income for the majority of elderly people in homes, with only a small number having some private income.

Family respite/respite care

No services of this kind exist in Portugal.

Other support services

No official support services exist.

Household work

Social policy and provision has centred on the problem of replacement of earnings in situations of disability, illness, unemployment and old age. Social provision was widened to provide some support by the state in situations of non-contribution (benefits include old age social pensions, widow(er)'s pension, orphan's pension). Certain benefits which exist in other welfare states, such as income support, were not introduced. Claims for change or development have been made mostly in relation to existing benefits and also in relation to the introduction of income support or support for lone parent families. Claims have not been made for recognition of child-care and other caring jobs.

UNITED KINGDOM

Care of elderly or disabled people, and of other dependent persons

The British Government appears to be progressively moving towards a sharper distinction between medical and social care. Draft guidance issued by the Department of Health in August said that the National Health Service (NHS) would continue to provide long term care to those with "complex and multiple" needs but for the significant majority needing continuing care the expectation is that they will rely on means-tested social services or a place in a nursing home.

A sharper distinction between medical and social care will have important implications for family carers. If the person needing care does not qualify for means-tested social services or a place in a nursing home they will either have to pay for services or rely on their families for support. It has also been reported by the Audit Commission, the body supervising local government spending, that a number of local authorities in the Great Britain are experiencing problems in funding care services for elderly people, disabled people and those suffering from mental health problems.

Research commissioned by the Carers National Association, a voluntary organisation representing carers, found that the vast majority of carers (80 per cent) felt that the Government's community care reforms, introduced in April 1993, had made no difference to their lives, and 8 per cent believed that services had deteriorated.

Forms of support (both financial and service-based) exist for people caring for other family members. Carers are eligible for Invalid Care Allowance (ICA), provided they are under 65 years old and are caring for someone regularly and

substantially for at least 35 hours per week. However, because of the age profile of carers, and strict interpretation of eligibility rules only 17.5 per cent of carers actually receive this benefit. A Carer Premium of £12.50 per week is also available to those on ICA and Income Support. Credits are also available for social security contributions for those receiving ICA and for those receiving home responsibilities protection (ie at home receiving child benefit or caring for an invalid).

Practical help for carers exists in the form of visits from doctors, social workers and home helps. However, the reality of this help is very limited, and only a small percentage of carers actually receive this kind of support.

For a number of years Government policies have encouraged the use of private sector care homes for disabled and elderly people and this has led to a significant rise in their number. Government spending on care in private homes, for example, has risen from £10 million in 1979 to £2.5 billion by 1992. The Government's care in the community legislation may decelerate this trend, although the Government has stated that it is committed to encouraging private domiciliary care services, a relatively undeveloped sector in the UK at present.

Changes in inheritance rights

There have been no direct developments/changes affecting the rights of inheritance in the UK in recent years. However, one study, published in 1992, calculated "very conservatively" that homes worth £2.5 billion are disappearing each year from families' inheritances because of the need to pay for long term care.

Family help/respite care

Provision is organised by local authorities and so is variable. A carer in receipt of ICA can take up to 4 weeks away from caring responsibilities every six months without losing benefit entitlement. Quality varies but research findings all indicate the usefulness of respite care services and the difference that they make to the lives of carers. A Private Members Bill, the Carers (Recognition and Services Bill) received a second hearing in February 1995. The Bill calls for a statutory right to respite care services and a separate assessment of the needs of carers.

Table 4.3: Care and family obligations

COUNTRY	RESPIRE CARE	CARE OF OLDER PEOPLE	SOCIAL SECURITY	FAMILIES AS PROVIDERS OF CARE	OTHER SERVICES AVAILABLE/LOCAL PROVISIONS	FISCAL POLICY
BELGIUM	Flemish community subsidises services including cleaning, odd-jobs, meals on wheels, nursing at home.	Allowances for aid to elderly persons.	Career break allowances in the context of unemployment insurance. These are increased for family reasons	About 1 family in 7 provides care for the elderly.	'Senior-sitting' service; day care services, local variations.	
DENMARK	Provides home help, on income to family of permanently disabled - free.	Small role for private sector.	Bill before Parliament to reduce the taxation of inheritance	Not common for families to be main carers. Compensation for those who wish to. 670 claims in 1992.	Local authorities have general duty to provide free services such as home help, meals on wheels. With home help there may be some income related payment.	
GERMANY		Care Law passed in May 1994.	Family Insurance. Non contributory joint insurance. 1995 Benefits for the elderly in Care. Care Insurance introduced.	Care Law (25.05.94) Help those in care lead an independent life. Home care by relatives is paramount.		
GREECE	No formal support.	No change.	No change to inheritance	No change. No evidence on care from families. No formal support.		

Table 4.3: Care and family obligations *continued*

COUNTRY	RESPIRE CARE	CARE OF OLDER PEOPLE	SOCIAL SECURITY	FAMILIES AS PROVIDERS OF CARE	OTHER SERVICES AVAILABLE/LOCAL PROVISIONS	FISCAL POLICY
SPAIN	Families get temporary relief from care duties; day centres; homes.	Informal care from family. 25% of those 65+ need help with daily tasks.	No organised support, except the tax allowance and deduction.	Family care is main form of care in Spain.	Other services are not widely available. Some baby sitting via the Federation of Progressive Women. Benefits to those home workers.	Awarded once a year. 1995: PTA 15,500 per dependant; this goes up to PTA 31,300 if 75+.
FRANCE	Local authorities pay home help to assist people at home. Help to 130,000 families in 1992. 8,500 family workers.				Home help to assist those in difficulty at home.	Tax allowance for carers.
IRELAND	1993 Respite Care fund was set up and provides help to those who give care.	Carers Allowance introduced in 1990. Improved earnings disregards in respect of spouses.	Care Allowance.	Family care is widespread. Support for care givers.	Home help to those on low incomes.	
ITALY	Part time or full time help to care givers. High % of families depend on this.	No national support, only local variations.	Aid to families, money.	Family is the main care giver. Shift of responsibility to family.	Aid to families (under respite care) to avoid institutionalisation. Leisure service to families with disabled children.	
LUXEMBOURG		National programme for elderly people (1992). Keep people at home and develop care.	Care allowance, special allowance		Telephone alert service.	

Table 4.3: Care and family obligations *continued*

COUNTRY	RESPIRE CARE	CARE OF OLDER PEOPLE	SOCIAL SECURITY	FAMILIES AS PROVIDERS OF CARE	OTHER SERVICES AVAILABLE/LOCAL PROVISIONS	FISCAL POLICY
NETHERLANDS	No system Local provisions. Agencies vary considerably.	General Act on Exceptional Medical Expenses (AWBZ). Income related contribution.	1994 change in the Disablement Benefits Act (WAO). Tax reduction to care giver.	Care by the family very important. 5 hours per week for the average family.	Home help provided locally.	
PORTUGAL	No services exist.	No change in 1994. Provisions: residential care, day care, home care.	Third party benefits for those who need care by another person (small supplement over and above the pension).	Small communities help each other. Family care is widespread.	No other services available, some paid sitting and nursing.	
UNITED KINGDOM	LA variations. Private Members Bill – statutory respite care.	Draft guidance by the DOH. Sharper distinction between medical and social care.	No change in inheritance rights or tax. Invalid Care Allowance increased.			

CHAPTER 5

Marriage, Divorce, Contraception and Adoption

OVERVIEW

Marriage and cohabitation

There have been few recent changes in the regulation of marriage, although Belgium, France, the Netherlands and Portugal have all increased the restrictions on marriages to non-nationals and non-EU nationals. The legal age of marriage is 18 years in all countries; Ireland raised the age limit last year. In several countries it is possible for under-18s to marry with parental and/or legal consent. There is a Bill in the Dutch Parliament designed to allow same-sex couples to "register" as such, following Denmark's example. Rape within marriage is against criminal law in most states and the Irish government is considering the extension of associated rights (against domestic violence) to cohabiting couples.

Cohabiting couples have few legal rights in EU states, and in many have no legal status. However, there appears to be an increasing, if ad hoc, recognition of cohabitation as a status resembling, but different from marriage. For example, Denmark allows cohabitees to gain pension rights, and Portugal allows a surviving partner (defined as being in need but without other supporting relatives) to make a claim on the estate of a deceased cohabitee. The growth in recognition of cohabitation takes different forms in different states - in Italy, the status of children after separation is important; in the UK, cohabitees are sometimes considered as married couples under social security regulations; in Greece several recent court decisions indicate a new tendency to consider separating cohabitees as married couples. In all states, cohabitees are taxed separately. Cohabiting couples continue to be treated differently from married couples in several countries regarding adoption and fertility treatment.

Divorce and separation

No country has compulsory mediation for divorcing couples, and Portugal, Belgium, the Netherlands and the UK are among those countries which have recently amended or intend to amend divorce regulations. The Irish referendum on divorce has been postponed until November 1995. The trend in those countries undergoing change is to simplify the judicial procedure, and to remove requirements for waiting periods. In several countries, reference to the rights and needs of children in divorce cases has played a part in the simplification. In the UK this tendency is tempered by suggestions that mediation services should be

used to encourage divorcing partners to reach a satisfactory resolution of issues raised by separation including property and access to children.

Parental responsibilities and rights

In most EU states, biological parenthood determines parental responsibility; in cases of lone parents, custody and access does not affect this responsibility. However, the way in which this is employed in the different states is not the same. In France, fathers of children born outside of wedlock only get the rights attached to this if they register paternity within the first year. In Portugal, biological parents have a constitutional obligation to their children, while in the UK and Greece, fathers have few actual rights unless they are married to the mother. In all states, custody in the majority of divorce and separation cases is given to the mother, although in the Netherlands, the rights of unmarried fathers are likely to be strengthened by the provisions of a Bill submitted to parliament last year. In France and the UK debates have arisen about fathers' rights and responsibilities, but these have not been a significant issue in the Mediterranean countries.

The Netherlands, the UK and Denmark indicated a strong representation of interests in educational authorities, but in Portugal and Italy, while this is facilitated, representation is limited due to the lack of parents' time and the lack of power of the relevant authorities respectively. Belgium, France and Greece have no information on this type of representation. No country appears to have facilities for parental representation in the health services.

Adoption

Adoption in all the countries is subject to strict regulation regarding the age/marital status of applicants wishing to adopt. In Belgium, cohabiting couples are not allowed to adopt, but single people are; in Denmark, long-term cohabitantes are allowed to adopt, but single people are not. In the UK there has been some debate about homosexual couples adopting and trans-racial adoption; more vigorous debates have concerned adoption from abroad, inter-racial adoption and an age-limit for parents. The majority of adoptions (in those states for which figures have been given) are of a spouse's child, except in Italy, where the adoption of non-nationals far outweighs those of Italian-born children. In most countries, the agencies for adoption are private and voluntary, although Belgium is an exception. In the Flemish community '*Kind en Gezin*' was established in March 1994 to oversee international adoptions. In the French community the corresponding agency, established in 1992, is the '*Administration de l'Aide à la Jeunesse*'. Denmark and UK have introduced stricter criteria for international adoption, and Italy is likely to do the same. Greece is promoting the practice of fostering and Italy is in the process of increasing the number of foster families, due to the high proportion of children in institutional care.

Fertility control

Very little information has been provided on the cost and availability of contraception. In the UK and Italy it is free; in France the cost of the contraceptive pill is reimbursed by Social Security; in Portugal there is a constitutional right to family planning advice. Health education programmes on HIV and AIDS, use of and access to condoms in Portugal, Greece and Ireland have increased in the last five years or so.

Abortion legislation remains unchanged in all states, although the conservative climate in Italy may result in the introduction of stricter legislation. An Irish Bill to allow doctors to put patients in touch with foreign abortion clinics is due to be passed by the Dail in April 1995, and has aroused concern and protests in Catholic and lay conservative circles.

With the exception of Portugal and Italy (where regulation is likely to be introduced shortly), medically assisted fertility treatment is closely regulated, as is the treatment of embryos. In the Netherlands, Portugal and Italy, the rights and status of fathers have been in dispute around this issue, although the arguments pursued in each are very different. The availability of fertility treatment varies widely - for example in Ireland it is extremely limited, in terms of techniques used, and access; in Denmark it is widely available, and considered to be a general form of medical treatment. In countries where legal norms exist non-commercial surrogacy is tolerated.

Rights of children

These vary across the EU. In Greece the legal term 'parental authority' has been replaced by 'parental care' and in Italy there remains a strong tradition of parental authority; in Portugal parental authority has been tempered by the specification of rights and obligations in the relationship between parents and children. In most countries, children have a right to a hearing in cases of divorce, and in Portugal, over-14s' consent must be gained in adoption cases. Denmark makes the widest provision for children's autonomy, but in the UK, recent developments in this area have focused on reducing the age of criminal responsibility of children, and in France, the rights of children born to foreign parents have been severely curtailed. Children's rights are a matter of some debate in Ireland, but the Government did not provide the report expected last year in connection with its ratification of the Hague Convention.

BELGIUM

Marriage and cohabitation

No changes in regulation of marriage occurred during 1994. There have been no changes in legislation affecting cohabitantes. Cohabitation is not recognised as a source of specific legal relationships. There was no change in the treatment of rape in marriage.

A law of 6 May 1993, intended to prevent marriages of convenience between non-EU foreigners and Belgian nationals requires the partners to live together. Since the law of 6 August 1993 in order to obtain Belgian nationality by marriage, the duration of the legal residence and/or cohabitation in Belgium was extended from 6 months to 3 years.

Divorce and separation

The law of 30 June 1994 (Civil Code) altered the assumption that marriage is an institution whose stability should be encouraged. There are no longer any waiting periods. The reconciliation phase is now discretionary and divorce is no longer granted but pronounced. The new procedure provides for "the right of children to a hearing" under article 12 of the Convention on Children's Rights. This Convention came into force in Belgium on 25 November 1991.

In the case of divorce by mutual consent, there are changes concerning the contribution to the cost of education of the children: "contribution to the cost of maintenance and education", is replaced by "contribution to the maintenance of life, education and appropriate instruction". The agreement concerning the rights of care, visiting and costs of maintenance of children may be modified at a later date.

Previously spouses who wished to divorce by mutual consent were obliged to provide by notarial act a description of the property and an estimate of all their movable and immovable goods. The new law of 30 June 1994 makes this discretionary.

There was no change regarding legal separation, or separation of cohabitantes.

The law of 30 June 1994 is based on the presumption that the couple have taken a firm decision to divorce before starting divorce procedure, so there is no requirement for mediation.

Pregnancy/fertility/parenthood

No changes in the regulation of contraception/fertility control during 1994.

The Commission of Evaluation set up to assess the impact of changes in abortion legislation in 1990 reached the (provisional) conclusion that there had been no alarming increase in the number of abortions since its liberalisation.

The Decree of the Flemish Government of 16 March 1994 designated the department "*Kind en Gezin*" (Child and Family) as the competent authority in the matter of international adoption, as stated in article 6 of the Hague Convention. The French community adopted a Decree on 31 March 1994, approving the Convention on the protection of children and co-operation in the matter of international adoption, signed in the Hague on 29 May 1993.

Rights of children

There were further developments in the status of children, who are no longer treated as legal *objects* but recognised as legal *subjects*. For example under Divorce Law (June 1994) children are entitled to be heard by the court in respect of all decisions that concern them; the law of 2 February 1994 regulates the obligatory interrogation of minors from the age of 12.

Parental representation

Parents have a responsibility to represent their children in legal situations and their action must always be in the interests of the child (art. 379 Civil Law). Broadly, and consistent with the UN Convention on the Rights of Children, there has been a move from 'parental authority' to 'parental responsibility'.

DENMARK

Marriage and cohabitation

There have been no changes in the regulation of marriage or cohabitation. Marital age is 18 years - for both men and women. A person under that age needs parental consent as well as consent from the authorities to marry. There is no

official definition of cohabitation. There are no mutual economic responsibilities defined by law in cohabitation relationships; cohabitees are treated as individuals financially independent of each other. Some laws consider cohabitation, so that some pension schemes treat cohabitees as spouses after some years of cohabitation. Rape within marriage is treated as rape generally.

