

*European*

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### Keeping Equal Opportunities High On The EU's Agenda

On the occasion of International Women's Day (7th of March) the group of Commissioners with special responsibility for equal opportunities policy (President Santer, Commissioners Flynn, Gradin, Wulf-Mathies and Liikanen) reaffirmed their commitment to promoting equal opportunities between men and women and keeping the issue high on the EU's agenda.

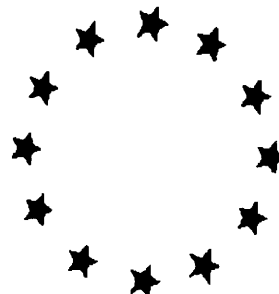
In a statement issued by the Commissioners, they pledge to maintain their efforts, especially in the context of the on-going objective of "mainstreaming" equality considerations within all areas of Community policy. In their statement, the Commissioners reflect on the achievements of the past year which include the adoption of the 4th Equal Opportunities Action Programme (see page 2), the social partners' agreement on parental leave (see page 8), and the proposal for a Council Recommendation on the balanced participation of men and women in decision-making. They also record the active part played by the European Union within the context of the United Nations' 4th World Conference on Women which was held in Beijing.

International Women's Day was also marked by the opening of a European Commission sponsored conference on the structural funds and equal opportunities. The funds - with a budget of some 170 billion ECU - have a powerful role to play in promoting greater equality of opportunity between men and women. At the conference (see page 2), Social Affairs Commissioner Padraig Flynn called for a better exploitation of the structural funds to promote equal opportunities.

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## BACKGROUND BRIEFING : Equal Opportunities

The drive to keep equal opportunity issues to the forefront of European policy development has continued over recent months. Two notable developments are the Commission's new Communication on the Kalanke judgement of the European Court of Justice (see page 3) and the

launching of a second stage of consultations with the social partners on the proposal for a directive on the onus of proof in equal opportunity cases (see below). The Commission are determined to ensure that the full weight of the European Community is placed behind the drive for full and true equality.

### Equal Opportunities and the Structural Funds

Three hundred people took part in a conference on the impact of the European structural funds on equality of opportunity between men and women on the 7th and 8th of March 1996 in Brussels. The conference, organised jointly by the European Commission and the Belgian authorities, was divided into two main sessions. The first session was devoted to identifying and promoting good practice in the way the structural funds have contributed to equal opportunities and identifying areas where pilot initiatives could be undertaken in the future. The debate concentrated on three topics:

- Diversifying choices and activities.
- Local development and local initiatives in urban and rural areas.
- Reconciling family and professional life.

The second session was devoted to mobilising partners and adapting structural fund intervention and focused on aspects which help to convert specific initiatives into integrated action.

The conference was addressed by European Commissioners Flynn, Fischler and Wulf-Mathies. In his speech to the conference, Social Affairs Commissioner, Pdraig Flynn, called for a better exploitation of the structural funds to promote equal opportunities. He outlined recent activities and initiatives of the Commission in the field of equal opportunities and welcomed, in particular, the adoption by the Commission of a Communication on mainstreaming, whereby a gender perspective will enter all areas of Community policy. He concluded by saying that he saw a change in attitude on how to achieve equality of opportunity - it was no longer valid to see this as exclusively an issue for women, rather equality was about men and women and the partnership between them.

### Sex Discrimination : Onus Of Proof

The European Commission launched the second round of consultation under the Maastricht Social Policy Agreement procedures on changing the burden of proof in cases of sex discrimination in February 1996. In its reply to the Commission, the ETUC has made it clear that it believes this is a non-negotiable issue and stressed that Community legislation was required as a matter of urgency.

It was in May 1988 that the Commission originally submitted a draft Directive on the burden of proof in sex discrimination cases which was designed to allow the uniform application of European Court case law throughout the Union. The legal basis of the original Commission proposals required the unanimous support of the Council, and this was never forthcoming. A first stage of consultation with the social partners was launched on the 5th July 1995, and following that consultation the Commission has decided to put forward a proposal for a Council Directive. It is this proposal which has now been submitted to the European-level social partners.

The current Commission proposal is for a sharing of the burden of proof in sex discrimination cases between plaintiff and defendant. In such cases, until now, a woman who alleged breach of the principle of equality has generally had to bear the full burden of proving her case, even where certain facts were easier for her employer to establish. The Commission plans to change the burden of proof rather than reversing it totally. European Social Affairs Commissioner, Pdraig Flynn, explained that "the essence of this proposal is that the plaintiff would be required to provide precise and consistent factual evidence of probable or presumable discrimination. The defendant would then have to prove that there has been no infringement of the principle of equal treatment between men and women".

## **Kalanke Judgement Communication**

The European Commission has adopted a Communication designed to clarify the European Court of Justice ruling on the Kalanke case. In the Kalanke case the Court was asked by a German Court whether the policy of the Land of Bremen to automatically give priority to women candidates for recruitment and promotion in sectors where they were under-represented and where a female candidate had the same qualifications as a male candidate was in contravention of Directive 76/207/EEC on the equal treatment of men and women. The Court found that such a policy was in contravention of the 1976 Directive and this seemed to challenge the whole practice of positive discrimination.

In the new Communication, the Commission puts forward the view that the Court has only condemned the automatic nature of the Land of Bremen's positive action policy. The Commission interpretation is that only rigid quota systems are illegal and that there are a host of possible positive action measures that are untouched by the Court's ruling. The Communication lists examples of such measures and these include quotas linked to the qualifications required for the job, proposals to increase time limits for promotion for women and obligations of principle.

At the same time as adopting the Communication, the Commission also adopted a proposal for amending Article 2(4) of the 1976 Directive in order to further clarify the situation. The Commission would like to see the wording of Article 2(4) amended so that the text of the provision would specifically permit the kinds of positive action which remain untouched by the Kalanke judgment. Such an amendment would make it clear that positive actions short of rigid quotas are permitted by Community law.

## **Mainstreaming Equality**

The European Commission have published its Communication on "Incorporating Equal Opportunities For Women and Men Into All Community Policies and Activities" - more commonly known as "mainstreaming". The Communication was produced at the instigation of the special group of Commissioners who are responsible for equal opportunities policies. Some of the main points covered in the Communication are:

- The Communication strongly reflects the new emphasis on building a "partnership" between women and men which has recently come to the forefront in Community policies.
- The Communication is a direct result of the conclusions of the Beijing Women's Conference which emphasised the importance of promoting equality between men and women in all activities and policies at all levels.
- The Communication reviews the existing range of Community policies and instruments in the field of equal opportunities and attempts to identify prospects for future initiatives.
- The Communication examines in particular the role of the structural funds as an instrument of equal opportunities policies and the outlook for further initiatives in the field of Community funding.

## **Equality Action Programme**

The Council Decision establishing the Medium-Term Community Action Programme on Equal Opportunities for Men and Women (1996 to 2000) has just been published. The main difference between the final Decision and the various proposals and amendments that have been put forward and discussed over the last two years is the level of Community funding - there has been a considerable reduction in the funding originally proposed by the Commission down to 30 million ECU for the full programme period. The main aims of the programme are:

- to promote integration of the equal opportunities for men and women dimension in all policies and activities;
- to mobilise all the actors in economic and social life to achieve equal opportunities for men and women;
- to promote equal opportunities for men and women in a changing economy, especially in the fields of education, vocational training and the labour market;
- to reconcile working and family life for men and women;
- to promote a gender balance in decision-making;
- to make conditions more conducive to exercising equality rights.

As a general rule, financial assistance for projects will be a maximum of 60% of project costs, although in exceptional circumstances a higher rate might be granted.

# The Contribution Of European Structural Funds To Employment

Everyone now seems to agree that the persistence of high levels of unemployment is the single most important challenge facing Europe today. Regrettably, unemployment is a complex problem that has no simple solution. Whilst a significant degree of economic policy is determined at Member State level, a heavy responsibility rests on the shoulders of individual governments, particularly in so far as the co-ordination of macroeconomic policies for growth are concerned. Equally, the overall level of world trade has a profound effect on economic activity in an intense industrial region such as the European Union. But this is not to say that EU policies themselves cannot have an impact in the fight against unemployment, particularly with regards to unemployment in regions lagging behind in development and those in structural decline.

With a budget of 170,000 million ECU for the period 1994-1999, the EU's structural funds have a potentially vital role to play in promoting employment. They can provide support for medium and long-term job creation by improving the match between physical and human resources and the operation of the labour market. At the same time, they can also have an important short-term impact through extra demand for goods and services. An assessment of the current impact of the structural funds on employment generation and an examination of possible adjustments which can heighten their impact is contained in a new European Commission Communication - Community Structural Assistance and Employment (COM(96) 109).

The Communication describes the ways the funds currently contribute to job creation. Structural assistance employs a range of tools based on measures of three types:

- Infrastructure development creates both positive externalities for private capital and has a positive impact on employment.
- Support for the productive sector both in terms of the impact of direct aid on employment and in terms of the provision of business services.
- The development of human resources through education and training and labour market measures.

The actual impact on employment depends on the type of region or sector being assisted. Assistance to objective 1 regions (regions lagging behind in development) gives priority to job creation principally

by promoting growth to reduce gaps in per capita GNP. The priority in objective 2 regions (regions in structural decline) is diversification and revitalisation of the declining industrial fabric.

There are certain problems in arriving at a suitable methodology for calculating the current impact of the structural funds on employment. However, independent analysis for the period 1994-99 suggests that the implementation of Community Support Frameworks (CSFs) will create about 1.2 million jobs (4.1% of the active population) in all objective 1 regions.

The second part of the Communication concentrates on possible adjustments to the structural funds which could help to improve their impact on employment creation. Several factors are identified:

- Investment in human resources should be given a prominent place in order to adapt the structures and content of education and training to the needs generated by economic and technical change.
- There is also a need for improved business support services, particularly for small firms.
- Measures also need to be taken to support technological innovation.

A further important aim should be to help increase the job-intensity of economic growth. In this respect, project selection methodologies can have a positive effect. At the same time, efforts need to be made to compensate, where appropriate, for changes required by the modernisation of the productive sector, and the dynamic reorganisation of work and working time where this is accompanied by an increase in employment should be encouraged. Care must also be taken to ensure that environmentally sound growth is encouraged.

Finally, the Commission recommends two further priorities which should be reflected in the structural funds. The first is promoting a more active approach to economic and social solidarity, including equal opportunities and the second is developing and enriching the partnership in the context of structural assistance. The Commission believes that currently political, economic and social partnership is not fully exploited and calls for an increased role for the social partners and other bodies in the planning and implementation of structural measures.

# Regional GDP Tables

The following table is adapted from the Eurostat publication "Statistics in Focus : Regions 1996.1. It shows the per capita GDP for major EU regions both on the basis of a common index (EUR15 = 100) for 1993 and 1980, and in actual figures (both in purchasing power standards and in ECU).

The four columns refer to:

- (1) Index of GDP per capita for 1993 in purchasing power standards where EUR15 = 100
- (2) Index of GDP per capita for 1980 in purchasing power standards where EUR12 = 100
- (3) Actual GDP per capita in 1993 in purchasing power standards.
- (4) Actual GDP per capita in 1993 in ECU

Note: The regional estimates of GDP must be treated with a certain amount of caution on account of specific situations that can arise in some regions. For example, the per capita GDP for Hamburg is very high due to the large number of non-residents working in the region. Equally the GDP in some of the regions of the Netherlands is low due to a large number of residents working outside the region.