Divorce and separation

There have been no changes in the regulation of divorce and separation. Obligatory mediation or conciliation before separation or divorce was abolished in 1989. The Ministry of Justice has not decided whether there should be a permanent advisory system in Denmark.

Pregnancy/fertility/parenthood

There have been no changes in contraception regulation/use.

There are only a few legal regulations regarding medically assisted fertility treatment; central (state) authorities only set up framework laws. The Minister of Justice has set up a Committee in 1992 which is due to make proposals in 1995, including the need for specific legislation on parenthood of children who are born following artificial insemination including in-vitro fertilisation. Non-commercial surrogacy is permitted.

There have been no changes in abortion legislation in 1994 and no debate on the issue.

Parental status/children's status

No changes occurred in legislation, but a Committee of the Ministry of Justice has submitted an important report (*Fælles forældremyndighed, samværsvanskeligheder, børnesagkyndig rådgivning. No. 1279, 1994*) proposing that unmarried fathers should be placed on an equal status with the mother following a break-up of relations as regards custody if they have lived together for a long time; it should be easier to transfer custody from one parent to the other; advisory services should be extended; the parent who does not have custody should have improved possibilities of following his/her child such as a right of information from the child's school and social institutions. The Minister of Justice presented a Bill (February 1995) to parliament in response to these recommendations. The Bill proposes that agreements made by unmarried cohabiting couples about joint custody of their children are effective without confirmation by the authorities. It is also proposed that the rights of fathers in long-standing (cohabiting) relationships is strengthened.

Rights of children

The Social Welfare Act stipulates that any social care investigation must take place with the knowledge of the holder of parental custody and of any young person who has reached the age of 15 years. The report must also include the views of the child or young person. Regarding fostering, the obligation to incorporate the views of the child or young person should be matched to the age/maturity of the child, until 12 years, when an interview must be held with the child prior to any decision about future arrangements. Children who have reached 15 years of age are given independent status as a party to the case in a number of instances. With the young person's consent, under less stringent conditions, a young person who

has reached the age of 15 years can be placed outside the home, even though the parents oppose such a placement.

The Government has established a "National Council for Children's Rights" from July 1 1994. The aim of the inter-disciplinary Council is to promote the rights and interests of children in society: it has independent status but is financed by the Ministry of Social Affairs. It will follow the development in children's living conditions; present children's viewpoints and promote information about children to authorities; improve the possibility for children to take part in discussions in society and influence the development of the society; point out conditions which violate children's rights. The Council will maintain a close dialogue with a network of different groups of children whose opinions and points of view must be included in the Council's deliberations and decisions. A new project of "Active Participation of Children in Society" was introduced in 1994 and aims to make children and young persons visible as citizens; create understanding for the interests and wishes of young persons and children; strengthen dialogue between adults on one side and young persons and children on the other; inform on democratic processes and rules to children and young persons. Fourteen child-care institutions are working on plans to enable children to have some say in the everyday running of their institution.

Parental representation

Parents have a strong representation in School Boards but there are no provisions on parental influence in the health system. In the public day care system there are governing boards in almost all institutions since legislation came into effect in 1993. In September 1994 the Ministry of Social Affairs carried out a survey on its implementation with the following results: almost all local authorities have established parental boards in child care institutions; many authorities have delegated as much responsibility as legally possible; parents' boards want more influence on wage expenditure; only few authorities experience real problems of cooperation with parents' boards.

GERMANY

Marriage and cohabitation

Legislation was introduced in 1993 whereby only married partners can determine a joint married name. Although a single name is the legal objective, the possibility now exists for either partner to keep his or her own name. The name of the partner not selected as the married name can also be added to the married name as an accompanying name. Double names as married names are, however, excluded, only the birth name of either the husband or the wife can be chosen to be the married name.

The married name should also be the family name of the children. This, too, is only possible in the case of married couples. If the married couple do not have a common name, they must choose the family name for their children. Either the name of the father or that of the mother may be selected, but not a combination of both names. If the parents cannot agree, the Guardianship Court transfers to one of the parents the right to determine the family name. The decision of the Court

requires no statement of reasons and is indisputable. The Court must, however, hear both the parents before taking the decision and try to arrive at a mutual solution. Non-marital life partnerships are not able to specify a married name and family name.

With regard to the legal status of non-marital life partnerships, only marriage and the family, but not the non-marital life partnership, are under the special protection of the basic law (Article 6 GG). The cohabitation of partners without marriage is not subject to comprehensive family law regulation, but has given rise to pronouncements at Supreme Court level.

Cohabitees do not have maintenance or inheritance rights and are treated separately under tax law (and do not therefore benefit from the married couple's split arrangement), but as a married couple for social assistance. In addition, unmarried parents have no joint right to care and custody of their children; this right belongs to the mother alone. If they separate the unmarried father is largely without rights.

Recent Supreme Court decisions have ruled in favour of equal treatment for cohabiting couples:

- the granting of equal status in unemployment assistance (Work Promotion Law) (Verdict of the Federal Constitutional Court of 17 November 1992;
- the granting of equal status in claiming social assistance (Social Assistance Law) and in statutory health insurance;
- the granting of equal status in certain areas of the Rent Law (Verdict of the Federal Constitutional Court);
- the Federal Ministry of Finance proposed to grant equal status to married couples and non-marital life partnerships in determining the tax free minimum subsistence level as from 1996.

In the joint Constitutional Commission of the Upper (*Bundesrat*) and Lower (*Bundestag*) Houses of Parliament the SPD wanted to extend Article 6 GG to non-marital life partnerships. This was, however, rejected by the majority of the Commission.

The Constitutional Court defined a marriage-like partnership as a life partnership between a man and a woman which is meant to last, does not permit any other life partnership of the same kind and is distinguished by intimate bonds which form the basis of a mutual responsibility of the partners for each other. Clear - but not exclusive - indices are the length of time of cohabitation, joint care of children in the household, joint housekeeping and a joint disposal of income and assets. Life partnerships of the same sex are not marriage-like partnerships according to this definition of the Constitutional Court. There are also several judges' verdicts in this connection:

- decision of the OLG [Upper Court of the Federal state] Cologne of 16.8.1993: No conclusion of marriage between partners of the same sex;
- decision of the OLG Hamm of 29.4.1993: No application of family privileges to homosexual life partnerships;
- decision of the Federal Constitutional Court of 4.10.1993: No conclusion of marriage between partners of the same sex.

Divorce and separation

There were no changes in the divorce laws.

Pregnancy/fertility/parenthood

Mother and Child Foundation: The "Mother and Child" Foundation was established to enable women who would otherwise have an abortion, to have their children. The Foundation is financed from Federal resources, but there is no legal claim to its benefits. It is intended to be a supplementary assistance to the statutory benefits. Assistance is given in individual cases. The prerequisite is that social assistance is not enough. The resources from the Foundation are not added to the social assistance and other social benefits. The application must be submitted to a recognised pregnancy advice centre.

Abortion reform/pregnant women and family assistance law

The Federal Constitutional Court in its second verdict on the reform of §218 STGB (Abortion Law) of 28 May 1993 rejected again as not compatible with the Constitution the compromise obtained in the *Bundestag* by a majority of representatives of all factions.

The Court approved the decriminalisation of abortion after counselling has taken place, but legalisation was rejected. Abortion after counselling might be free from penalty, but not legal. Abortion is thus fundamentally wrong, unless it is recommended on medical, embryopathic or criminological grounds. The Court called, however, for the protection of the unborn life to be more strongly expressed in the basic principles of the legislation than provided for in the law. At the same time, the counselling must be more strongly directed at the objective of protecting the life of the unborn child. Financing of abortions by means of the sickness insurance funds was not possible under these circumstances. The verdict called upon the legislature to improve the social environment for families and children as a whole, and required supplementary social policy measures for the support of mother and child.

In 1994 draft alternative proposals from the coalition partners, the SPD and PDS were submitted to the *Bundestag*.

On 10 June 1994 a debate took place in the *Bundestag* on the occasion of the second and third reading of the Law and the draft was passed. According to this, abortions during the first twelve weeks are against the law, but exempt from penalty if the woman has first undergone counselling and has had a three day period for reflection. Abortions are not against the law if the life of the mother is at risk or her physical or mental health threatens to be impaired. The same applies for severe damage of the embryo and after rape. The costs for abortions are not taken over by the sickness insurance funds, needy women may apply for financing through social assistance. Anyone who compels a pregnant woman to have an abortion or refuse her help, could be punished by up to two years imprisonment.

In the final vote the coalition partners' draft was passed by a majority of only 4 votes. Opposing votes also came from the ranks of the Government fractions. The Upper House (*Bundesrat*) rejected the *Bundestag's* draft in its sitting on 8 July 1994. The CDU/CSU partners decided in January 1995 to resubmit the old

coalition draft to the *Bundestag*. This has been criticised both by the SPD and also from some FDP MPs.

Parental status/children's status

No change.

Rights of children

The Children's Commission of the German *Bundestag* in the introduction to its 1994 Report called for the introduction of "family franchise" in order to give the interests of children more validity in the political system. The Commission demanded more interest for children's concerns and criticised afresh the fact that children's rights are not laid down in the Constitution.

In 1993 the penalty for the production and distribution of child pornography was increased from one to five years' imprisonment. Even the possession of child pornography was made a punishable offence for the first time. In future, German citizens may be prosecuted for sexual offences against children, irrespective of where the offence is alleged to have taken place. In this respect, the German penal code will now be effective in all cases in which German citizens commit acts abroad which are prohibited by German law.

In 1994 there was discussion on the introduction of child citizenship in connection with the naturalisation of foreigners in the Federal Republic. The children of foreign citizens, who are born in Germany should be given child citizenship, which would entitle them to apply for German citizenship on reaching the age of majority.

The 10th German Family Court Conference in 1994 made a number of recommendations concerning children's rights. It recommended that in the event of joint care and custody after divorce, there should be a binding agreement on the maintenance of the child. It recommended that in the event of a charge of sexual abuse in the family there should not be any hasty removal from the family or delayed intervention. The protection of the child is paramount. In the event of removal from parental care and custody, the Guardianship Court judge, or the person who has the closest contact with the child, should explain to the child him/herself the reasons for the decision.

GREECE

Marriage and cohabitation

No changes occurred in the law on marriage since 1983. The legal age of marriage for both sexes is 18 years (art. 1350 of Civil Law), unless a court accepts a request from a minor. It is impossible to be married legally under the age of 10. There have been no changes in the regulation of cohabitation; there are no legal considerations of the rights and responsibilities of cohabitants.

No new provisions regarding the regulation of sexual relations have been introduced.

Divorce and separation

There has been no public debate or changes in divorce laws, or alimony/maintenance during 1994. The law recognises legal separation only indirectly as the effect of cessation of the obligation of the spouses to live together, or as a stage in the legal proceedings for a divorce. There is no law concerning separation among cohabiting couples. In cases that come to be judged in court, the decision follows the provisions concerning the contribution of (legally married) spouses in the acquisition of property and wealth - and each is accorded his/her share in that acquisition. There has been no legal requirement for mediation since 1983. The only existing mediation services are services of the Church.

Pregnancy/fertility/parenthood

There was public debate concerning contraception in the context of sexually transmitted diseases and of the effort to decrease the number of abortions. Although still against contraception in principle, the attitude of the Church has altered, considering it less morally damaging than abortion. The debate is also coloured by the steep decrease in fertility rates.

Since 1986 (Law 1609/1986) abortion is legal, considered as an aspect of family planning and, covered by social security. This means that official statistics have started including data concerning abortions. The number of recorded legal abortions and their proportion of the total number of births remain low (9 per cent in 1993). However, the total number of abortions is reported to be (at least) double the number of births. During the last two years (1993-1994) and as a consequence of the anti-AIDS campaign (and the fear of the disease), abortions have decreased by 30 per cent.

According to the latest provisions regarding fostering (Presidential Decree 337/1993, art.3), fostering should only take place if the parents are unable or incompetent to care for the child; parental care has been suspended or removed and the child has not been placed in the care of relatives; the parents or guardians request the placement in a foster family; the placement is requested by the district attorney. The agencies responsible for fostering and adoption are PIKPA, the MITERA and EOP; the municipal infant asylums in Thessalonika and Patra and the International Social Service can also arrange adoptions. The adoption procedure is long and at the end of 1994, the Minister responsible for family issues announced a re-examination of adoption/fostering agencies and procedures. In fact, these appear to be among the main concerns of a commission of jurists which has been set up during 1994 to study necessary changes in the Family Law. The Ministry of Health, Welfare and Social Security assessed the number of adoptions made in 1991 at 841 at the end of 1994.

The activities of a (new) Association of Foster Families during 1994 contributed to making fostering a public issue.

Parental status/children's status

Fathers have no rights concerning children born outside marriage if they have not legally recognized them. They acquire full rights only if they marry the mother; there have been no changes in 1994.

Rights of children

There have been no developments in this area.

Parental representation

Parents represent their children in all matters that have to do with the care and personal situation of the child in accordance with art.1510 of the civil code. Parental care must be in the best interest of the child whose opinion has to be taken into consideration (art. 1511 of the civil code), it must contribute to the development of the child's social conscience and personality without gender distinction (art. 1518 of the civil code), and (concerning the child's education and professional training) it must take into consideration the child's abilities and inclinations (art. 1518 of the civil code).

SPAIN

Marriage and cohabitation

The regulations governing cohabiting or de facto (*parejas de hecho*) couples was one of the most debated issues in Spain during 1994. In March the municipality of *Vitoria* in the Basque Country created a municipal register of de facto couples which was also open to homosexual couples of either sex. This initiative was followed by numerous other municipalities throughout Spain. The Community of *Valencia* created the first regional register in May which remains at present the only one of its type. Confidential and open to adults, these registers are in all cases regarded as an experiment whose reception will need to be evaluated. Whilst municipalities may issue certificates of cohabitation to the parties in question, these have no probatory validity in legal terms.

Unmarried couples in a stable relationship have some legal standing. The Penal Code recognises such situations by likening to a spouse "the person to whom someone is joined permanently by a relationship based on affection which is similar [to marriage]" and in recognition of the circumstances which may aggravate or alleviate criminal responsibility, *habeas corpus* may be invoked by a cohabitee as well as by a spouse. The Law governing the right of asylum regards both situations as equivalent. Child adoption is also permitted for cohabitees in a stable relationship and the Law on assisted reproduction treats stable relationships and marriage as equivalent for the purposes of fertilisation by donor insemination. The right to maintain rented premises was until recently limited to surviving married spouses, although judges have now extended this right to unmarried couples and the new Law on Rent makes explicit provision for this.

Elsewhere, unmarried couples do not have the same standing as married couples, including family law (especially that governing the future of children after a separation), inheritance law, tax law (income tax) and Social Security. Although some judges have upheld claims for widows' pensions from unmarried female partners, in Autumn 1994 the Constitutional Court ruled against a woman who wished to claim a widow's allowance from the Social Security after 55 years of unmarried cohabitation. The High Court acknowledged, however, that such benefits could be extended legally to unmarried persons since the Constitution did not limit the requirement for family protection to families based on marriage.

The regulations governing cohabiting couples are now under consideration following an announcement by the Social Affairs Minister that a draft Law on this subject is to be submitted. It is already known that this draft Law will cover homosexual couples and will tackle the key areas of inheritance law, the Workers' Statute, Social Security and the tax law.

Divorce and separation

A draft Law aimed at reforming divorce has been submitted by the Socialist Group of the Congress of Deputies, although the process of acceptance and parliamentary debate has not yet started. The draft Law rejects the notion of divorce in two stages, abolishing the need for prior separation. This amendment should simplify the procedure considerably by making it faster and less expensive. The proposal also rejects the requirement that a divorce be sanctioned on the basis of specific grounds such as desertion or ill-treatment. Divorce could be granted in any of the following four situations: first, if the spouses have effectively lived apart in open agreement for six months; second, if the spouses have effectively lived apart for longer than a year; third, if living together might be detrimental to either spouse or to the children and fourth, if either spouse is sentenced to prison for more than a year.

Changes have already occurred in the assessment by judges of the grounds justifying a divorce. A ruling by the Supreme Court in November 1994 demonstrated the extent to which the situation has changed by accepting that a single assault was enough to prove ill-treatment and by granting a divorce.

The draft Law has given rise to a good deal of debate. The strongest reservations have been expressed by separated fathers who believe that the reform does not resolve the problems currently posed by child custody, access and the payment of maintenance allowances. Decisions in this area would continue to fall to judges, who enjoy wide discretionary powers. Judges virtually never award custody of children to fathers, upon whom are imposed visiting rights which frequently do not allow normal relationships to be sustained. Fathers propose that the general rule should, for example, be shared custody of the children, increased access for the parent who does not have custody and that non-payment of allowances should be decriminalised. Women, for their part, stress the problem of non-payment of allowances. Specialised lawyers criticise the fact that some conflictual aspects, such as provisions governing housing, are not included in the reform.

In cases where unmarried cohabitantes separate, the award of a maintenance allowance to the child does not pose problems since this does not depend on the filiation link but, in cases of non-payment, a child will not be able to bring proceedings against his father on the usual grounds of family desertion. The issues of child custody and of the possible payment of a pension for one of the separated unmarried partners pose considerable problems. A judge in *Lleida* (Catalonia) recently awarded custody of the children to an unmarried separated woman and ordered her partner to pay a maintenance allowance for both the woman and her children. This was undoubtedly a dubious decision in legal terms which could not act as a precedent in current legislation.

Pregnancy/fertility/parenthood

Contraception

There have been few changes in this area in 1994. The question of marketing the "morning after" contraceptive pill, RU-486, was again brought before the Congress of Deputies. Although the Government has indicated that it would approve the product automatically, the laboratory which manufactures this pill seems itself to be hesitating to request approval in Spain, for fear of the reprisals which have occurred in other countries.

Campaigns to encourage the use of condoms, especially amongst young people, continue. The General Secretary of the National AIDS Plan announced that a grant had been awarded to allow the reduced price sale of condoms to young people during the Summer months of May, June and July, the period during which they are most sexually active. The campaign would begin in Summer 1995 and will be repeated in subsequent years.

Medically-assisted fertility treatment - ethical problems

There has been no conflict or debate on the issues surrounding assisted-fertility treatment. Approximately three hundred children are born each year in Spain with the help of these techniques.

A decision by the Constitutional Court considered that the sterilisation of mentally impaired people did not constitute an inhuman or degrading practice provided that the family had given its consent. Following intervention by the Public Prosecutor's Office and approval of the intervention by a judge, a report on the consequences was drawn up by experts. This decision provoked a certain amount of debate and a strong - albeit short-lived - media reaction. On the whole, parents' associations of disabled or mentally disabled children, together with most of the members of the medical profession who gave an opinion, were in favour of the stand taken. Conservative circles, especially the Church, were opposed to the decision.

Abortion

As has been the case for some years, abortion was once again at the centre of intense public debate during 1994. In April the Government submitted a preliminary draft amending the regulations governing the termination of pregnancy. The Government introduced a fourth decriminalised category entitling a woman to a termination in the event of "personal, family or social conflict", but only during the first three months of pregnancy and subject to the requirement that before reaching her final decision, the woman must be informed of the assistance for which she would be eligible were she to decide to proceed with the pregnancy. This information would be conveyed by professionals, either doctors or social workers, and would represent neither an examination upon which would depend the right to an abortion nor a mere bureaucratic formality. Following a rejection of the draft Law by the General Council of the Judiciary, the Government specified and expanded upon this information (which has become an instrument for protecting the unborn child), and imposed upon the woman a three day period of reflection after receiving the information and before taking her decision.

The Law would also ensure that abortions could be freely available within the public health service, although not free of charge. As is the case at the moment, an abortion would be free of charge only if falling into one of the first three decriminalised categories (malformation of the foetus, rape of the woman, danger to the woman's life). The Government considers that ways of covering the cost of the operation for women who lack resources do need to be found.

The main obstacle to the practice of freely available abortions within the public health service is the right of conscientious objection by doctors, many of whom invoke this right. In order to get around this difficulty, terminations could be

conducted in specialised centres where objection by doctors could more easily be averted.

The debate on these proposals has taken on considerable proportions and has showed no sign of abating. The Church and conservative political parties have pronounced themselves against the adoption of the draft Law, while more radical groups and feminists believe that it does not go far enough and are calling for "free abortion on demand". Submission of the draft to the Congress of Deputies has been postponed on numerous occasions, with assurances that the reform will nonetheless be carried through to completion.

Adoption

The area of child protection has to a large extent been decentralised to the Autonomous Communities, which must also comply with the precepts of a state Law stipulating the general framework within which adoption must be carried out (Law 21/1987 of 11 November - *por la que se modifican determinados artículos del Código Civil* and the Law governing *Enjuiciamiento Civil en materia de adopción*) [amending certain Articles of the Civil Code and governing the Code of Civil Procedure on adoption]. However, all matters concerning international relations, and particularly bilateral agreements on adoption with certain countries, come under the remit of Central Government which deals with them through the Department for the Legal Protection of Minors at the Ministry for Social Affairs. All international adoption cases must be referred by the Regions through this Department.

In June 1994, at the suggestion of the People's Party (opposition) and with the support of all the other groups, the Congress of Deputies asked the Government to take measures aimed at child protection (some of which are contained in the Law on the Rights of Children currently in preparation) and in particular at improving the effectiveness of adoption procedures. The two main demands concern international adoption. The first raises the need to regulate international adoption in accordance with the Convention on the Rights of Children and with the Hague Convention; the second proposes the creation of international adoption organisations, which could be non-government bodies duly approved by the central authorities (which in Spain can be the Autonomous Communities in accordance with the Convention of The Hague). The Law governing adoption (Law 21/1987) will therefore be reviewed in the near future.

A further issue which was debated during 1994 and which relates to adoption is the possibility of allowing homosexual couples to adopt children. Public opinion is divided on this issue, and may be an area of conflict when the time comes to approve a Law on de facto couples.

Rights of children

The protection of minors has been decentralised to the Autonomous Regions. An agreement between the major political parties on extending the powers of these Regions provides for an intensification of their role in this area in the future. The general framework laid down by the State is currently under review. The Ministry for Social Affairs has announced the forthcoming submission of a preliminary draft Law on the Rights of Minors, incorporating numerous Articles from the Convention on the Rights of Children (ratified by Spain).

According to this preliminary draft, all minors shall be entitled to enjoy the individual and collective rights granted to them under the Constitution, under international agreements ratified by Spain and under all other Laws and regulations. No minor shall be the object of discrimination on grounds of his or her birth, race, sex, handicap or illness, religion, language, culture, opinions or any other family or social circumstance. Minors shall be entitled to a name and nationality and to know their origin by means of filiation. The Law guarantees secrecy in cases of filiation by adoption.

Minors shall be entitled to a private family life without invasion of their home or interference of their correspondence and shall not be subjected to illegal violation of their honour or of their dignity. The Law shall also prohibit the dissemination of information or the use of the image or name of a minor which might constitute an unlawful invasion of his or her privacy, honour or reputation, even if the minor so consents.

In order to ensure that these precepts are implemented, the Public Prosecutor's Office may adopt preventive protective measures. The preliminary draft Law stipulates that parents, guardians and the authorities must ensure that messages given to minors via the media promote the values of equality and solidarity and avoid images of violence and exploitation or the portrayal of degrading or sexist behaviour. In order to guarantee these principles, advertising directed towards minors may be subject to special rules or to prior approval by the authorities.

Minors shall also enjoy the right of freedom of thought, of conscience, of religion and of association, in accordance with which they may join the youth sections of political parties and trade unions. They may participate in public meetings and peaceful demonstrations, which they may also promote and convene, with the express approval of their father or guardian. They shall enjoy the right of freedom of expression and of freedom to disseminate their opinions and produce articles or pamphlets for distribution, and may take advantage of assistance offered for this purpose by the Authorities.

Minors have the right to be heard both within the family and also during the course of any administrative or legal proceedings. In order to facilitate the exercise of all of these rights, the preliminary draft stipulates that minors may seek the protection of relevant public bodies, lodge complaints with the "Protector of the People" (*Defensor del Pueblo*, the equivalent of a Mediator or Ombudsman), and draw to the attention of the Public Prosecutor's Office any situations which may violate their rights. The Authorities must promote measures to ensure that the rights of minors are not jeopardised by lack of resources.

FRANCE

Marriage and cohabitation

There have been no changes to the regulation of cohabitation or marriage, except in respect of marriages of convenience. The laws of 24 August 1993 relating to immigration control and conditions for the entry, accommodation and residence of foreigners, and the enforcement measures taken in 1994, make family reunion and marriage more difficult, and the position of some children and young people

more fragile. Many legal actions have been taken against people suspected of having contracted a bogus marriage (for which the penalty is a prison sentence or fines). A new article of the Civil Code introduced by the law dated 30 December 1993 enables the Mayor to postpone celebration of the marriage and call in the Public Prosecutor if "there are serious indications suggesting that the intended marriage is likely to be annulled through perversion of consent". These provisions present a risk to mixed couples, especially as the issue of a residence permit for spouses of French people requires that the marriage must have occurred more than a year earlier and that they are actually living together. The administration is no longer obliged to issue any residence permit to the foreign spouse. Protection of the foreign spouse against banishment from French territory is only operative when the couple has been married for more than a year.

Divorce and separation

There have been no changes in the regulation of divorce/separation/ alimony.

Pregnancy/fertility/parenthood

There have been no changes in contraception/medically assisted fertility treatment. The Ethics Committee ruled that "surrogate mothers" are forbidden.

Since 1985, there has been a slight underlying drop in the number of abortions and the number of births to under-age women. There were 6,077 abortions in 1991 against 6,416 in 1985. Some hospital doctors have recently refused to carry out abortions, for reasons of conscience. Associations connected with the Catholic fundamentalist movement have organized "anti-abortion commandos" at some maternity centres.

Parental status/children's status

Since the law of 8 January 1993, the principle of joint parental authority has become the norm and applies to both married and unmarried couples. It still applies after divorce or separation. This principle is subject to both parents acknowledging the child in the year of birth.

Rights of children

The law of 8 January 1993 established the principle of a child's right to know who their parents are, except in the case of a request on the part of the mother to give birth anonymously and in secret. It also establishes the right of an under-age child to be heard by a judge in any legal proceedings affecting him/her whether or not he or she is party to the proceedings.

This development towards greater recognition of the rights of the child has only come about with much reluctance being displayed: some lawyers and representatives of family associations have evoked the supposed risks of manipulation of the child or of judicial arbitrariness. Some have also tried to bring out the need to recognize the principle of "family rights", a notion which is absent from the individualistic tradition of French Civil Law.

Prior to the law of 22 July 1993, any child born in France to foreign parents automatically obtained, by virtue of the *jus solis*, French nationality on coming of age, on condition that he or she had resided in France during the three years preceding reaching majority. Now the young person must express their wish for

French nationality between the ages of 16 and 21 and can lose the right to acquire such nationality if they have been convicted of certain serious offences or have been the subject of an expulsion order or been banished from French territory. Thus these young people, until the date they request French nationality, effectively have the status of foreign resident.

From the law of 24 August 1993, foreigners can only bring their families in after two years residence in France; they must have stable and adequate personal resources at their disposal as well as accommodation meeting strict standards; family reunion can only occur once and only applies to spouses and children under 18 whose parentage or adoption are legally established. The Mayor of the district of residence gives his/her opinion on whether the resource and accommodation conditions are met. Sanctions are envisaged which allow residence permits to be withdrawn from those who bring in their children or spouses outside the family reunion procedure.

IRELAND

Marriage and cohabitation

Part V of the Family Law Bill 1994 brings the age of consent to marriage to 18 years. The Bill passed all stages of the *Oireachtas* in February 1995. The Court under Section 32 (1) of the Family Law Bill 1994 may give exemption for a marriage where the parties or one party is under 18 years of age but 'it shall not be granted unless the applicant shows that its grant is justified by serious reasons and is in the interests of the parties to the intended marriage' (S.32 (2)(d)). The Law Reform Commission considered that there was no legal case in favour of the validity of same sex marriages under the existing constitutional provision.

There is no agreed national definition of cohabitation. There is no legal concept of common law husband or wife and cohabiting couples are not protected by family law legislation. They cannot claim maintenance or succession rights from each other, cannot claim tax relief in respect of each other and fathers do not have any automatic guardianship rights in respect of their children. Cohabiting couples (ie man and woman who are not married to each other but living as man and wife) are generally treated as a married couple for the purposes of social welfare payments. There has been no change in the legislation relating to cohabitation during 1994. However, in May 1994 the Minister for Equality and Law Reform announced that he intended introducing a Bill to allow cohabiting couples to apply for Barring Orders. In May 1994 the European Court of Human Rights delivered its judgement in the case of *Keegan v Ireland* (16/1993/411/490). In this case Mr. Keegan challenged the right of his daughter's mother, to whom he was not married but with whom he had co-habited, to place their daughter for adoption without his knowledge and consent. Mr. Keegan established that family ties existed and as such the State had a duty to protect and nurture that relationship. This judgement has implications for adoption law and the rights of natural fathers in adoption in Ireland. In addition it has forced greater recognition of the family based on co-habitation.

The Criminal Law (Rape) (Amendment) Act 1990 abolished the marital exemption in relation to rape.

There have been no other developments regarding marriage/cohabitation.

Divorce and separation

During 1994 the Catholic Church took a strong stance on Catholic family values and the need for these to be upheld. During the year there was evidence of increasing conservative views on the family being expressed. A new conservative Catholic political movement was launched with approximately fifty organisations involved. In addition, some groups in Ireland objected to the UN definition of the family as defined for the UN International Year.

Public debate and discussion in relation to divorce have continued during 1994. The Divorce Referendum planned for 1994 was postponed until November 1995, partly because of a constitutional challenge to the Judicial Separation and Family Law Reform Act 1989 and also to the Supreme Court ruling on the Matrimonial Homes Bill 1994.

The Council for the Status of the Family began a campaign against the proposed divorce referendum. In October 1994 the Minister for Equality and Law Reform outlined the issues the Government intended to address before holding a referendum. The Programme for a Government of Renewal (December 1994) committed the government to addressing issues such as protection of children, taxation, social welfare, inheritance law and pension entitlements.

A challenge to the constitutionality of the Judicial Separation Act 1989 failed in the High Court in July 1994. This challenge was to Section 2 (1)(f) which allows for the granting of a judicial separation once the Court is satisfied that the parties had ceased to have a normal marital relationship for one year, and to Section 16 (a) which deals with marital property (*K.D. v E.D., Judgement of Judge Costello in the High Court on 1.12.1994*). The case is currently being appealed to the Supreme Court.

The Matrimonial Home Bill was passed by both Houses of the Oireachtas and referred to the Supreme Court by the President at the end of 1993. The Supreme Court declared that the Bill was unconstitutional on the grounds that it was too great an invasion into the private decision making of the family.

The Maintenance Act 1994 and The Family Law Bill 1994 were introduced and the latter should enable the court to make financial, property and other orders following the granting of a decree of nullity of marriage and in cases where foreign decrees of divorce, nullity and legal separation are recognized by the State; to give the Circuit Court jurisdiction in respect of nullity proceedings; to restate the law with amendments on the powers of the court to make declarations in relation to the status of a person's marriage; to raise the minimum age for marriage to 18 years and provide for notice of marriage; to strengthen the general law on maintenance.

A pilot Family Mediation Service was established by the Government under the Department of Justice in 1986. The Service was established on a national basis in 1993 and regional offices should open on a phased basis, starting in 1995. The Family Mediation Service is now a national service providing mediation free to any couple who are separating. Mediation is provided by other voluntary and private services; there is a mediation association called the Mediators' Institute of Ireland. In 1994, the Institute set up an accrediting body for Family Mediations in an effort to regulate mediation and set standards for practice. Under the Judicial

Separation Act 1989, solicitors are obliged to inform clients of the existence of mediation services when seeking marital separation.