Region / Country	(1)	(2)	(3)	(4)
Niedersachsen (D)	103	102	16,367	19,182
Noord-Nederland (Neth)	102	133	16,124	17,073
ITALY	102	103	16,228	14,586
Est (Fr)	101	110	16,075	17,187
East Anglia (UK)	101	92	16,040	14,143
Rheinland-Pfalz (D)	100	104	15,886	18,619
Bassin Parisien (Fr)	100	108	15,824	16,919
EUR15	100	-	15,845	15,939
EUR12	100	100	15,830	15,830
Berlin (D)	99	129	15,708	18,410
UNITED KINGDOM	99	96	15,717	13,858
SWEDEN	98	-	15,590	18,134
Scotland (UK)	97	91	15,448	13,622
Madrid (Sp)	97	81	15,433	13,060
Sud-Ouest (Fr)	95	96	15,045	16,085
South-West (UK)	94	89	14,954	13,186
Mediterranee (Fr)	93	99	14,772	15,794
East Midlands (UK)	93	91	14,735	12,993
Ouest (Fr)	92	96	14,646	15,659
Region Wallonne (B)	91	90	14,432	14,354
West-Midlands (UK)	91	88	14,430	12,723
FINLAND	91	-	14,387	14,110
Yorkshire & Humb. (UK)	91	88	14,438	12,731
Manner-Suomi (Fin)	91	-	14,359	14,083
Noreste (Sp)	91	85	14,405	12,190
Oost-Nederland (Neth)	90	92	14,326	15,169
North-West (UK)	90	92	14,184	12,507
North (UK)	89	87	14,102	12,434
Nord-Pas-De-Calais (Fr)	88	99	13,958	14,924
Suedoesterreich (Aust)	88	-	13,937	15,302
Este (Sp)	88	79	13,883	11,748
Abuzzi-Molise (I)	87	85	13,848	12,448
Wales (UK)	84	79	13,305	11,732
IRELAND	81	60	12,826	11,329
Northern Ireland (UK)	79	73	12,559	11,074
SPAIN	78	71	12,330	10,434
Sardegna (I)	77	73	12,253	11,013
Canarias (Sp)	76	58	11,990	10,146
Attiki (Gr)	72	71	11,341	8,399
Sicilia (I)	71	69	11,302	10,159
Continente (P)	70	60	11,147	7,466
Campania (I)	69	68	10,890	9,789
PORTUGAL	69	60	10,935	7,324
Sud (I)	69	70	10,906	9,803
Centro (Sp)	68	62	10,747	9,094
Noroeste (Sp)	66	67	10,406	8,805
GREECE	63	63	9,998	7,405
Voreia Ellada (Gr)	60	58	9,437	6,990
Sur (Sp)	60	57	9,476	8,019
Kentriki Ellada (Gr)	59	62	9,299	6,887
Brandenburg (D)	57	-	9,078	10,639
Nisia Aigaiou, Kriti (Gr)	56	51	8,943	6,624
Sachsen-Anhalt (D)	54	-	8,552	10,022
Sachsen (D)	53	-	8,461	9,916
Mecklenburg-Vorp. (D)	52	-	8,223	9,636
Thuringen (D)	52	-	8,288	9,713
Depts D'Outre-Mer (Fr)	48	-	7,343	7,238
Madiera (P)	45	-	7,120	4,768
Acores (P)	42	-	6,679	4,474
Hamburg (D)	190	186	30,061	35,231
Brussels (B)	182	167	28,901	28,745
Ile De France (Fr)	166	161	26,336	28,157
LUXEMBOURG	160	115	25,422	26,856
Bremen (D)	154	157	24,477	28,687
Hessen (D)	149	130	23,597	27,656
Lombardia (I)	131	133	20,703	18,609
Baden-Wuerttemberg (D)	128	125	20,262	23,747
Brabant (B)	127	121	20,117	20,009
Ahvenanmaa / Aland (Fin)	126	-	19,992	19,607
Emilia-Romagna (I)	126	133	19,941	17,924
Bayern (D)	125	114	19,879	23,299
Ostoesterreich (Aust)	124	-	19,700	21,630
Lazio (I)	120	107	18,979	17,059
Nord-Ovest (I)	117	119	18,516	16,643
Nord Est (I)	117	113	18,607	16,725
South-East (UK)	116	113	18,450	16,268
Vlaams Gewest (B)	114	105	18,139	18,042
BELGIUM	113	107	17,946	17,849
Westoesterreich (Aust)	112	-	17,720	19,455
Nordrhein-Westfalen (D)	112	117	17,760	20,814
AUSTRIA	112	-	17,718	19,453
DENMARK	112	105	17,815	22,253
West-Nederland (Neth)	111	115	17,564	18,599
FRANCE	110	114	17,434	18,640
GERMANY	108	118	17,124	20,070
Saarland (D)	107	106	16,988	19,909
Centro (I)	106	110	16,799	15,082
Centre-Est (Fr)	105	109	16,572	17,718
NETHERLANDS	103	108	16,308	17,268
Schleswig-Holstein (D)	103	99	16,260	19,057

## **Part-Time and Temporary Workers' Rights : Second Stage Consultations Begin**

The European Commission decided at its meeting on the 17th of April 1996 to formally launch the second phase of consultation under the Maastricht Social Policy Agreement and Protocol on flexibility of working time and job security for part-time and temporary workers. The background to these proposals is a long one. Proposals for Community legislation on voluntary part-time work and the supply of workers by temporary employment agencies were first put forward in the early 1980s but never progressed within the Council. These original proposals were withdrawn in 1990 and replaced by the three proposed directives on atypical contracts.