Pregnancy/fertility/parenthood

There have been no changes in the availability of contraception or medically assisted fertility treatment. Donation of ovarian matter is not available in Ireland but Irish women do travel to Britain for treatment. The Medical Council of Ireland lifted the ban on the freezing of embryos but the only IVF unit in Ireland does not undertake this procedure. Ovulation kits are available on sale in chemists around the country.

Abortion remains illegal. The Government is currently preparing *The Information on Termination of Pregnancy Bill* which will give effect to the 1992 referendum on abortion. Doctors will be allowed to make appointments on behalf of women seeking termination of pregnancy in clinics abroad. The promotion of abortion will be illegal and agencies which market abortion services will be banned. Strict conditions will be attached to advertisements so that poster displays, unsolicited mail and leaflets will be outlawed. Giving advice in favour of abortion will not be allowed. Approximately 5,000 women giving Irish addresses had an abortion in England and Wales during 1994 - an increase on the previous year. However, this number is regarded as relating to only one-third of the total number of Irish women obtaining termination of pregnancy outside the jurisdiction in any one year.

There have been no changes or debate regarding adoption or fostering during 1994.

Parental status/children's status

In the case of *Keegan v Ireland* (16/1993/411/490) Irish law was deemed to be deficient because it did not provide the father with the legal means to challenge the placement and therefore vindicate his right to his family ties. While the judgement did not establish a general right of notice for all natural fathers to receive notice of adoption proceedings, the Adoption Order issued a directive to Adoption Agencies that notice should be given to the natural fathers of an intended adoption and their consent obtained wherever possible. No changes in legislation affecting the relative legal status of children born in and outside of marriage. Legislation remains the Status of Children Act 1987.

Rights of children

A group of voluntary agencies in the Republic of Ireland joined with Child Care Northern Ireland to form a group Focus on Children which published *Blueprint For Action* (Kilmurray, A. and Richardson, V. 1994) addressing the question of the rights of children in the whole island of Ireland as laid out in the UN Convention on the Rights of the Child. A Children's Rights Alliance: Republic of Ireland has been formed and is currently recruiting a Director.

The Irish Government failed to meet the requirement of the UN Convention on the Rights of the Child to submit a progress report within two years of ratifying the Convention. The report is only in its very preliminary stages of production.

The Child Care Act 1991, S.25 empowers a court to make a child a party to all or part of care proceedings and to appoint a solicitor to represent the child when in

the interests of the child. The wishes of the child must be considered in the proceedings, having regard to the age and understanding of the child. Section 26 allows for the appointment of a *guardian ad litem* for a child in care proceedings where the court considers it necessary in the interests of the child.

Parental representation

The Government proposed close consultation with parents in the development of each school's behaviour and discipline policies, extension of the special home/school links programme, regular formal meetings between parents and school management to review the school's work and the establishment by Boards of Management of procedures through which individual parents can receive full information from schools on all aspects of their child's progress. The Green Paper made recommendations regarding representation on the Boards of Management of schools.

At the National Education Convention both National Parents Councils made a strong case in favour of equal representation with other partners on the Boards of Management of schools. The Churches objected because they wish to safeguard their position on Boards of Management. In July 1994, the Minister for Education published *The Governance of Schools* (Bhreathnach, N. Minister for Education, Department of Education 1994) proposing that the owners/patrons/trustees/governors should retain a majority on Boards of Management, but that they would be required to choose one parent for the Board, in addition to those elected from parents with children attending the school. The receipt of State funding by a school would be conditional on putting together a Board of Management consistent with the approach and criteria outlined by the Minister.

The Strategy for Health (1994) policy document makes no reference to parental representation within the health services.

Other legal aspects concerning sexual relationships

The Law Reform Commission considered that there was no legal case in favour of the validity of same-sex marriages under the existing constitutional provisions.

ITALY

Marriage and cohabitation

There were no changes in legal provisions concerning marriage. The age at which it is possible to get married is 18, but children above 16 can apply to the Juvenile Court to marry. Italian law does not regulate cohabitation, except when there are children. The rights and duties of parents apply to cohabiting partners who have recognized their children (Act 19.5.1975 n. 151, Family law reform). In recent years some Courts have granted rights to cohabitees similar to those of marriage.

Although rape within marriage is not separately identified in criminal law, it is nevertheless subject to the general law on rape.

There were no other legal changes or political debate concerning marriage, cohabitation and sexual relationships.

Divorce and separation

A semi-official document of the Ministry of the Family and Social Affairs, proposes: 1) to unify the legal competence of the Courts dealing with separation and divorce. Only the juvenile courts or specialized sections of the civil courts should deal with minors and family matters; 2) judges should undergo specific training; 3) Parliament should ratify as soon as possible the recommendations of the Council of Europe (28 September 1985) about the custody of children and pass a law ensuring joint custody of children in cases of separation; 4) to shorten proceedings; 5) and to assess the professional training of operators dealing with mediation. The Association of Juvenile Judges suggests that the protection of all minors involved in family dissolution should be dealt with by the Juvenile Courts. The *Partito Popolari* wants a "Juvenile and Family Court", to unify all the jurisdictional competence in minors and family matters.

In the case of separation or divorce, the law provides guarantees for the payment of alimony and other sums due by one partner to the economically weaker spouse, as decided by a judge. There have been no changes concerning legal separation, but there are proposals aiming to regulate the separation of cohabitants, in order to protect the rights of children: specialized services for divorce or separation mediation are developing, but most are currently private. In 1994 the *Regione Liguria* passed a law to set up mediation services within the competence of public Family Advisory Centres and supporting private centres run by voluntary associations (*Regione Liguria*, R. L. 8.3.1994 n.11, Regional interventions for the family).

Pregnancy/fertility/parenthood

Contraception and family planning is available from the Family Advisory Centres (*Consultori Familiari*), managed by the local public authorities, but are also available privately. There is much regional variation, and the number of Centres is increasing, but there are more in the North than the South. Some regional governments are developing services offered by public Family Centres and the support private voluntary centres (for instance, *Regione Liguria*, R. L. 8.3.1994 n. 11, Regional interventions for family).

Medically and non-medically assisted fertility is not regulated by law, but recent cases have given rise to demands for regulation. The National Committee for Bioethics, set up by the Office of the Prime Minister (1990), reported in June 1994. The Committee suggests that assisted fertility practices be prohibited for homosexual couples, single women, women older than fifty years and cohabiting couples not giving guarantees of stability.

Surrogate motherhood should not be allowed nor should practices inspired by racial prejudices or addressed to commercial exploitation of embryos or to scientific experiments. Some legal proposals have been made incorporating the committee's proposals.

The Minister of the Family declared his intention to introduce more restrictions to the law regulating abortion. Furthermore, other proposals were presented in order to limit the legitimacy of abortion to only a few cases (when there is a serious danger for women's physical or mental health).

The *Regione Liguria* is planning a programme of psychological, social and economic support for families in need, primarily aimed to prevent abortions (*Regione Liguria*, Regional law 8.3.1994, n.11, Regional interventions for family). A resolution promoted by left and centre-wing parties and passed by the Chamber of Deputies on 8.2.1995 obliges the government to strengthen actions addressed to prevention of abortion. A resolution presented by right-wing parties against abortion was not passed.

Adoption is regulated by Act 4.5.1983 n.184, (Regulation of adoption and foster care of minors). Only couples married for at least three years are entitled to adopt. Adoptive parents cannot be more than forty years older than the adopted child. The Court of Appeal of Rome (2.12.1994) stated that single women are entitled to apply to adopt children. Currently a decision of the Supreme Court is expected. A couple wishing to adopt a child from abroad must first ask the Juvenile Court to attest to the suitability of the couple to adopt. Ministries of Foreign Affairs and of Justice can jointly authorize intermediaries in international adoption. In 1993, eleven authorized institutions were operating in Italy; all are private voluntary associations. The Government is expected to sign the June 1993 Hague convention on "International co-operation and protection of children in respect of intercountry adoption". A bilateral Convention has been signed with Peru; other bilateral conventions are expected. The resolution approved by Parliament on 8.2.1995 requires Government to reform the law n.184/83 by limiting international adoption relations to those Countries with whom conventions have been signed and obliging all organizations dealing with adoption of foreign children to get the official authorization.

Parental status/children's status

The present legislation grants equality of rights for children, regardless of the marital status of the parents. The Civil Code, modified by Act 19.5.1975 n.151 (Family law reform) states that fathers and/or mothers can recognise children born outside marriage. The child must give his/her consent to the recognition, if he/she is more than 16 years old. If recognition is made by one parent only, it is effective only for him/her. Natural children take the name of the parent who recognised him/her first. Proposals have been introduced aiming to entitle the parents to choose the family name for the child or to give him/her a double name. Other proposals suggest that recognition by the natural father should require the mother's consent.

Rights of children

A modification of the Civil Code, introduced by law 4.5.1983 n.184, states that marriage obliges both spouses to assume responsibility for the maintenance and education of children, respecting abilities, natural inclinations and aspirations of children. The International Convention on the Rights of the Child was ratified in 1991 (act 27.5.1991 n.176)

Some regional laws approved the institution of an Office for minors' protection. The Act of the *Regione Friuli-Venezia Giulia* (Regional Act 24.6.1993, n. 49, "Regulations for the support of families and the protection of minors") provides for an Office for the protection of minors' rights, charged with (among other things) collaboration with Local Authorities and voluntary associations for the protection of minors' rights, promotion of cultural initiatives and counselling.

These Offices have not been effective, as they have no authority to take decisions and the culture of children's rights is only nascent.

The Chamber of Deputies, on 15 April 1994 received a proposal from the Popular Party for a "*Magna Carta*" of children's rights. Italy ratified (act 25.1.1994, n. 64) the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Luxembourg, 20.5.1980) and the Convention on the Civil Aspects of International Child Abduction (The Hague, 25.10.1980). The Chamber of Deputies' resolution of 8 February 1995 obliges government to present a report on the implementation of the international Convention for minors' rights ratified in 1991, in order to set up a global policy for children and a statute of minors' rights, including foreign minors.

Parental representation

Parents represent their children in nearly all legal acts, but Courts can intervene in the interests of the child. Representatives of parents participate in the management of schools, at class level, at school level and in the district or province level (D.P.R.31.5.1974, n.416) Parents' and students' participation in the school bodies has been decreasing, as their competence is limited.

LUXEMBOURG

Marriage and cohabitation

Following the elections of June 1994, the use of a married woman's name in connection with elections was raised. The electoral law stipulates that married women appear on the electoral role under their husband's name. This provision has provoked considerable discussion in the press, as a minority of women wished to appear under their maiden names. For organizational reasons, it was not possible to change this situation comprehensively before the elections, but the Government's stated intention is for the use of the husband's name to become optional.

The law does not recognize cohabitation and therefore no legal protection in this *de facto* situation. To deal with legal problems regarding 'unmarried couples' it is necessary to resort to provisions governing other matters such as, for example, the law protecting young people in the case of minors.

Divorce and separation

No major changes since 1993 have occurred.

Pregnancy/ferility/parenthood

There has been no legislative change in the fields of contraception, abortion, medically-assisted procreation or other issues related to pregnancy.

Parental status/children's status

Since the approval of the International Convention on the Rights of the Child in 1993 and the revision of a certain number of civil law provisions aimed at ensuring greater equality between children born in and outside marriage, there have been no further changes in this field.

Article 380 of the Civil Code states that: "Parental authority over a child born outside marriage is exercised by the father or mother who has voluntarily acknowledged the child, if it has only been acknowledged by one of them. If both recognize the child, parental authority is exercised by the mother. However, parental authority may be exercised jointly by the two parents if they make a joint declaration before the "*juge des tutelles*" (judge responsible for guardianship and custody)."

There has been no change to the rights of fathers over children born outside marriage.

Rights of children

The law dated 20 December 1993 came into force on 6 April 1994, approving the convention relating to the rights of the child adopted by the General Assembly of the United Nations on 20 March 1989. This law made some changes to the Civil Code, establishing a minor's right to be heard in cases concerning him/her, without making him/her a party to the proceedings. If a minor's legal representatives appear to be acting against their interests, in a case concerning them, the judge can appoint a guardian for the minor.

In an increasingly complex society, there is a growing need for information on the part of children and young people, but also parents and professionals - teachers, youth and social workers - who are in contact with young people. The Legal and Social Information Service of the National Youth Service has received increasing numbers of requests.

To meet this need for information, the "Network of information, social and cultural centres for young people", in co-operation with the Ministry for Youth and the Ministry for the Family, has also published a 600 page book entitled: "Young people: your rights and duties".

NETHERLANDS

Marriage and cohabitation

A new law (21 April 1993) came into effect 1 January 1994. Those partners who normally are not allowed to marry (e.g. brothers and sisters by adoption) can now apply to the Ministry of Justice (rather than the Queen) for exemption. Parliament introduced a Bill in 1994 (registered TK 23 761) concerning the registration of the cohabitation of two people who are not allowed to marry because they have the same sex or because their kin relation is too close. The registration is to some extent an equivalent to marriage.

Rape in marriage has come under the criminal law since December 1991 (Stb. 519, art. 242 t/m 249 van het Wetboek van Strafrecht). Case law, especially in the '*Hoge Raad*' (High Court) is developing an equivalence of marriage and cohabitation.

The law concerning misuse of marriage was enacted in 1 November 1994. A 'pseudo' marriage is characterized as following: one of the two marriage partners is of a non-Dutch nationality; the marriage is intended to obtain the right of abode and the partners do not intend to comply with responsibilities implied by marriage.

There have been no other legal changes concerning marriage, cohabitation, or sexual relationships.

Divorce and separation

In 1993 a new divorce law was introduced to simplify procedures. An application is sufficient to start the procedure; the judge formulates a decree, not a judgement; the one year waiting period is abolished. The two parties are represented by lawyers. New rules with respect to the welfare side of divorce and alimony will come into effect in May 1995. Alimony will be limited to (in principle) 12 years; prolongation is possible. A Bill was passed providing for the equalization of pension entitlements between former spouses. There were no changes in the law concerning separation among cohabiting couples. A new Bill ensures that a lawyer is paid if he helps the divorcing parties come to a binding settlement without the participation of a judge.

Pregnancy/fertility/parenthood

Adolescent girls may apply to a judge to be given adult status if they have reached the age of 16. If the application is granted the respective girls can exercise parental control over their own child.

Within Parliament a Bill is being discussed concerning the registration of data, the administration of data and the access to data of donors involved in artificial insemination. Commercial surrogate motherhood is not allowed by a law of 1 November 1993.

There have been no changes to Abortion law. In May 1993 a regulation for the definition of adoption contracts and concerning foreign born foster children was passed, increasing the restrictions.

Parental status/children's status

Parliament is preparing new laws with respect to guardianship and co-guardianship, the access to minors and lineage rights. Acknowledgement of paternity requires the mother's consent. If denied by the mother, it generally has to be respected. Denial of paternity to a former husband and acknowledgement of the biological father is possible only if the child is born 306 days after the divorce of the mother and if the biological parents marry within a year. This latter stipulation was waived in a High Court decision (17 September 1993, rek. nr. 8261).

The European Court for Human Rights (October 1994 in the case Kroon e.a./The Netherlands) ruled that Dutch laws, which determine that only the husband of a mother of another man's child can apply for denial of paternity (the mother and the biological father cannot take any legal steps) was incompatible with European law (art. 8 EVM). As a consequence the actual husband of the mother was excluded from legal paternity.

Rights of children

The UN-Convention with regard to the Rights of the Child was ratified by the Dutch Parliament in 1994. In April 1994, the High Court ruled that children have the right to know who their father or mother is once they are eighteen, except in cases of artificial insemination. In January 1993 a new law was enacted (artikel 161a Boek 1 BW) concerning the right of access to children for non-custodial parents. The same article regulates the child's position if the parents are separated.

Parental representation

A new law with regard to medical action was passed on 17 November 1994 and will come into effect on 1 April 1995.