Just one of these - the one dealing with health and safety protection for part-time and temporary workers - was adopted (in June 1992), the other two (one of which dealt with part-time workers and distortions of competition and the other which dealt with the working conditions of part-time workers) failed to make progress in the Council due to a lack of the necessary majority. In last year's Medium term social action programme, the Commission stated that it would seek to make progress using the procedures set out in the SPAP, in the first place in relation to part-time workers. Subsequently, on the 27th of September last year, the commission launched a first stage consultation of the social partners on the issue of flexibility of working time and security for workers.

The responses generated by this first stage consultation suggested that there was widespread support for basic guiding principles that employees in new types of flexible work should not be discriminated against, although views on the appropriate type of action differed. The social partners indicated a desire to play a role in the direction of Community policy in this area and hence the launch of the second stage of consultations. The consultations will deal with both means of promoting greater flexibility in working patterns and rules to ensure the basic principles of equal treatment.

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## **European Loan Insurance Scheme For Employment (ELISE)**

The European Commission has proposed a new scheme which will allow loans to small and medium sized enterprises amounting to 1,000 million ECU to be guaranteed by the European Investment Fund. The Commission proposal is one of the measures undertaken within the context of the confidence pact for employment. It has two objectives:

- to ensure that new jobs are created by small and medium sized enterprises;
- to encourage investment by small and medium sized enterprises.

It is widely agreed that SMEs have particular difficulties in gaining access to finance due to their inability to offer the various forms of security required by banks and the fact that banks tend to see SMEs as a relatively high credit risk. In order to overcome these difficulties and to make it easier for SMEs to have access to loan finance, the Commission proposes to finance the premia to guarantee loans made by the European Investment Fund using funds from the Community budget amounting to up to 25 million ECU.

The money would come from the credits available in the 1996 budget on the credit line "Employment and growth in Europe". Such a scheme would allow loans amounting to 1,000 million ECU to be guaranteed. The scheme will be available exclusively to SMEs, with a preference to those with fewer than 50 employees. Only investment projects which envisage the creation of new jobs would benefit from such loan guarantees. The guarantee offered by the EIF would cover 50% of the total loan value, except for projects with cross-border implications in which case 75% of the loan may be covered. The detailed operation of the scheme will be established in a co-operation agreement to be drawn up between the Commission and the EIF.

## Direct Participation: The EPOC Project

The 1990s have seen a revival in the debate on work organisation, optimisation of human resources and employee direct participation (DP) in the workplace. The European Foundation for the Improvement of Living and Working Conditions has recently published a report entitled "Humanise Work and Increase Profitability? : Direct Participation in Organisational Change viewed by the Social Partners In Europe". Studies suggest that the competitive advantage of Japanese car manufacturing is based on their superior work organisation and commitment to employee involvement in key areas of activity. The acceleration of global competition has compelled European enterprises to examine such trends, and to develop new strategies for workplace organisation.

This study is the first phase of the Employee direct Participation in Organisational Change (EPOC) project, a major investigation into the nature, effect and extent of DP in Europe. The report describes and analyses national trade union centres and employers' organisations representatives' perceptions of the impact DP has had on organisational change. Representatives of two business sectors - the metal industry and banking - were also included. Almost two hundred interviews were carried out in the fifteen Member States of the European Union.

The findings show a high degree of uncertainty about the future development of DP across the respondents, regardless of their different experiences, ideologies and interests. Few had a clear understanding of the different forms of DP and many representatives of the employer organisations had uncertain, and even contradictory, views on what constituted DP. Many national organisations did not have a formal position or policy. However, when asked about the benefits of DP, nearly all employers stressed increased employee motivation, and improving and humanising working conditions.

Unions appear better informed on DP arrangements and may have well-developed views on its potential impact. They see DP as an active process of involvement which should be linked to the existing channels of collective representation. The report is available from national sales agents of the European Communities. For further information contact Camilla Galli da Bino at the European Foundation (Tel: +353 1 204 3100)

## The European Industrial Relations Observatory (EIRO)

Plans are well advanced for the launch in 1997 of a new European Industrial Relations Observatory (EIRO) which will operate in close collaboration with the European Foundation in Dublin. The objectives of the Observatory will be to make available detailed information on key developments in industrial relations at both Member State and European level.

The Observatory will encompass a field of study which will include all aspects of industrial relations activities including negotiations over;

- wage and other income-related benefits;
- social security, family benefits, pensions and other forms of work-related state benefits;
- rules governing employment contracts, employment policies, manpower management decisions, labour mobility and flexibility;
- working time and the flexibility of working hours;
- the impact of technical change on work organisation;
- work-related training issues;
- equal opportunities;
- employers' and workers rights and obligations.

Much of the work of the new Observatory will be centred around the creation of a definitive database of industrial relations policies and developments. The database will contain news of key developments in the field of industrial relations from each of the Member States of the European Union, Norway and developments at European level. It will also incorporate a number of comparative analyses on important themes in industrial relations.

In addition, the Observatory will publish a regular monthly Bulletin which will cover planned EU legislation, consultation and discussion within the context of the European social dialogue and reviews of the evolution of industrial relations within Europe. The Bulletin will also contain a list of records added to the database during the previous month. The European Industrial Relations Observatory will be officially launched at the beginning of 1997 and the first issue of its monthly Bulletin should be available in January. Further details can be obtained from the Foundation (for contact details see page 16 of this Bulletin).

## Commission Propose Directive on Parental Leave

The European Commission has published its proposals for a Council Directive on the framework agreement on parental leave concluded by the European-level Social Partners (UNICE, CEEP and the ETUC).

This is the first proposal for a Directive designed to implement a framework agreement negotiated by the Social partners under the Maastricht Social Policy Agreement procedures. In its introduction to its new proposal, the Commission states that it considers parental leave to be an important factor in reconciling family and working life and constitutes an important element in the introduction of new, flexible ways of organising working time.

The Commission "wholeheartedly endorses" the aims of the social partners' framework agreement and sees it as an important step in two respects.