PORTUGAL

Marriage and cohabitation

There have been no changes in the law on marriage. There are no mutual obligations of maintenance and support between cohabiting partners, but a widow/widower who has been living with another person as husband or wife for more than two years can, on the partner's death, claim maintenance rights from the estate of the deceased. Cohabiting partners also have automatic rights to their joint rented home in the case of death (of a partner they had been living with for five years). Married couples have rights over the rented home in the case of death of one of the partners and also have inheritance rights over the home owned by the couple or the deceased spouse and usufruct rights to the contents. Entitlement through a cohabiting spouse covers the right to survivor's pension, to the death subsidy and to the subsidy for the permanent care by a third party (the statutory order is from 1990 but regulations were set out in January 1994). The surviving spouse has to prove that the couple had been living as husband and wife for two years.

Sex between married persons by violent means can be included in the notion of rape.

Changes in legal provisions regarding misuse of marriage were introduced in 1994 (Statutory order 25/94, 19 August). Previously, a foreign citizen could acquire Portuguese nationality on marriage and now he/she may only acquire it after three years.

Divorce and separation

Alterations are being prepared by the Ministry of Justice concerning the procedures for divorce by mutual consent with a view to simplifying them. Couples with no children (or couples with children where parental responsibility has been regulated) will be able to divorce by mutual consent in the civil register, without going to court.

Mediation or conciliation during the course of divorce or separation is the judge's responsibility, according to articles 1774 and 1776 of civil law. No provision exists in terms of services for mediation in Portugal.

Pregnancy/fertility/parenthood

There have been no changes in law/policy. The right to family planning exists in the Constitution and Statutory order 384/84 of 24 March sets forth legislation concerning the rights of citizens to family planning and sexual education. Regulations regarding family planning were published in 1985; regulations regarding sexual education have not yet been published. The main organization offering help with family planning is the APF (Association for Family Planning), a non-governmental institution that receives financial support from the Health Ministry. It has offices in five different regions. Buying contraceptive sheaths has

become easier over the last few years (with slot-machines outside chemists, availability in supermarkets etc.). According to the APF, the number of sheaths sold doubled between 1985 and 1993. Family planning is also available from the MDV-Life Association Organisation and the Catholic Church provides specific courses for young couples before marriage.

There has been debate on the need for legal norms regulating medical practices in medically assisted fertility treatment. The techniques are generally limited to heterosexual couples with a "stable" relationship (who have been living together for two or three years) and to women under 45 years who have been diagnosed as infertile or sterile. Other norms include: doctors have a right to be conscientious objectors; there should be refusal of post mortem insemination; surrogate motherhood, experimentation and genetic manipulation of embryos should not be allowed.

In January 1990, a National Council of Bio-ethics was created and published a paper on medically-assisted fertility in February 1993. It proposes excluding reproduction with donors (of sperm and oocytes), surrogate motherhood (regardless of whether the latter contribute with their own oocytes) and believes that the surplus embryos from FIVETE and ZIFT should not be destroyed, but given to other couples or used for research. In March 1993, another Workgroup for Studies on Family Medicine, Fertility and Human Reproduction was appointed and published a 1993 report based on a consultation with the doctors who are responsible for programmes of medically-assisted fertility.

There have been no changes to the 1984 law on the availability of abortion.

A new law on adoption was issued in May 1993 (nº185/93):

- concerning who can adopt: two persons married for over 4 years and not legally separated, one of the spouses being over age 25; a single adopting person, over age 30; a single adopting person over age 25 if the adopted child is the spouse's child; multiple adoption is not permitted and the maximum age for adoption is 50, except in cases where the adopted child is the spouse's child (no limit);
- concerning who can be adopted: children under age of the adopting person's spouse; children under age that have been handed legally or administratively to the adopting person. The adopted child must be under 15 years. A child over 15 may also be adopted if he/she is legally related to the adopting person or is the spouse's child;
- concerning consent: consent of any child over age 14 is required; of the adopting person's spouse; of the adopted child's parents, even if they are under age and do not exercise parental responsibility. This consent is unnecessary if the child has been abandoned by the parents, if the latter have put the child's health, security or education in danger or if the parents of a child taken in by another person or an institution show no interest in the child;
- the possibility of transnational adoption was established in 1980 but regulations were only set out in the 1993 law. The placing of children who reside in Portugal in foreign countries is only possible by means of a legal decision which takes into account the probability of adoption in Portugal. Adoption of foreign children is organized by the social security institutions.

Parental status/children's status

All parents have a legal duty to maintain their children, whether they are, or ever were, married, but if unmarried, parental responsibility is exercised jointly if the parents declare that they want to do so; if not, parental responsibility is presumed, in favour of the mother.

Rights of children

Portuguese law has no provisions which allow young children to challenge parental decisions. Children under age must obey their parents or their tutor in everything which is not illegal or immoral (art.^o 128 of civil law). Children under age cannot abandon the parental home or be taken from it (art.^o 1887 of civil law) and the actions of children who are under age may be annulled (art.^o 125 of civil law). Nevertheless, the child's incapacity diminishes as it approaches the age of legal independence. Consent for adoption is mentioned above; if the child's parents do not agree on parental responsibility and the child is over 14, the court must hear the child before taking any decision. And parents "must take into account the child's opinion in important family matters and grant them autonomy in the organization of their lives" (n^o 2 of art.^o 1878 of civil law).

Parental representation

Parents represent their children in relation to outside agencies until they reach the age of legal independence (18 years old). Portuguese families are represented, have 'a voice' and vote at the Economic and Social Council of Portugal.

Other legal aspects concerning sexual relationships

There have been no changes in the law or any debate on the issue of the age of consent for heterosexual or homosexual activity. Homosexual activities are punishable "if an adult entices a child under the age of 16" (art.^o 207 of the Penal Code), but apart from this, the law omits to mention them.

UNITED KINGDOM

Marriage and cohabitation

There were no changes in the law on marriage.

For a couple to be defined as cohabiting it is necessary that they live together under the same roof and that neither partner has another normal place of residence. The social security system generally treats cohabitants in the same way as married couples although a widowed cohabitant is not entitled to widows' benefits. In the tax system cohabitants are treated as separate individuals.

The Criminal Justice Bill has been amended to make it a statutory offence for a husband to rape his wife. This will bring statute law in line with case law, following the case decided by the House of Lords in 1991.

In October 1994 a new set of Home Office immigration rules came into force. It has not changed the 'primary purpose' rule for marriage and partnerships, despite it having become common practice for the Home Office, following internal instructions, to allow unmarried heterosexual couples to remain in the UK. The internal instructions on deportation state that a 'genuine and subsisting common-law relationship' is to be considered 'as if it were a marriage'. There is still no recognition of same sex relationships for the purposes of immigration.

There were no other changes regarding marriage and cohabitation.

Divorce and separation

The Lord Chancellor published a consultation document on divorce which accords a primary role to the parties involved in sorting out their future. It stresses parental responsibility and emphasises the welfare of children. The Law Commission also proposes 'no fault' divorce based on the sole ground of irretrievable breakdown of marriage as shown by the passing of a one year period; it proposes a single port of call for initiating divorce proceedings where legal information about divorce, its costs and State funding, marriage guidance and mediation services will be provided. An important goal of the new process proposed in the Green Paper is to identify marriages that could be saved. However, the later White Paper has abandoned the concept of fault.

There have been no changes in legal separation and no changes either in statutes or case-law concerning separation among cohabiting couples, but a law reform group has produced a paper arguing that it should be a professional requirement for solicitors acting on the behalf of an unmarried couple to enquire as to how the property is to be divided. It also suggests that pre-nuptial contracts be recognised and enforced by law.

The Divorce Green Paper proposes widely available family mediation. Negotiations led by lawyers should be secondary to mediation rather than the reverse, as is now the case.

Pregnancy/fertility/parenthood

Since 1974, family planning provision has been administered through District Health Authorities (in Great Britain). Resources have been diverted into providing and improving services for young people in the context of the Government's target to halve the number of conceptions to women under 16 years old. The Royal College of Obstetricians and Gynaecologists proposed that the emergency morning-after Pill should be available for sale without a prescription. The Department of Health said that ministers saw some merits in the proposition to allow chemists to sell the Pill.

The Human Fertilisation and Embryology Authority (HFEA) produced a report in 1994 on the use of donated ovarian tissue for treatment and research. It recommends approval for research using foetal, cadaver and live-donor ovarian tissue, once the informed consent of the live donor has been given. Currently this research will be prohibited under an amendment to the Criminal Justice Bill. The High Court ruled against a woman suing her local Health Authority which, in accordance with NHS guidance, refused to treat her at the age of 37 on the grounds of age. Section 30 of the Human Fertility and Embryology Act 1990 was implemented in November 1994. This enables 'commissioning parents' to obtain a parental order in respect of a child born to a surrogate mother.

The availability of abortions and service provision remains unchanged. The most recent figures show that 127,243 abortions took place between January and September 1993, but not all were to UK nationals.

Since the Government published its White Paper *Adoption - The Future* in November 1993, there has been a period of consultation resulting in the

publication of the consultation document *Placement for Adoption* in April 1994. It proposes that in uncontested cases there would not be a court hearing. In contested cases the proposals do not differ substantially from the current measures. Two proposals in the White Paper have been met by strong opposition: changes to procedure regarding placement orders, and changes to the composition of adoption panels.

As regards the international adoption of children, the Adoption White Paper proposes to make it a criminal offence to bring a child into the country for adoption without obtaining the necessary official approval from the Department of Health. The adoption must have taken place 'in accordance with a decision by a competent authority or court in the child's country of origin', as well as the child having lost ties with their country of origin. The adopting couple must inform social services of their intention to adopt once the child is in the country and lodge an application with their local court.

Parental status/children's status

There have been no changes in the status of parents or children in families where the parents are not married.

Rights of children

The Sexual Offences Act 1993 now makes it possible to prosecute boys under 14 years old (and over 10 years) for the offence of rape. In 1994, the Divisional Court abolished the presumption that a minor between the ages of 10 and 14 does not know the difference between right and wrong. The presumption means that it must be proven that the child was aware that what she/he had done was seriously wrong and not mischievous. The case is to be heard on appeal by the House of Lords. Part One of the Criminal Justice and Public Order Act 1994 deals with young offenders. It introduces Secure Training Orders for offenders between the ages of 12 and 15, allowing young people to be detained in secure training centres. Clause 16 extends the power of the courts to order young people aged 10 to 13 to be detained for long periods in the same way as 14 to 17 year olds. The maximum length of detention in a young offender institution has increased from 12 months to two years for 15 to 17 year olds. The Act also removes the right to silence and restrictions on granting bail which will also have repercussions on the rights of children.

There has been increasing recognition of children's needs and rights in situations of family disruption by National Family Mediation. Centres providing divorce mediation services also seek to consult the children involved directly, to assist in parental decision making and to offer counselling to the children.

The review of Scottish child care law begun in 1990, 'Scotland's Children', will be going through Parliament in 1994-95. The Children Scotland Bill will improve the process of taking children into care; introduce a statement of parental responsibilities and change Scottish adoption law.

Parental representation

Parents are legally entitled to represent their children in relation to the education system, medical treatment and social services. Parents have the right to a place at the school of their choice, providing a place is available. Parents also have the

right to withdraw their child from religious or sex education, and to have an assessment made by their local authority if their child has special needs.

According to recent case law a parent cannot make an application on behalf of their unintentionally homeless child if their own application for local authority housing under the 'homelessness' provisions is rejected on the grounds of intentional homelessness.

Other legal aspects concerning sexual relationships

An amendment to the Criminal Justice Bill proposing to equalise the age of consent at 16 for both homosexuals and heterosexuals was not passed, but the age of consent for homosexual activity was reduced from 21 years to 18. There have been no important changes in the recognition of same sex relationships. There have been some very minor changes in housing regulations.

The Department of Employment has issued guidance that employers should not discriminate on the basis of HIV status, but it has not prohibited the routine testing of employees for HIV.

Table 5: Marriage, Divorce, Contraception and Adoption

COUNTRY	MARRIAGE & COHABITATION	DIVORCE & SEPARATION	PARENTAL RESPONSIBILITIES & RIGHTS	ADOPTION	FERTILITY CONTROL	CHILDREN'S RIGHTS
BELGIUM	No change in marriage regulation (including consideration of rape). Cohabitation is not recognised under law. 2 new regulations against marriages of convenience.	30.06.94: abolition of waiting period and obligatory mediation for divorce. Abolition of assumption that marriage is a positive institution. Abolition of compulsory property valuation in divorce of mutual consent. No change regarding separation of spouses or cohabitantes.		16.03.94: Flemish Government decreed department 'Kindegezin' the competent authority regarding international adoption. 31.03.94: Flemish Government ratified Hague Convention on international adoption.	No change in regulation. Commission evaluating impact of 1990 abortion legislation found no change in abortion rates.	
DENMARK	No change in regulations. Marital age is 18. Rape in marriage treated as rape generally. Cohabitation sometimes considered as marriage (pension schemes).	No changes.	Ministry of Justice Committee report suggests increasing rights of unmarried fathers and non-custodial parents. A Bill on this subject was presented to Parliament in February 1995. Representation on school and day care institutions. No representation in medical services.	No changes; no debate.	No changes in regulation/use of contraception. Few legal regulations of fertility treatment. No changes in abortion legislation.	Social care investigations must refer to wishes of child (according to maturity until 12), 12+ obligatory, 15+ children may have independent status. 01.07.94: National Council for Children's Rights established to promote children's rights.

Table 5: Marriage, Divorce, Contraception and Adoption *continued*

COUNTRY	MARRIAGE & COHABITATION	DIVORCE & SEPARATION	PARENTAL RESPONSIBILITIES & RIGHTS	ADOPTION	FERTILITY CONTROL	CHILDREN'S RIGHTS
GERMANY	Law regarding marriage names introduced. Cohabitation is not regulated by law but Supreme Court judgements have affected partners' rights in some areas. Same sex couples have no quasi-marital status.		No change.		Federal Constitutional Court ruled Bundestag compromise on abortion unconstitutional. 10.06.94: Bundestag passed another Bill (by 4 votes), rejected by Bundesrat 08.07.94. Resubmission of Bill expected 1995.	Bundestag's Children's Commission reported 1994. Criticised lack of constitutional rights. 1993 penalty vs child pornography increased; age relating to sexual abuse of children applies abroad also. 1994 discussion about giving children of foreigners child citizenship on majority. 10th German Family Conference (1994) was critical about lack of rights.
GREECE	No changes in law. Marital age is 18, can be younger with a court ruling (but not less than 10).	No changes; no debate. Legal separation is only understood as stage in divorce. No laws on separation of cohabiters. Church (only) provides mediation.	Fathers have no full rights over children born outside marriage unless they marry the mother. Parents represent children in all aspects of their lives, in the interest of the children, whose needs should be taken into account.	1993 Presidential decree that fostering is only allowed when parents are unable to care. PIKPA, EOP, MITERA, Int. Social Service and infant asylums in Patra and Thessalonika can arrange adoptions. New Association of Foster Families (end 1994).	Debate on Contraception and decreasing abortion rate.	No changes.

Table 5: Marriage, Divorce, Contraception and Adoption *continued*

COUNTRY	MARRIAGE & COHABITATION	DIVORCE & SEPARATION	PARENTAL RESPONSIBILITIES & RIGHTS	ADOPTION	FERTILITY CONTROL	CHILDREN'S RIGHTS
SPAIN	Some municipalities register for same-sex couples. Cohabitees have some rights similar to marriage, but not (eg) regarding social security pensions, taxation and separation.	Draft law to simplify divorce procedures is before Parliament. Debate is about access (fathers) and non-payment of allowances (mothers) in cases involving children.	Debate on rights of fathers after divorce.	06.94: Parliament's proposal to increase protection of children during adoption and to follow UN Convention (1989) and Hague Convention on international adoption. Some debate. Some debate about homosexual couples adopting.	Debate about allowing morning after pill continues; it is not available. Campaign to encourage condom use. In Summer Constitutional Court ruled sterilisation of disabled persons now permitted. 04.94: draft Bill to liberalise abortion law – much delayed.	Protection of minors is responsibility of autonomous regions. New draft Law to codify and extend existing legal provision of childrens' rights.
FRANCE	Misuse of marriage regulation tightened (24.08.93) and (30.12.94) Enforcement procedures also tightened.	No changes.	08.01.93: Law means joint custody, regardless of martial status, as the norm.		No changes in contraception/abortion/medically-assisted fertility. Ethics Committee ruled surrogacy forbidden.	08.01.93: Law: childrens' right to know who their parents are and be heard in legal proceedings concerning them. 22.07.93: Children born to non-French parents lost automatic right to adult citizenship. 24.08.93: Stricter regulations on foreigners bringing families into France.

Table 5: Marriage, Divorce, Contraception and Adoption *continued*

COUNTRY	MARRIAGE & COHABITATION	DIVORCE & SEPARATION	PARENTAL RESPONSIBILITIES & RIGHTS	ADOPTION	FERTILITY CONTROL	CHILDREN'S RIGHTS
IRELAND	<p>1995 marital age became 18, while can (exceptionally) be allowed younger. Same sex marriages not valid under constitution. No legal concept of cohabitation, but 1994 Bill allowing cohabitantes to place Barring Orders. Cohabiting couples treated as married couples for social welfare payments. Court case appears to imply need for increased recognition rights unmarried fathers. Rape in marriage is covered by criminal law.</p>	<p>Public debate, but referendum postponed. Matrimonial Home Bill rejected as unconstitutional in court. Maintenance Bill (1994) & Family Law Bill (1994) introduced regarding annulling and foreign divorces and their financial arrangements. Pilot mediation service in place from 1986 and now extended as a national service.</p>	<p>Court case has enhanced status of unmarried fathers regarding adoption of children, although they are not obliged to be consulted. Parents are represented on school management boards, and are campaigning for equal representation. No provision for representation in health services.</p>	<p>No changes.</p>	<p>No changes regarding contraception or medically-assisted treatment. Information on Termination of Pregnancy Bill.</p>	<p>Childrens' Rights Alliance has been formed. Government failed to give progress report required by UN Convention, ratified in 1991. Child (according to maturity) must be heard in care proceedings, and a solicitor may be appointed to them.</p>

Table 5: Marriage, Divorce, Contraception and Adoption *continued*

COUNTRY	MARRIAGE & COHABITATION	DIVORCE & SEPARATION	PARENTAL RESPONSIBILITIES & RIGHTS	ADOPTION	FERTILITY CONTROL	CHILDREN'S RIGHTS
ITALY	No changes in marriage regulation. Legal age of marriage is 18. Juvenile court can allow marriage at 16. Regulation of cohabitation only when they are children. Rape within marriage is subject to the general law on rape.	Semi-official government document proposes to simplify and more closely regulate divorce procedures. Law guarantees payment of alimony to economically weaker spouse. There are proposals to regulate separation of cohabitees in cases involving children services are private, but law 08.03.94 'Regione Liguria' will establish public services.	Parent may recognise children born outside marriage (children must consent if 16+). If recognition is by one parent, effective only him/her; children take name of parent who recognised them first. Proposals under discussion to make naming more flexible.	Only couples married for 3 years and not 40 years older than the child can adopt. Awaiting Supreme Court decision on the case of a single woman who wants to adopt. 1995 11 private voluntary associations were authorities in international adoption. 08.02.95: Parliamentary resolution limits international adoption to countries with whom Italy has signed conventions.	No changes in regulation of contraception. Assisted fertility treatment is not regulated by Law. National Committee for Bio-Ethics reported 06.94 suggesting prohibition for homosexual couples, cohabitees not of guaranteed stability, single women, and women over 50. Minister of the Family intends to restrict abortion; other proposals suggested limiting it to cover of real danger to the physical/mental health of mother.	Convention of Rights of Child ratified 27.05.91; 08.02.95 Chamber of Deputies requires government report on its implementation. Some regions introduced Officer for minors protection, but these have no decision-making authority. 15.04.95: ratified European Convention on childrens' custody (1980).
LUXEMBOURG	Debate about having to use husband's name on electoral roll. No legal recognition of cohabitation.	No changes.	If both (unmarried) parents recognise child, parental authority is with mother, unless rules otherwise in court.		No changes.	Law of 06.04.94 approves UN Convention. This has resulted in changes to Civil Code, especially minors' rights to be heard in court proceedings. A network of centres for young people provides information on their rights.

Table 5: Marriage, Divorce, Contraception and Adoption *continued*

COUNTRY	MARRIAGE & COHABITATION	DIVORCE & SEPARATION	PARENTAL RESPONSIBILITIES & RIGHTS	ADOPTION	FERTILITY CONTROL	CHILDREN'S RIGHTS
NETHERLANDS	21.04.93 Law (came into effect on 01.94): partners not normally allowed to marry apply to Ministry of Justice. 1994 Bill will allow couples (eg same sex) to register. Rape in marriage is recognised by criminal law. 01.11.94 Law on misuse of marriage.	1993: Divorce procedures simplified; abolition of waiting period; divorce is decree, not judgement. New rules limiting alimony payments to 12 years in 1995. Bill enacted to equalise pensions of former spouses. No changes regarding separation of cohabitantes.	01.01.93 Law regulating access to children by non-custodial parents. Parliament is preparing laws on guardianship, access to minors, lineage rights. Mothers' consent required for paternity acknowledgement. 17.09.93 High Court and 10.94 European Court of Human Rights rulings extended rights of biological parents (fathers). 17.11.94 (effective 01.04.95) Law concerning parental representation in medical cover.	05.93 increased restrictions on fostering foreign-born children, and on adoption contracts.	Parliamentary Bill concerning data about donors for artificial insemination. 01.11.93 commercial surrogacy made illegal. No changes to abortion law. 16+ girls may apply for adult status, which allows them parental control of their children.	UN Convention on Rights of Child ratified 1994. 15.04.94 High Court ruled children (except in cases of artificial insemination) have right to know who their parents are, when 18 years old. 01.01.93 new law regulating children's position in separation cases.
PORTUGAL	No changes. Cohabitantes have rights to survivors' pension. 1994 restrictions on misuse of marriage increased.	Proposals to simplify divorce under preparation.	Legal duty to care for children; can be joint where unmarried, but presumed in favour of mother. Represent child until 18 years.	05.93 new law, on who can adopt/be adopted and right of child to consent.	No changes. Some debate on need to introduce legal regulation of fertility treatment.	No provision for children to challenge parental decisions, but in dispute on parental authority child (14+) must be heard in court.

Table 5: Marriage, Divorce, Contraception and Adoption *continued*

COUNTRY	MARRIAGE & COHABITATION	DIVORCE & SEPARATION	PARENTAL RESPONSIBILITIES & RIGHTS	ADOPTION	FERTILITY CONTROL	CHILDREN'S RIGHTS
UNITED KINGDOM	No change. Cohabitation is sometimes considered as marriage. Criminal Justice Bill (1994) makes rape in marriage statutory offence. 10.94 immigration de facto recognise heterosexual cohabitants as married.	Consultation document to simplify divorce procedures proposing important role for mediation. No change in separation of spouses/cohabitants.	No changes. Parents legally entitled to represent children to public agencies, and to send children to school of choice.	Adoption White Paper proposes closer regulation of international adoption.	Some debate on availability of morning after pill. HFEA 1994 reports suggest allowing some embryo research permissible. No change in abortion.	1993 Act means boys 10+ can be prosecuted for rape. 1994 Criminal Justice Act extends sentencing powers against minors. Children Scotland Bill will increase rights in care and adoption, and include statement of parental responsibility.

CHAPTER 6

Families Under Stress

OVERVIEW

This chapter brings together developments in the area described in earlier Observatory reports as 'policies for dealing with family inadequacies'. As such, it takes a rather limited and selective view of those policies and provisions which are directed towards problems of family 'dysfunction'. 'Families under stress' refers here to the legal and policy framework which seeks to regulate, support or intervene in the lives of families where individual adults or children face violence or abuse.

Domestic violence continues to be a matter of concern in most countries, though there have been few recent changes in legislation. All countries except Portugal have networks of women's refuges, mainly run by voluntary associations though sometimes with state or municipal funding, but the extent to which provision meets the identified needs varies considerably. There are plans in Portugal for refuges to be established. In Ireland a policy document on the health services proposes more effective co-ordination of services for women suffering from domestic violence. In the UK, there is a substantial investment by government departments in support for regional Women's Aid organisations, and the law on domestic violence is likely to be amended shortly to cover a wider family group than at present. In Spain too the law concerning domestic violence has been extended to cover children as well as the spouse. In Germany the main debate has been about the criminalisation of rape in marriage and a draft Bill has been put forward introducing a new offence of 'sexual coercion' within marriage.

One development, identified in countries including Belgium, Luxembourg, the Netherlands and the UK, is towards offering therapeutic treatment and counselling to violent offenders and abusers, either alongside or in place of custodial sentences. Many of these schemes are experimental and there is some caution about their likely effectiveness.

Ill treatment of children, including sexual abuse, is increasingly on the policy agenda in all countries, although reliable estimates of the prevalence of abuse are hard to come by owing to the private and stigmatizing nature of the problem. One widespread view is that increasing reports of abuse are at least partly due to greater public sensitivity to the issue. A number of countries have mounted publicity and educational campaigns, often in conjunction with the establishment of free telephone help-lines on which children can receive confidential counselling and advice. The Danish government has implemented a detailed Action Plan

regarding child abuse and in Germany the scope of the law on child abuse has been extended. A common theme is that of the effective co-ordination of services, either between social services and the courts, as in France and the Netherlands, or among the whole range of agencies involved, as in the UK.

With the exception of the Netherlands, where the procedures and circumstances under which parental authority can be removed have been amended, there have been few direct changes in provisions for taking children into public care.

BELGIUM

Violence in the family

The provisions available in Belgium for dealing with violence within the family consist of women's refuges (19 centres in the Flemish region and others in Wallonia), specialised multi-disciplinary family centres to deal with child abuse, homes for unmarried mothers (which have increasingly shifted their focus towards battered women) and victim support centres.

There have been no specific legal or policy developments during 1994.

In terms of preventive policy, there has been a shift in recent years from a focus on the victims of violence towards attempts to reach and treat the perpetrators of violence. A number of pilot therapeutic projects have been established, including a new initiative to provide 'sexual education', involving discussions about feelings, violence and power, to young people who have committed a first, not too serious, sexual offence, as an alternative to normal punishment.

There is also evidence, from a survey of family centres in Wallonia, of abuse of older people. A key factor in a third of the cases appeared to be the sudden deterioration in health of the older person, causing extreme pressure on the carers.

Child abuse

This problem is a source of particular concern, particularly since sexual abuse is reported as the most common form of ill-treatment of children.

The Flemish community: In Flanders, the six specialist child protection centres recorded 3,013 incidents of ill-treatment of minors in 1993: an increase of 13 per cent over the previous year. Just under 30 per cent of all the children involved were victims of sexual abuse.

The French community: According to the 'S.O.S. Enfants' teams, the number of children reported as having been victims of ill-treatment was 3,637 in 1993; 38 per cent were victims of sexual abuse.

There were no specific legal or policy changes in this area.

Removal of parental authority

Within the jurisdiction of the Juvenile Court, the Public Prosecutor has the power to restrict parental authority where a child is in need of protection. In extreme cases this can involve the dispossession of parental authority altogether, subject to parental rights of appeal.

A law of 2 February 1994 on the protection of young people also gave minors the right to be heard in court proceedings concerning their future.

DENMARK

Violence in the family

As has been stated in earlier reports, legislation in Denmark does not make a distinction between violence within and outside the family, though the reporting of domestic violence is thought to be low. Police receive training in dealing with such cases and physical violence is a ground for divorce without a preceding period of separation.

A national network of crisis centres for women has developed, offering safe short-term accommodation, counselling, legal advice and services for children.

There have been no specific legal or policy developments in this field during 1994.

Child abuse

The general theme of children at risk (including sexual abuse) has been subject of considerable debate, which has led to a major Government initiative following a series of proposals from the Inter-Ministerial Committee on Children. A comprehensive Action Plan was agreed in Spring 1994 and is currently being implemented. In the December negotiations on the 1995 Finance Bill it was agreed to set aside an appropriation of DKR 15 million to support the Action Plan. One of the explicit goals of the Plan includes the establishment of national confidential advisory services for children.

Removal of parental authority

There were no changes.

GERMANY

In 1991 a law on Child and Youth Assistance came into effect, which (among other objectives) aims to help families with problems in bringing up their children, while respecting the right of children to receive proper care and protection. Measures include counselling and child-rearing support for couples and families, and foster or institutional care for children needing care outside their families. In 1993 a total of DM 24.5 milliard were spent from the public purse for youth assistance, of which DM 16.3 milliard were allocated to the old and DM 8.2 milliard to the new Federal states. These figures cover not only support for families with severe problems but also care in crèches and kindergartens.

Violence in the family

Rape within marriage has been the subject of much discussion in the media and in politics, and particularly by women's groups. The debate chiefly concerns the introduction of a punishable offence of 'rape in marriage' in addition to the existing §177 Rape and §178 Sexual Coercion. The present legal position does not allow for prosecution for the offence of rape in marriage. The FDP and the SPD have been calling for some time for this to be changed. Opposition to change comes primarily from the ranks of the CSU. Critics fear problems with the provision of evidence and an unnecessary intervention into marital relationships. A draft Bill put forward in the *Bundesrat* in January 1995 provides for the introduction of the offence of 'sexual coercion' in marriage.

The Fifth Family Report of the Federal Government stressed the lack of evidence showing an increase in violence in the family. Most of the evidence actually suggests a declining trend over time. This applies *inter alia* to child abuse (§ 223 StGB), child killings (§217 StGB), child neglect (§170 StGB).

Child abuse

The latest available data refer to the year 1992. In the whole of Germany there were 16,442 cases brought under §176 in 1992 and 14,554 in 1991. The statistical data up to 1990 only refer to the old Federal Republic and are not comparable with the later data. The number of actually abused children is put at 300,000 per annum. An association for victims of abuse (*Wildwasser*) has been established.

As a result of the 29th Penal Code Amendment Law - §§175, 182 StGB (29.StrÄndG) of 31 March 1994, apart from the discontinuation of §175 Homosexuality, §182 'other sexual abuse' was also reformed (Federal Law Gazette I, No. 33 of 10.6.1994, p. 1168-1169); §182 now reads 'sexual abuse of young people'. Young people under the age of 16 years are given greater protection by this amendment against sexual abuse by persons over the age of 18 years with the use of force and by persons over the age of 21 years exploiting the lack of ability on the part of the victim to decide on his/her own sexual orientation. This development gives greater protection to children and young people, whereas sexuality among adults is no longer subject to restrictions.

Removal of parental authority

There were no changes.

GREECE

Violence in the family

There are no available estimates about the extent of the problem, either with respect to women or older people.

Child abuse

This has been an issue of special concern during 1994 - particularly because of a highly publicised case of sexual abuse of a young boy by his father which led to the child's death. The case came to trial at the end of 1994. The debate has included the issue of prevention and the apparent ineffectiveness of the social services (because of administrative shortcomings, staff shortages and lack of training).

There is no evidence on the extent of the problem. The Institute for Child Health estimates that every year there are 1,000-2,000 new cases of child abuse (including sexual abuse), or a total of 18,000-36,000 cases at any cut-off point in time. The assumption is based on projections based on international ratios of abused children within the total population of those aged under 18.

Removal of parental authority

There were no changes.

SPAIN

Violence in the family

Domestic violence (*maltrato doméstico*) is punishable according to the seriousness of the offence by a penalty which may or may not be custodial (Articles 425 and 582 of the Penal Code). Custodial sentences are given only in cases of habitual ill-treatment. Proposals for reform put forward by certain groups are focused less on changes to legislation than on the need for more severe penalties and on questions relating to procedure, such as the appointment of a special prosecutor. The Ministry of Justice has announced that the offence of ill-treatment in the family is to be extended to cover violence towards children in the family as well as towards a spouse.

The number of cases of domestic violence (90 per cent of which were inflicted by the husband on his wife) reported to police during 1993 followed the downward trend seen in the previous three years, despite a rising overall trend since 1985. In 1993 there were 51 refuges for battered women (five more than in 1991). These refuges are increasingly dependent on the municipalities and approximately a quarter of them are run by private organisations.