1. Minimum standards with regard to parental leave are a big step forward in achieving equal opportunities for men and women. Sharing of family responsibilities between parents is a key element in the strategies designed to improve equality in the labour market. It is also likely to increase the number of women in work. Reconciling working and family life must be part of a long-term strategy, stresses the Commission, to increase the number of women in the working population. The Essen European Council in December 1994 gave top priority to promoting employment and equal opportunities and this was confirmed by the Cannes and Madrid summits.
2. The introduction of parental leave also contributes to realising another objective set by the European Council in Essen - the introduction of new, flexible ways of organising work. Such flexibility must meet the needs of enterprises which, faced with international competition, have to increase their competitiveness. It must also take account of the interests of workers by enabling them to tailor their working hours more closely to their needs. An agreement between the social partners on this matter as a result of negotiations between employers and workers is the right vehicle for reconciling the interests of the two parties, believes the Commission.

The Commission proposal for a Directive has been designed to ensure that the actual framework agreement is not subject to further amendment by

the Council. For this reason the actual text of the agreement is not incorporated within the main body of the proposed Directive but annexed to it. (The full text of the Social Partners' Agreements can be found on the following pages of this edition of the Bulletin).

The proposed Directive contains just two substantive articles. **Article 1** states "The framework agreement on parental leave concluded on 14 December 1995 between the general cross-industry organisations (UNICE, CEEP and the ETUC) and annexed to this Directive is made binding". Thus the minimum provisions contained in the framework agreement will apply in all Member States covered by the Social Policy Agreement - that is, all Member States other than the United Kingdom.

**Article 2** contains a number of additional provisions designed to ensure that the proposal meets the general requirements of Community law. **Clause 1** emphasises that Member States may introduce more favourable provisions than those laid down in the Directive, if they so choose. **Clause 2** stresses that the introduction of the Directive does not constitute sufficient grounds to justify a reduction in the general level of protection for workers in the fields covered by it. This is without prejudice to the right of Member States and/or management and labour to lay down, in the light of changing circumstances, different legislative, regulatory or contractual arrangements to those prevailing at the time of the adoption of the Directive, provided always that the minimum requirements laid down by the Directive are adhered to.

**Clause 3** states that when Member States adopt the provisions to implement the Directive, they shall prohibit any discrimination based on race, sex, sexual orientation, colour, religion or nationality. **Clause 4** allows Member States to determine the range of penalties applicable to infringements of national provisions which implement the Directive, and take all necessary steps to ensure that they are enforced. Such penalties must be "effective, commensurate with the infringement, and must constitute a sufficient deterrent".

Clause 5 states that Member States must bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by the 21st of March 1998 at the latest or shall ensure that, by that date at the latest, management and labour have introduced the necessary measures



## LEGISLATION : Social Partners' Agreement on Parental Leave

by agreement, the Member State being required to take any necessary measures enabling them at any time to be in a position to guarantee the results imposed by the Directive. Member States will have a maximum of one more year, if necessary, to take account of special difficulties or implementation by collective agreement.

Thus Member States are provided with a choice of implementing the conditions contained within the framework agreement either by their own legislation or by a binding agreement reached by the social partners at national level. Nevertheless, the Member

States are responsible for ensuring that the agreement will apply throughout the Member State concerned.

The Social Policy Agreement does not require consultation with the European parliament on proposals of this type. Nevertheless, the proposal is being forwarded to both the European parliament and the Economic and Social Committee so that they are able to issue an Opinion if they so wish. The proposal will be considered by the Council (without the participation of the United Kingdom) later this year.

## FRAMEWORK AGREEMENT ON PARENTAL LEAVE

### PREAMBLE

The enclosed framework agreement represents an undertaking by UNICE, CEEP and the ETUC to set out minimum requirements on parental leave, as an important means of reconciling professional and family responsibilities and promoting equal opportunities and treatment between men and women.

ETUC, UNICE and CEEP request the Commission to submit this framework agreement to the Council for a Council Decision making these requirements binding in the Member States of the European Community with the exception of the United Kingdom of Great Britain and Northern Ireland.

### I General Considerations

1. Having regard to the Agreement on Social Policy annexed to the Protocol on Social Policy attached to the Treaty establishing the European Community and in particular Articles 3(4) and 4(2) thereof,
2. Whereas Article 4(2) of the Agreement on Social Policy provides that agreements concluded at Community level shall be implemented, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission;
3. Whereas the Commission has announced its intention to propose a Community measure on the reconciliation of work and family life;
4. Whereas the Community Charter of Fundamental Social Rights stipulates at point 16 dealing with equal treatment for men and women, that measures should be developed to

enable men and women to reconcile their occupational and family obligations;

5. Whereas the Resolution of the Council of 6 December 1994 recognises that an effective policy of equal opportunities presupposes an integrated, overall strategy allowing for better organisation of working hours and greater flexibility, and for an easier return to working life, and notes the important role of the Social Partners in this area and in offering both men and women an opportunity to reconcile their work responsibilities with family obligations;
6. Whereas measures to reconcile work and family life should encourage the introduction of new flexible ways of organising work and time which are better suited to the changing needs of society and which should take the needs of both the enterprises and the workers into account;
7. Whereas family policy should be looked at in the context of demographic changes, the effects of the ageing population, closing generation gap and promoting women's participation in the labour force;
8. Whereas men should be encouraged to assume an equal share of family responsibilities, for example they should be encouraged to take parental leave by means such as awareness programmes;
9. Whereas this agreement is a framework agreement setting out minimum requirements and provisions for parental leave, distinct from maternity leave, and for time off work on grounds of force majeure, and refers back to Member States and Social Partners for the establishment

## LEGISLATION : Social Partners' Agreement on Parental Leave

of the conditions for access and modalities of application in order to take account of the situation in each Member State;

10. Whereas Member States should provide for the maintenance of entitlements to benefits in kind under sickness insurance during the minimum period of parental leave;
11. Whereas Member States should also, where appropriate under national conditions and taking into account the budgetary situation, consider the maintenance of entitlements of relevant social security benefits as they stand during the minimum period of parental leave;
12. Whereas this Agreement takes into consideration the need to improve social policy requirements, to enhance the competitiveness of the Community economy and to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium sized enterprises;
13. Whereas the Social Partners are best placed to find solutions that correspond to the needs of both employers and workers and shall therefore be conferred a special role in the implementation and application of this agreement.

THE SIGNATORY PARTIES HAVE AGREED THE FOLLOWING

### II. Content

#### Clause 1 : Purpose and scope

1. This agreement lays down minimum requirements designed to facilitate the reconciliation of parental and professional responsibilities for working parents.
2. This agreement applies to all workers, men and women, who have an employment contract or employment relationship as defined by the law, collective agreement or practice in force in each Member State.

#### Clause 2 : Parental leave

1. This agreement entitles, subject to clause 2.2, men and women workers to an individual right to parental leave on the grounds of the birth or adoption of a child to enable them to take care of that child, for at least three months, until a given age of up to eight years to be defined by

Member States and/or Social Partners.

2. To promote equal opportunities and equal treatment between men and women, the parties to this agreement consider that the right to parental leave provided for under clause 2.1 should, in principle, be granted on a non-transferable basis.
3. The conditions for access and modalities of application of parental leave shall be defined by law and/or collective agreement in the Member States, as long as the minimum requirements of this agreement are respected. Member States and/or Social Partners may, in particular:
  - (a) decide whether parental leave is granted on a full-time or part-time basis, in a fragmented way or in the form of a time-credit system;
  - (b) make entitlement to parental leave subject to a period of work qualification and/or a length of service qualification which shall not exceed one year;
  - (c) adjust conditions for access and modalities of application of parental leave to the special circumstances of adoption;
  - (d) establish notice periods to be given by the worker to the employer when exercising the right to parental leave specifying the beginning and the end of the period of leave;
  - (e) define the circumstances in which an employer, following consultation in accordance with national law, collective agreements and practices, is allowed to postpone the granting of parental leave for justifiable reasons related to the operation of the undertaking (e.g. where work is of a seasonal nature, where a replacement cannot be found within the notice period, where a significant proportion of the workforce applies for parental leave at the same time, where a specific function is of strategic importance). Any problem arising from the application of this provision should be dealt with in accordance with national law, collective agreements and practices;
  - (f) in addition to (e) above, authorise special arrangements to meet the operational and organisational requirements of small undertakings.
4. In order to ensure that workers can exercise their rights to parental leave, Member States and/or Social Partners shall take the necessary measures to protect workers against dismissal on the grounds of an application for, or the

## LEGISLATION : Social Partners' Agreement on Parental Leave

taking of, parental leave in accordance with national law, collective agreements or practice.

5. At the end of parental leave, workers shall have the right to return to the same job, or, if that is not possible, to an equivalent or similar job consistent with their employment contract or employment relationship.
6. Rights acquired or in the process of being acquired by the worker on the date on which parental leave starts shall be maintained as they stand until the end of parental leave. At the end of parental leave, these rights, including any changes arising from national law, collective agreements or practice, shall apply.
7. Member States and/or Social Partners shall define the status of the employment contract or employment relationship for the period of parental leave.
8. All matters relating to social security in relation to this agreement are for consideration and determination by Member States according to national law, taking into account the importance of the continuity of the entitlements to social security cover under the different schemes, in particular health care.

### Clause 3 : Time-off work on grounds of force majeure

1. Member States and/or Social Partners shall take the necessary measures to entitle workers to time-off from work, in accordance with national legislation, collective agreements and/or practice, on grounds of force majeure for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable.
2. Member States and/or Social Partners may specify the conditions for access and modalities of application of clause 3.1 and limit this entitlement to a certain amount of time per year and/or per case.

### Clause 4 : Final provisions

1. Member States can maintain or introduce more favourable provisions than set out in this agreement.
2. Implementation of the provisions of this agreement shall not constitute valid grounds for reducing the general level of protection afforded to workers in the field of this agreement.

This does not prejudice the right of Member States and/or Social Partners to develop different legislative, regulatory or contractual provisions, in the light of changing circumstances (including the introduction of non-transferability), as long as the minimum requirements provided for in this agreement are complied with.

3. This agreement does not prejudice the right of the Social Partners to conclude, at the appropriate level including European level, agreements adapting and/or complementing the provisions of this agreement in order to take into account particular circumstances.
  4. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with the Council Decision within a period of two years from its adoption or shall ensure (1) that the Social Partners establish the necessary measures by way of agreement by the end of this period. Member States may, if necessary to take account of particular difficulties or implementation by collective agreement, have up to a maximum of one additional year to comply with this decision.
  5. The prevention and settlement of disputes and grievances arising from the application of this agreement shall be dealt with in accordance with national law, collective agreements and practices.
  6. Without prejudice to the respective roles of the Commission, national courts and the Court of Justice, any matter relating to the interpretation of this agreement at European level should, in the first instance, be referred by the Commission to the signatory parties who shall give an opinion.
  7. The signatory parties will review the application of this Agreement, five years after the date of the Council Decision, if requested by one of the parties to this agreement.
- Brussels, 14th December 1995

### Signatory Parties:

Fritz Verzetnitsch, President of the ETUC.  
Antonio Castellano Auyanet, President of the CEEP.  
Francois Perigot, President of the UNICE.  
Emilio Gabaglio, Secretary-General of the ETUC.  
Roger Gourves, Secretary-General of the CEEP.  
Zygmunt Tyszkiewicz, Secretary-General of the UNICE.