There have also been a number of reported cases of abuse of the elderly, occurring mainly in residential homes.

Child abuse

The sexual abuse of children has not so far been the subject of much media debate, but social interest in this problem is growing very rapidly. Available data on the subject are unreliable. An unpublished case study by the Ministry for Social Affairs indicates that almost one child in five is the victim of some form of sexual abuse at one time or another in his or her life and that girls are more likely to be abused in this way than boys. In approximately half of all cases, the victims were subjected to repeated attacks. Cases of abuse from within the family itself represented around 10 per cent of the total.

In 1993, 378 rapes were reported to the police (15 per cent up on the previous year) and 2,071 cases of sexual abuse of children under 16 (21 per cent more than the previous year). While it is clear that the vast majority of cases are never reported, a reliable estimate of the actual numbers involved is very difficult.

Removal of parental authority

The welfare services of the relevant regional departments can intervene in cases where minors are victims of neglect, or at the request of parents who are unable to care for them. In the first instance, guardianship and representation of the minor fall to the relevant regional organisation. The child may be placed either in an institution or with a foster family. This process usually leads to a proposal for adoption, except when initiated at the request of the parents in which case the aim is to return the child to the original family.

No changes to these procedures were introduced in 1994.

FRANCE

Violence in the family

There is a 'National Women's Solidarity Federation' which has set up around 40 refuges for battered women and their children scattered around France, but mainly in the large cities. The centres are generally run by volunteer activists and receive financial support from the Departmental Social Security Service (DDASS). The users (who can stay in them for a maximum of six months) contribute according to their means.

Figures from the Central Department of Social Security suggest the level of reported cases of domestic violence has been fairly stable since 1989. The issue has been the subject of increasing debate since the mid-1980s, though commentators suggest that France has been late in entering this debate compared to other countries and that there is little research. There has also been little response from the police in terms of policy and practice towards domestic violence.

There were no specific legal or policy changes on this issue in 1994.

A few dramatic cases of elder abuse in residential homes were reported, but there is no evidence of the extent of the problem and no specific policy response.

Child abuse

According to the 1994 report from the National Observatory on Decentralised Social Action (ODAS), the number of children either mistreated or at risk of mistreatment rose from 45,000 in 1992 to 54,000 in 1994. Possible explanations put forward for the increase include both the growing social fragility of families and better detection of 'at risk' situations. Of the 16,000 children reported as being abused a quarter were sexually abused. There have been no recent legal developments in this area, but there is increasing debate. The Departments have been carrying out studies to improve their detection of child abuse and there have been attempts to improve the co-ordination between child protection services and the Courts. A national telephone help-line has been set up for children to contact the appropriate services.

Removal of parental authority

There was no change.

IRELAND

Violence in the family

There are no official statistics about domestic violence in Ireland but in the Dublin area in 1994 there were 5,000 calls to the Garda unit which was set up in 1993 to deal with women and child abuse. There were 6,000 calls to the Women's Aid helpline in 1994. In 1993, 119 women treated in the casualty unit of St. James's Hospital in Dublin admitted that they had been victims of domestic violence, suffering from injuries that ranged from multiple bruising to lacerations and fractures.

There are 16 refuges for women and children who are victims of domestic violence in Ireland. It is generally agreed that this is inadequate to cater for the increasing numbers of women seeking help. A conference held in May 1994 was aimed at developing a long-term national policy on domestic violence and refuges for women and children. A Federation of Refuges has been established and the Government allocated £IRL 100,000 from the 1994 Budget for women's refuges including the Federation. In 'Shaping a Healthier Future: A Strategy for Effective Health Care in the 1990's' (Government Publications, 1994), the Government has made a commitment to publish a plan for women's health, to be implemented over the next four years, which includes an expansion of the services for women who are victims of rape and domestic violence, and to co-ordinate these services more effectively with other health services.

Child abuse

The Irish Society for the Prevention of Cruelty to Children (ISPCC) operates Childline, a confidential telephone line. In March 1994 the Society developed a new face-to-face service called STEPS. This service provides centres offering a range of advice and counselling services for young people on a walk-in basis. At the present time the service exists in Dublin, Cork and Wexford and similar centres are planned for Limerick and Kilkenny.

At the present time no commitment has been made by the Government on the subject of sexual abuse of children.

Removal of parental authority

As of December 1994, sixteen sections of the Child Care Act 1991 had been implemented. Part III, Sections 12-15 which deal with the protection of children in emergencies and Part IV Sections 16-23 dealing with care proceedings have not yet been implemented but the Government plans to do so before the end of 1995. These sections will broaden the grounds by which a child may be received into the care of the Health Boards and introduce a new range of Court Orders, most notably the Supervision Order, which will provide for the child to remain at home under the supervision of the Health Board.

ITALY

Violence in the family

Reliable data are scarce on this issue, partly because many cases go unreported and partly because official data do not distinguish between offences against minors and those against other family members.

A 1992 survey of users of 'the Pink Telephone' (a women's help-line) indicated that most abused women are married and the perpetrator in four out of five cases was the husband. Debate and intervention on the problem of violence against women is increasingly focused on the establishment of support centres for the victims of domestic violence and rape. These are mainly run by voluntary associations and numbered about 120 in 1991. They provide telephone advice services, counselling, legal consultancy and social support. By 1994 about 80 of them also provided temporary accommodation for women and their children. There are plans for the extension of these services. Financial support is mainly private, though local authorities help in various ways, such as by providing housing, and the Centres collaborate with local family centres and health boards.

Public intervention in this area is still very limited, though some Regions have recently taken initiatives to provide support and temporary accommodation for women suffering abuse or facing other difficulties within the family

Child abuse

Surveys have indicated that nearly three quarters of recorded offences against minors took place within their families. The system of protection for children, under the auspices of the Juvenile Court, can include the restriction or removal of parental authority, placement in foster care or for adoption, as well as a range of social work support through local authorities, family centres and the health boards. Although policy is formally oriented towards de-institutionalisation for minors, practice has not yet caught up, and in 1992 only five per cent of young people removed from their families were placed in foster care, with the rest going to institutions.

Sexual abuse of children is the subject of considerable contemporary debate in Italy, though as with other forms of abuse in the family reliable evidence is hard to come by. Research carried out in 1994 by the 'Blue Telephone' (a voluntary association for the protection against child abuse) reported they had received 16,759 calls from adolescents and adults and 4,886 calls from children aged up to fourteen (21,600 in total) since 1987. Only six per cent of calls involved sexual abuse, though this is thought to be particularly under-reported. Other calls mainly involved psychological ill treatment, battering and neglect. An interesting finding that there was no relationship between the number of calls received and the number of cases of abuse reported or detected, particularly when analysed by Region. This indicates differing levels of sensitivity to the issues. Over two-fifths of calls came from someone outside the family concerned, which may be seen as a sign of social solidarity beyond the family sphere.

The number of public and private voluntary agencies operating against violence to minors is increasing. In February 1993 a group of them created an Association for the National Co-ordination of Institutions dealing with prevention and treatment of child abuse.

In spite of the growing debate, there were no specific developments in law or policy during 1994.

Removal of parental authority

The XIII Congress of Juvenile Judges held in Rimini in May 1994 expressed a view in favour of removing minors from their parental residence and placing them in temporary foster care arrangements in the case of serious risks of ill-treatment or sexual abuse within the family.

LUXEMBOURG

Violence in the family

In 1994, all aspects of violence in the family were again the subject of particular attention from the public authorities and private associations. The successful campaign against violence towards women was continued and the official information brochure 'Breaking the Silence', on the assistance available to battered women, continued to be distributed.

A survey of people admitted to hostels in the course of a particular day in September 1994, carried out by CEPS/INSTEAD, produced detailed information on the dimensions of the problem of domestic violence and the needs of the women involved.

In 1994, a new service was also set up within the Family Planning Centre providing counselling assistance for rapists. More and more rapists are seeking assistance, either spontaneously or because of conditions imposed by the courts. About 20 people received help over the last year and requests are increasing regularly.

There were no legislative changes during 1994.

Child abuse

The information campaign on sexual abuse of children, which began in 1992, is continuing. The number of consultations at the Family Planning Service, which deals with the matter, is rising every year. This does not necessarily mean that the absolute number of offences is going up, but that more and more victims approach the service, due to the information campaigns. A brochure from the Ministry of the Family entitled 'Sexual Abuse of Children', first published in 1992, was reprinted in 1994 and is being distributed widely in schools and elsewhere.

Removal of parental authority

The Civil Code and other legislation lay down a number of situations in which parental authority can be temporarily or permanently removed, including ill treatment or abuse. One particularly controversial provision, introduced in August 1992, allows for the removal of parental rights if a minor is taken into custody by the youth tribunal. This has been the subject of much criticism and changes are proposed.

NETHERLANDS

Violence in the family

Currently there are 25 refuges for battered women in the Netherlands. There have been no recent changes in law or policy concerning domestic violence.

The abuse of elderly people has only recently become a topic of debate. In 1991 central agencies were set up in two regions, under the auspices of what is now called the Ministry of Health, Welfare and Sport (VPS), to monitor elder abuse. The initial experimental period of funding was up until 1994, during which the agencies received 200 reports of abuse. Funding has now been extended for a further three years, after which it will be decided whether there is a need for a national agency.

Child abuse

The task of monitoring and dealing with abuse or ill-treatment of children falls to a number of different agencies in the Netherlands and there is currently

discussion about how to co-ordinate or rationalise these services. The collection of reports of child abuse is mainly the role of 14 Bureaux of Confidential Doctors, who up until 1992 were nationally funded. Since then, as part of a more general decentralisation of services, the provinces and municipalities have responsibility for funding under the law on Youth Aid. Eleven of the agencies are co-operating in the organisation of a joint fund and in 1995 another will join them, but there is some concern that the process of decentralisation will undermine the present co-operation and may lead to fragmentation and regional differentiation of services. The number of reported cases of abuse has been rising (from 430 in 1972 to 13,000 in 1993) and special publicity campaigns in the early 1990s led to a big increase in calls from children on the confidential telephone help-lines (*kindertelefoon*), but the level of trained staff working in this field has been lagging behind.

Child Protection Services, attached to the Ministry of Justice, also deal with cases of abuse. Parliament has urged the government to integrate these services with those of the Bureaux of Doctors, but this is meeting with some opposition from the Ministry of Justice. A Commission has been set up to examine ways of creating an integrated and publicly visible service.

The third agency involved in this issue is the police. Currently officers of the youth and vice squads are receiving training in recognising child abuse, and special audio and videotaped interview units are being set up.

Sanctions against abuse take three forms: criminal prosecution, civil remedies and therapeutic treatment. In general the preference is for the latter, though in cases of sexual abuse the criminal law is more frequently used. Currently an experiment in the use of treatment rather than prosecution is being conducted in cases of incest, in order to determine whether this will increase the likelihood of confession, whether offenders will continue to participate in treatment if they are not prosecuted and how it affects rates of recidivism. Results of the experiment are expected in 1996.

Removal of parental authority

Dutch legislation on the removal of parental authority has not changed fundamentally for decades. The Secretary of Parliament suggested a change in the supervision order that was accepted by Parliament in 1994. It is likely to be accepted by the Senate and will be implemented in 1995. The two most important aspects of the proposal are the following:

- the legal grounds for issuing a supervision order will change. Currently a judge can place a child under supervision if she/he is 'threatened with bodily and moral decline'. It is proposed that this should be changed so that a supervision order can be issued if a child is raised 'in such a way that his moral or mental interests or his health is seriously damaged, and other means to reduce this threat have failed, or presumably will fail';
- the responsibility for and power over the child after the court order has been issued will be shifted from the judge to the child welfare board, who will provide a 'supervisor' for the family.

PORTUGAL

Violence in the family

The legal framework for dealing with violence in the family has been described in earlier Observatory reports and there have been no recent changes or developments. The 1991 law aimed at 'guaranteeing adequate protection to women victims of violence', through measures such as information campaigns, research, the creation of refuges and support centres, the setting up of telephone helplines, the establishment of special police units, and the introduction of state compensation for victims, has not yet been implemented. Thus there are no women's refuges in Portugal, though the subject is under debate, and *Misericórdia* (a religious non-governmental organisation) and the municipality of Lisbon have proposed setting up shelters.

There is little evidence as yet on the extent of domestic violence, but the studies conducted so far indicate that it is a serious problem. The results of a study on violence against women by the Commission for the Equality of Rights of Women (CERW) are expected in 1995.

Though there are no specific programmes to deal with violence against women in the family, there have been a number of initiatives. The Portuguese Association to Support Victims is a voluntary organization supported by the state, and offers advice and training. Another NGO - the Womens' Association against Violence - and The Commission for the Equality of Rights of Women have also promoted information campaigns. Both the CERW and the Ministry of Justice provide legal consultations. The Commission also has an agreement with the police force to carry out training sessions for officers.

Child abuse

Some indications of the extent of abuse of children come from analysis of calls to a telephone help-line called Children's SOS. The proportion concerning sexual abuse, while relatively small, has been steadily increasing. According to the SOS organisation, the increase suggests that a more substantial effort is being made by society to identify and give support in cases of abuse.

There have been no recent developments in legislation, but some policy and service provision initiatives have been taken. An interministerial project - the Family and Child Support Project Expert Committee - created by the Council of Ministers in 1992 to support abused or neglected children and their families has commissions in three towns, with two more being set up. Services include a confidential telephone service, which began in January 1994 and took 1,005 calls in the course of the year, psycho-social support teams and crisis intervention teams. The Institute for Child Support also runs a telephone help-line (Children's SOS), legal services, direct support services, teams working with street children, and children's play projects.

Removal of parental authority

Parental authority is automatically withdrawn in certain circumstances, such as the conviction of parents for criminal offences. The courts can also order parental responsibility to be withdrawn in cases where the security or moral safety of a child is in question. This is subject to a parental right of appeal and children over 14 years have a right to be heard in court. There have been no recent changes to these provisions.

UNITED KINGDOM

Violence in the family

As the law stands, victims of domestic violence can turn to criminal law or non-criminal remedies. Criminal charges ranging from assault to murder can be brought against a family member although criminal law is rarely used in cases of domestic violence. Otherwise there are two main types of non-criminal remedies available, orders prohibiting further violence or molestation, and orders which ban a violent partner from the family home or specified area.

In June 1994, the Government accepted most of the Law Commission's recommendations for civil remedies on domestic violence. The law is to be made more consistent, broadening its jurisdiction to cover those who live as a family, rather than just to current spouses or inhabitants. Therefore, remedies are available to 'associated persons', that is, those who are broadly linked through a family relationship.

The Crown Prosecution Service has committed itself to treating victims of abuse with appropriate sensitivity and understanding. There have been changes in the procedures for giving evidence, for example, some witnesses may give evidence from behind a screen. The Crown Court Witness Service provides practical advice and emotional support to witnesses appearing in Crown Court. Initially, this service was introduced on a pilot basis, but recently its scope has been extended and the service is expected to be present in all Crown Courts in England and Wales by 1995.

The Department of Health provides £151,000 for Women's Aid (England), in addition to £48,000 to fund a national helpline. This helpline also receives £10,000 from the Ministerial Group on Domestic Violence. The Scottish Office provides £180,000 for the forthcoming year for Scottish Women's Aid. The Welsh Office provides £249,000 for Welsh Women's Aid and the Department of Health and Social Services, Northern Ireland, provides £61,000 for Northern Ireland's Women's Aid.

The Home Office has launched a £170,000 publicity campaign to combat domestic violence. The Department of Environment is also funding the post of a National Housing Co-ordinator to work closely with the housing requirements of women who experience domestic violence. Over a three year period £151,000 has been allocated for this purpose.

The voluntary and statutory sectors tend to adopt different approaches to the issue of domestic violence. The former identifies women's safety as the priority, whereas the latter has a more family-orientated approach, often concerned with child protection. Government policy is to co-ordinate the responses of statutory and voluntary agencies to domestic violence. The Ministerial Group on domestic violence has three approaches: to encourage co-operation between different agencies, raise awareness amongst the public and provide better services to victims of domestic violence.