- (1) Within the meaning of Article 2(4) of the Social Policy Agreement annexed to the EC Treaty

## Work Equipment Directive Published

Council Directive 95/63/EC of the 5th December 1995 has finally been published in the Official Journal. The Directive amends Directive 89/655/EEC which deals with the minimum safety and health requirements for the use of work equipment by workers at work.

The main changes to the 1989 Directive are as follows:-

- A new system of inspections of work equipment is introduced. Article 4a requires an initial inspection in cases where the safety of work equipment depends on the installation conditions. Work equipment exposed to conditions causing deterioration which could result in a dangerous situation must be subject to periodic inspections and testing by competent persons.
- A new Article (5a) is inserted which deals with ergonomics and occupational health. It states that "the working posture and position of workers while using work equipment and ergonomic principles must be taken fully into account by the employer when applying minimum health and safety requirements".
- A completely new Annex (Annex II) is added to the Directive. This relates to a new Article 4(3) which states: "Member States shall, after consultation with both sides of industry, and with due allowance for national legislation and/or practice, establish procedures whereby a level of safety may be attained corresponding to the objectives indicated by the provisions of Annex II.

Annex II sets out a series of provisions dealing with work equipment. In particular it sets out a series of provisions for all work equipment and then special provisions for (i) the use of mobile equipment, whether or not self-propelled, and (ii) the use of work equipment for lifting loads.

## Employment and Labour Market Policy Committee

The European Commission has adopted a proposal to establish an Employment and Labour Market Policy Committee to support the work of the Social Affairs Council. The objective is to facilitate the practical application of the employment monitoring procedure decided upon at the Essen Summit and to provide the Social Affairs Council with a body on which it can rely for advice and assistance. At the

Essen Summit, in December 1994, the European Council gave a decisive impetus to European employment strategy. It declared that the fight against unemployment and for equal opportunities was the most important task of the European Union and its Member States. It also identified priority areas for structural action in favour of employment.

To follow up this process, a monitoring and reporting procedure was instituted. Under this procedure, the Social Affairs and Ecofin Councils and the Commission were required to produce a Single Report annually on progress in implementing the strategy. In order to complete this work, the Social Affairs Council created an ad hoc group with the responsibility of preparing its contribution to the Single Report.

Taking into account both the importance of the work which the Ad Hoc Group was given as well as the inadequacy of the means at its disposal, a large majority of Member States expressed the wish to see the formal establishment of a stable structure which would have more effective tools, and which would have an equivalent role to the Economic Policy Committee's relationship with the Ecofin Council. This approach was confirmed by the Madrid European Council which expressed the wish to see such a stable structure put into place as soon as possible. This new proposal is designed to meet that request, and is modelled on the same procedure as that used to create the Economic Policy Committee and the Standing Employment Committee.

## Social Policy Forum

At the initiative of Mr. Padraig Flynn, European Commissioner with responsibility for Employment and Social Affairs, 1,000 people, including 400 representatives of the voluntary sector and non governmental organisations, took part in the European Social Policy Forum in Brussels (Palais des Congres) from 28 to 30 March. The aim of the Forum was to widen the scope of interaction between the Commission and those involved at grassroots level in the field of social policy and action.

The conclusions of the Forum will provide inputs into the IGC, the follow-up to the G7 Summit on Employment, the revision of the EU's Social Policy Action Programme, discussions on international issues in the framework of the UN and negotiations with applicant Member States on admission to the EU. A Comite des Sages was appointed by the

Commission to prepare the Forum, chaired by former Portuguese Prime Minister Mrs. Maria de Lourdes Pintasilgo. This committee prepared a report on fundamental social and economic rights and their future which was submitted to the Forum.

Discussion at the Forum was dominated by four "parallel sessions" which ran throughout the first two days. The four themes were:

- (1) Equal Opportunities
- (2) Employment
- (3) Social Protection
- (4) The future of working life

The Forum was addressed by Commission President Jacques Santer, Social Affairs Commissioner Pdraig Flynn, and Mr. Stephen Hughes, Chairman of the Committee on Social Affairs and Employment, of the European Parliament

**Posting of Workers Directive Agreed**

The Social Affairs Council meeting in Brussels on the 29th March 1996 approved in principle the Directive on the posting of workers in the context of the provision of services.

The draft directive has a long and difficult history, having first been proposed back in 1992. Its basic aim is to extend the basic conditions of work of a Member State to workers who are temporary posted to that Member State from another Member State. Effectively, the proposal has been blocked in the Council since October 1994, some Member States believing that it goes too far (the UK), others believing that it doesn't go far enough. Agreement has been reached on a compromise put forward by the Italian Presidency on a qualified majority vote, with the UK and Portugal voting against.

The main points of the compromise are:

- The Directive will apply to all cases of workers posted between Member States on condition that the enterprise concerned is established in another Member State, the posting is carried out in the context of a transnational provision of services, and there is a working relationship between the posting company and the worker.
- Working and employment conditions targeted by the Directive will include minimum wage levels, minimum annual paid holidays, maximum working hours, health and safety protection standards, equal treatment of men and women, protection standards for pregnant women, children and young people, and other non-discrimination rules.

- Member States would have the ability to not implement the conditions of the Directive relating to minimum pay for postings of less than one month.

The Directive will be formally adopted, without debate, during a future Council meeting.

**Round Table on Employment**

The European social partners along with the European Commission took part in a Round Table on Employment on the 28th and 29th of April. The meeting was called at the initiative of President Santer in order to focus discussion on the proposed Confidence Pact On Employment. In his opening speech to the meeting, Jacques Santer said that the Pact should be based on three objectives:

- Keeping in line with the EU's macro-economic strategy.
- Strengthening Community tools in favour of competitiveness and employment.
- Updating the labour market.

Speaking at the conclusion of the meeting, President Santer welcomed the active participation of the social partners who had shown their determination "to act and to act together". If the pact is to succeed, he said, "it is important for everyone to take a step in the other side's direction"

- Firms must agree to place investment and jobs at the top of their agenda.
- Employees must accept a "less corporatist form of labour market".
- Authorities must undertake to promote a general framework which is favourable to business competitiveness and which can give rise to a more solidarity-orientated society which gives more scope to personal enhancement.

A more muted message came from ETUC General Secretary, Emilio Gabaglio, however. Speaking at the close of the meeting he stressed that the ETUC remained committed to the concept of the Employment Pact which, he believed, represented both a need and an opportunity. However, he felt that the employers did not show sufficient commitment to turn this initiative into new action

**New TURN Internet Site**

Trade unionists with access to the Internet might like to "visit" the Trade Union Regional Networks' new WWW site at <http://www.point2.co.uk/clients/turn>



## Le Magazine Education, Training and Youth

The much-delayed fourth edition of "Le Magazine", the information vehicle of the European Commissions' Task Force on Education, Training and Youth has finally been published. Its contents include:

- An interview with Edith Cresson, the Commissioner responsible for education and training.
- A preview of the European Year of Lifelong Learning.
- An examination of education and training systems in the three new EU Member States - Austria, Finland and Sweden.
- A look at the work of the European Training Foundation and its work in encouraging the development of vocational training and education in Central and Eastern Europe.
- An examination of the potential impact of the information society in the sphere of education and training.
- An article on Ortelius - the European Database on Higher Education.

The final fifteen or so pages of the publication are given over to an examination of women and training, in particular a review of some 50 projects designed to challenge traditional approaches to education, training and gender. The success and achievements of projects under the Erasmus, Comett, Petra, Force, Lingua and Youth for Europe Programmes are examined. For copies of Le Magazine, contact European Commission DGXXII : education, Training, Youth. Rue Belliard 5-7, B-1049 Brussels, Belgium (Fax: 00 32 2 295 0138)



## The Social Partners and the Environment

The latest issue of the European Foundation's European Participation Monitor (P+) focuses on the social partners and the environment. Articles within this issue include:

- Employment and Sustainability - Setting the Stage : an examination of the potential impact of the concept of sustainable development on employment in Europe.
- Environment, Sustainability and Industrial

Relations : a review of the development of industrial relations systems in EU countries in relation to environmental problems.

- Environmental Action in North America : a look at developments in the United States that have important implications for industrial relations and the environment.
- Environmental Protection at BASF AG : A case study of social partner involvement in the development of environmental protection policies at this German chemical firm.
- Industrial law and Environmental Protection in Germany : An overview of German labour law in particular as far as it impacts on environmental and health and safety issues.
- Environment and Industrial Relations at DSM Chemicals : Another case study on the relation between industrial relations and environmental issues, this time at a Dutch chemical firm.
- Eco-Auditing and Environmental Performance : A review of eco-auditing techniques and, in particular, the scope for involvement by the social partners in such systems.
- Environmental Education and Training : A look at the role of the social partners in developing and implementing environmental training.

P+ (European Environmental Monitor) is available in English from the European Foundation for the Improvement of Living and Working Conditions (For contact details see page 16)



## The Future of the European Union: Trade Union Demands and Expectations.

The European Trade Union Institute has published a new book entitled "The Future of the European Union : The trade union's demands and expectations for the Intergovernmental Conference 1996". The book consists of the various documents and reports submitted to the Joint ETUC/ETUI Conference on the future of the European Union which was held in November 1995. The material is collected under three main headings:

- The need to place employment at the heart of European policy.
- The need to incorporate fundamental social rights within the main body of the European treaties.
- The citizens and the European Union - the democratic challenge.

For information on availability of the book, contact the ETUI (contact details on page 16).

## Inflation In EU Member State : February 1996

The annual inflation rate for the EU as a whole fell from 2.8% in January 1996 to 2.7% in February. A year ago, in February 1995, the corresponding rate was 3.1%. The index for the EU as a whole rose by 0.4% between January and February. Over the months there were marked increases in the indices of Portugal, Denmark (0.6%), the United Kingdom and Germany (0.5%) and to a lesser degree in France, Ireland, Finland (0.4%) as well as in Spain, Italy and the Netherlands (0.3%). Small increases were recorded in Belgium (0.2%), Luxembourg and Sweden (0.1%). In Greece the index fell slightly (-0.3%). The results for Austria are not yet available. The annual inflation rates for February 1996/February 1995 for Member States are as follows:

Member State	Feb 96/Feb 95	Member State	Feb 96/Feb 95
Finland	0.5%	Luxembourg	1.0%
Germany	1.6%	Sweden	1.7%
Netherlands	1.8%	Denmark	1.8%
Belgium	1.9%	France	2.0%
Ireland	2.4%	Portugal	2.5%
UK	2.7%	Spain	3.7%
Italy	4.9%	Greece	8.5%
Eur15	2.7%	Austria	n/a

Source: Eurostat, Consumer Price Index No. 3 1996

## Unemployment In EU Member States : January 1996

Eurostat estimates that the seasonally-adjusted unemployment rate in the EU for the month of February 1996 was 11.0%, representing an increase of 0.1% since January 1996 and 0.2% since February 1995. Since December 1995, a noticeable rise in unemployment has taken place in Germany (for man, but not for women) and also in Portugal (more significant in the case of women than men), whilst unemployment has fallen in Finland and in other Member States it has remained virtually unchanged. The climbing rate for the European Union over the last six months is to be attributed to increasing male unemployment (increasing by 0.1% per month); the unemployment rate for women in the same period has hovered just over 12.5%. The relevant figures for individual Member States are:

**UNEMPLOYMENT RATES, SEASONALLY ADJUSTED,  
MALES AND FEMALES (%)**



Source:  
Eurostat,  
Unemployment  
No 3/4 1996

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