A scheme has recently been developed by police in Merseyside, North West England, to enable rapid response to incidents of domestic violence. This scheme attempted to combat the incidence of repeated attacks on victims.

A recent trend in Britain has been for offenders to receive education and counselling programmes. These may be provided as part of a sentence or as a condition of probation or through the voluntary sector. There is evidence that this type of treatment has an effect with some men, but that such treatment should proceed with caution and in some cases may be inappropriate. There is an emerging recognition that policies have not yet been developed to meet the complex realities of domestic violence. Scottish developments have included two projects, 'Change' and the 'Lothian Probation Project' which aim to change the behaviour of men who abuse.

Research conducted nationally by the Office of Population Census and Surveys found that five per cent of over 65 year olds had suffered verbal or financial abuse and a further two per cent physical abuse. These figures correspond with those reported for the USA, but there have been concerns over under-reporting in the UK figures. There have been no large scale studies since this one in 1992. 'Action on Elder Abuse', a subsidiary charity of the National Council on Ageing, is now in its first year of operation. It runs a national information and inquiry service and provides guidance for the prevention of and action on abuse of older people. It seeks to raise awareness, promote research as well as collect and disseminate information.

Child abuse

The most recent Government figures show that in 1993 there were 6,400 registrations of sexual abuse and 8,300 cases placed on the Child Protection Register. This corresponds to about a quarter of all cases on Child Protection Registers.

The first detailed academic study into the nature and extent of ritual abuse was published in 1994 by the Department of Health. The report looked at the 84 cases of alleged ritual and satanic abuse reported to the police and did not find any evidence for satanic abuse. It did find however, that there had been ritual abuse in three cases.

Under the Children Act 1989, local authorities are required to identify children in need in their area and provide a range and level of support services. The Act also provides a simplified legal framework for the care and protection of children when they are at risk of significant harm - which includes sexual abuse. Local authorities are under similar obligations with regard to the welfare of children being looked after away from home. There have been no major changes to this since the Act was implemented in 1991.

A national commission of inquiry into the prevention of child abuse was set up in 1994 with the support of the National Society for the Prevention of Cruelty to Children (NSPCC). The commission, which will report in 18 months, will consider current provision and make recommendations for a national strategy to prevent child abuse in the UK.

There is a confidential, free, nationwide telephone service for children. One in ten calls lead to telephone counselling and over the period 1992-93, Childline counselled 81,543 children. It is funded principally from donations from public

appeals, charities and trusts, although it does receive some government grants. Founded in 1986 as a result of a major public appeal, in 1994 it set up regional bases, including one for Northern Ireland, as well as a specialist line on bullying.

Removal of parental authority

The Children Act 1989 is the main piece of legislation regulating child protection and the rights of children. It has three guiding principles that the court must bear in mind when making orders about children: the welfare of the child must be paramount; delay in reaching decisions about children is not generally in their best interests; and no court order should be made unless this would be better for the child than making no order at all.

Under the Children Act local authorities have a duty to make investigations whenever they have reasonable cause to believe that a child in their area is suffering or is likely to suffer 'significant harm'. If it is considered necessary the child will then be placed on the Child Protection Register. A local authority may apply to the court for a Child Assessment Order if it suspects harm but cannot verify this, and a care order is the only way of doing so.

In cases requiring swift action an Emergency Protection Order can be granted to 'any person' by the court. The court has to be satisfied that there is reasonable cause to believe that the child is likely to suffer significant harm if not removed to alternative accommodation. The order, which lasts up to eight days, automatically authorises the removal of a child from home and places parental responsibility with the person in whose favour the order is granted.

Parents or other carers have the right to 'reasonable contact' with the child when an Emergency Protection Order has been made; they can also apply for the order to be removed when it has been in force for 72 hours. The child has the right, if 'sufficiently mature' to refuse to undergo any medical or other examination.

The police also have the power to remove a child from harm or keep him or her in suitable accommodation for up to 72 hours in cases of emergency where a child appears likely to suffer significant harm.

A child can be taken into local authority care if the local authority or the National Society for the Prevention of Cruelty to Children, a large voluntary sector organisation, obtains a Care Order from the court. The court must be satisfied that the child is suffering or is likely to suffer 'significant harm' either as a result of inadequate parental care, or because he or she is beyond parental control. The Care Order gives the local authority parental control over the child in question. The local authority works with the parents to help the child, and have a duty to encourage contact between the child and his or her parents and keep them informed of the whereabouts of the child.

The Children Act 1989 and the National Health Service and Community Care Act 1990 have made important alterations to the framework for state support to families in need. A new report by the Audit Commission has examined how effective local authorities and health authorities are, in working more closely together and in partnership with parents, following the new legislation. The Audit Commission is an independent body which appoints auditors to all local and

health authorities with the aim of helping them to bring about improvements in economy, efficiency and effectiveness through the audit process. It found that despite common interests and overlapping responsibilities, co-operation between health, social and education services was disappointing. The Commission recommended that the Government should make social services, health and education authorities and publish joint plans to help improve co-operation and consequently services for children and families in need. It called for social services to respond to their new broader role under the Children Act by developing community-based programmes with health, education and voluntary agencies such as family centres and parent support groups, to support families under stress. This support could help avoid family breakdown and reduce the chances of child abuse.

Table 6: Families Under Stress

COUNTRY	VIOLENCE IN THE FAMILY	CHILD ABUSE	REMOVAL OF PARENTAL AUTHORITY
BELGIUM	No legislative change. Developments in experimental therapeutic treatment of offenders as an alternative to other punishment. Some evidence emerging of abuse of older people.	No legislative or policy change. 1993 data on reported cases of child abuse suggested that 30–38% of cases involved sexual abuse.	Law of 2 February 1994 gives minors the right to be heard in court in proceedings concerning restriction or removal of parental authority.
DENMARK	No legislative or policy change.	1994 Government Action Plan on ill treatment of children being implemented, with finance of DKR 15m: includes establishment of confidential advisory services for children.	No change.
GERMANY	Debate about rape in marriage. 01.95 draft Bill proposes new offence of 'sexual coercion' in marriage. 5th Family Report of Federal government indicated decreasing evidence of violence.	31.03.94 Penal code amendment gives increased protection to young people under 16 against abuse by adults, while removing restrictions on sexuality amongst adults.	No change.
GREECE	No change. No available estimates of extent of domestic violence.	Considerable concern due to case resulting in child's death (trial 1994). Debates concerning effectiveness of social services. Only available estimates of prevalence of abuse are extrapolated from international ratios.	No change.
SPAIN	Offence of ill-treatment of spouse is soon to be extended to children. Police reports show three year trend of decline in numbers of cases reported. Cases reported of abuse of older people, mainly in residential home.	No change, but social interest growing. Data on prevalence unreliable, but study indicated that nearly one in five children are victims of sexual abuse at some time.	No change.

Table 6: Families Under Stress *continued*

COUNTRY	VIOLENCE IN THE FAMILY	CHILD ABUSE	REMOVAL OF PARENTAL AUTHORITY
FRANCE	No legislative change, but growing debate.	No legislative change, but increasing debate. ODAS data on reported abuse or risk of abuse shows marked increase between 1992 and 1994, possibly because of better detection: around a quarter of abuse sexual. There have been attempts to improve co-ordination between social services and the Courts, and a national telephone help-line for children set up.	No change.
IRELAND	Federation of Women's Refuges has been established: government has assigned £100,000 for refuges funding. Government health document (1994) proposed better co-ordination women's health services, including those dealing with violence.	No specific government commitments in this area. ISPCC (who run Childline - a confidential phone service) established in March 1994 a drop-in in help/advice service for young people (STEPS) in 3 cities with 2 more planned.	By 12.94 16 sections of Child Care Act (1991) implemented. Two further parts dealing with emergency protection and care proceedings to be implemented by end of 1995. These extend circumstances for awarding court orders and introduce a supervision order (where child stays at home under social supervision).
ITALY	No legislative change, though growing debate. There are plans for the extension of support centres for victims of domestic violence and rape. Various regional initiatives.	No changes in legislation or policy, though growing debate, particularly on sexual abuse. Little reliable data, but indications from calls to help-lines of growing problem and regional variations in propensity to report abuse. Also increase in number of voluntary associations working against child abuse. In February 1993 an Association for the Co-ordination of Institutions set up.	05.95 Congress of Juvenile Judges recommended use of foster care and removal of children from parents in cases of serious risk of ill-treatment or sexual abuse.
LUXEMBOURG	No legislative change. Publicity campaign against violence against women continued. 1994 Family Planning Centre established counselling. Reported rapes increasing, possibly due to sustained information campaigns.	Information campaign on sexual abuse continued. Brochure reprinted and widely distributed. No legislative change.	Changes proposed to the provision allowing removal of parental rights where a child is taken into custody by the Youth Tribunal.

Table 6: Families Under Stress *continued*

COUNTRY	VIOLENCE IN THE FAMILY	CHILD ABUSE	REMOVAL OF PARENTAL AUTHORITY
NETHERLANDS	<p>No legislative or policy changes on domestic violence.</p> <p>Funding for experimental agencies to monitor elder abuse was extended in 1994 for a further 3 years.</p>	<p>Number of reported cases of abuse rising. Debate over co-ordination of services. Commission currently considering ways of integrating services provided by Bureaux of Confidential Doctors (locally funded) and Child Protection Services (linked to Justice Ministry).</p> <p>Experiment currently being carried out on the use of treatment rather than punishment in cases of incest.</p>	<p>Amendment to procedure for issuing supervision order likely to be implemented in 1995. Criteria for order are widened and responsibility for children goes from judge to welfare board.</p>
PORTUGAL	<p>No legislative change. 1991 Law guaranteeing protection for women not yet implemented. No refuges for battered women but Misericordia and municipality of Lisbon proposed establishing some.</p> <p>Training, support and legal advice initiatives promoted by NGOs such as Women's Association against Violence and Commission for Equality of Rights of Women.</p>	<p>Children's SOS (phone help-line) report increase in cases of abuse, possibly linked to greater public awareness.</p> <p>No legislative changes, but developments in policy and service provision. Officially sponsored Family and Child Support Committee has commissions in 3 towns, with confidential phone service (launched January 1994), support and crisis intervention teams. Institute for Child Support (IAC) also runs SOS line, legal services and other projects.</p>	<p>No change.</p>
UNITED KINGDOM	<p>06.94 Government accepted Law Commission's proposal to extend civil remedies to members of wider family. Crown Court Witness Service provides support to those giving evidence. New publicity campaign to combat domestic violence. Department of Environment has established Housing Co-ordinator to consider violence victim's needs. Separate funds for regional Women's Aid organisations.</p> <p>Growth in projects offering counselling and re-education programmes for offenders.</p> <p>New charity Action on Elder Abuse established, offering information, guidance and promoting awareness and research.</p>	<p>No major legislative or policy changes.</p> <p>1994 report from Department of Health on ritual and satanic abuse concluded that there was no evidence for satanic abuse, but did find a few cases of ritual abuse.</p> <p>National Commission of Enquiry into prevention of child abuse set up in 1994, with support from NSPCC.</p> <p>Childline (confidential telephone service for children) set up regional bases in 1994, including specialist line on bullying.</p>	<p>No changes to provisions of 1989 Children Act.</p> <p>Audit Commission report on effectiveness of local authorities and health authorities in implementing services for children under the Act was critical of co-operation between service agencies. Recommended compulsory joint plans and the development of community-based co-ordinated programmes to avoid family breakdown and reduce chances of abuse.</p>

CHAPTER 7

Conclusions

This volume has focused on key trends and developments in family policy during 1994 and the early part of 1995. The objective has been to provide an account on a country by country basis. The breadth, complexity and inter-action between changing family forms and developing family policies in 12 countries precludes dealing with these topics in depth. In the companion volume we seek to reflect upon, and analyze, the trends we report in a neutral way in this volume. However, there are certain key themes which emerge from the foregoing chapters and it is useful to draw them together.

There are a few signs of sustained economic recovery but unemployment remains high, inflation remains a threat and economic growth is sluggish. For those employed in stable and well remunerated employment, however, there are material advantages which contribute to growing inequality between those active and secure within the labour market and those who are inactive or precariously attached. Although there are no (comparable) data for 1994 which report measures of inequality, poverty or exclusion, it is a reasonable hypothesis that circumstances for marginal families will not have improved during the year.

It is noticeable that the distinction between public and private spheres in relation to family policy can be exaggerated or diminished according to the political and cultural context within which the debate is occurring. In several countries (Ireland, Spain and the UK in particular) there have been vigorous debates about abortion, the ethics of aided fertility/pregnancy and divorce. In some instances there have been minor adjustments to existing legal provision or practice while in other countries the debates have been near the centre of national political debate. At the same time, there has been an uneven consideration of the role and status of fathers. It is arguable that the excitement which previously appeared to be associated with this subject has ebbed away as the phenomena of 'new men' has slipped back into more traditional roles and values. On the other hand, the status, rights and obligations of 'fathers apart' have been at the forefront of policy debate, and political controversy, in some countries. As the rate of divorce has increased and the financial circumstances of lone parents (mostly women) has failed to improve, so attention has focused on the role of the absent parent (mostly men). Two strands are detectable: first an explicit interest in ensuring that absent fathers acknowledge a continuing financial obligation to support their children, irrespective of where, or with whom, they live; the second strand, more covert but no less real, is a belief that the long-term financial and moral obligations to

children should be taken into account when couples make a decision to have children or to separate. In that context, a clear attempt is being made to influence if not determine behaviour associated with family formation and dissolution through the use of social policy instruments. The belief that obligations and responsibilities should be not only recognised but applied retrospectively and irrespective of existing legal arrangements and established codes, has added to the controversy.

In parallel with debates about the nature of family obligation there has been a developing interest in the status of un-married, but co-habiting couples - both gay and heterosexual. The absence of accurate, up-to-date and comparable data on the prevalence of co-habiting couples adds to the difficulty. But within many country's legal codes there are not only anomalies but contradictions in the rights, obligations and opportunities attaching to individuals living in stable, but different, couple relationships. Problems are to be found in relation to social security law, adoption and fostering, housing, property and inheritance.

The European Commission's White Papers on Growth, Competitiveness, Employment, (1993) and Social Policy (1994) are important documents in their own right. They also represent a shift in the focus of social policy objectives, an affirmation of the principle of subsidiarity and a commitment to the centrality of employment. Increased labour market flexibility, the coordination of measures to facilitate employment growth, the removal of barriers and disincentives from within social security systems are all given prominence. However, the implications of this strategy for families, their well-being and quality of life, are not so clearly articulated. Social integration and the eradication of social exclusion are identified as principles to be endorsed and goals to be achieved. However, the application of the principle of subsidiarity requires an even more prominent role for Member States in respect of family policy: this must give rise to some caution and concern. Looking to the future, the subject of the family must be considered in the context of the 1996 Inter-Governmental Conference and recognition granted to the Union to protect and enhance the interests of the family against the background of further economic change and social dislocation.

In the field of social protection the old and seemingly water-tight distinctions between Beveridgean and Bismarckian systems are under pressure and dissolving. The impact of ageing, or more accurately the consequences of ageing as perceived by some governments and political actors, together with labour market re-structuring and changing family forms are together feeding an incipient debate about the structure, funding and value base of social protection systems. Historic contracts, of an inter-generational kind between those in the labour market and those retired, between those without and those with children, between rich and poor are being subject to re-evaluation. The principles of universality and selectivity are being qualified and re-deployed: commitments to universal child benefits are increasingly challenged. The place for incentives, contracts, training and conditionality are being re-assessed. Similarly, there is a growing interest in the relationship between the public and private in the provision of social security. The future shape of social protection, wider social policies, and the responsibilities of the state and community, in support of families is uncertain but will be a continuing focus for the work of the Observatory.

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The Observatory produces two Annual Reports. The companion to this volume is a synthesis of trends which compares the structure and value of support for different families in EU countries and comments on the prospects for family policy in the context of rapid social and demographic change. The Annual Reports are also available in French and German.

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