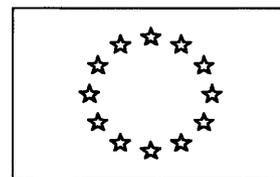


# European Trade Union Information Bulletin



ISSUE 1 of 1998

NEW ON-LINE INFORMATION SOURCES FOR  
EUROPEAN TRADE UNIONISTS

## EIROn-Line Launched

European Social Affairs Commissioner, Pádraig Flynn, officially launched the new WWW on-line service of the European Industrial Relations Observatory (EIRO) on the 22nd January. The Observatory itself was launched last year and the initiation of the new on-line service marks an important stage in its development. The on-line service provides access to the records added to the EIRO database which cover developments in industrial relations in the various EU Member States and at European-level. New records are added to the database - and the online service - at monthly intervals. The database contains both shorter news and more in-depth features, plus comparative overviews of how particular issues are dealt with in the industrial relations systems of the 15 countries. EIROnline is a project of the Dublin-based European Foundation for the Improvement of Living and Working Conditions.

At the official opening of EIROnline, Pádraig Flynn said: "I am convinced that EIROnline will be an invaluable resource for social partners, governments and European Union's institutions, not to mention all EU citizens with an interest in industrial relations". He added that "in today's ever more integrated European economy, where employment is the number one priority, industrial relations are increasingly important and practitioners and policy-makers need to keep up with developments in this field in all the countries of the EU.

The beginning of 1998 also brought the launch of the European Commission World Wide Web site - infoNET - which has been specially designed for trade union users. The site incorporates direct access to the on-line version of the European Trade Union Information Bulletin.

Full details of accessing both sites can be found on Page 15 of this edition of the Bulletin.

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## EUROPEAN TRADE UNION INFORMATION BULLETIN

Produced by MBO Education &  
Training Ltd 3, Dorchester Road,  
Fixby, Huddersfield, UK.

Fax: 00 44 1484 423 828

E-mail: [Bulletin@mboelma.demon.co.uk](mailto:Bulletin@mboelma.demon.co.uk)  
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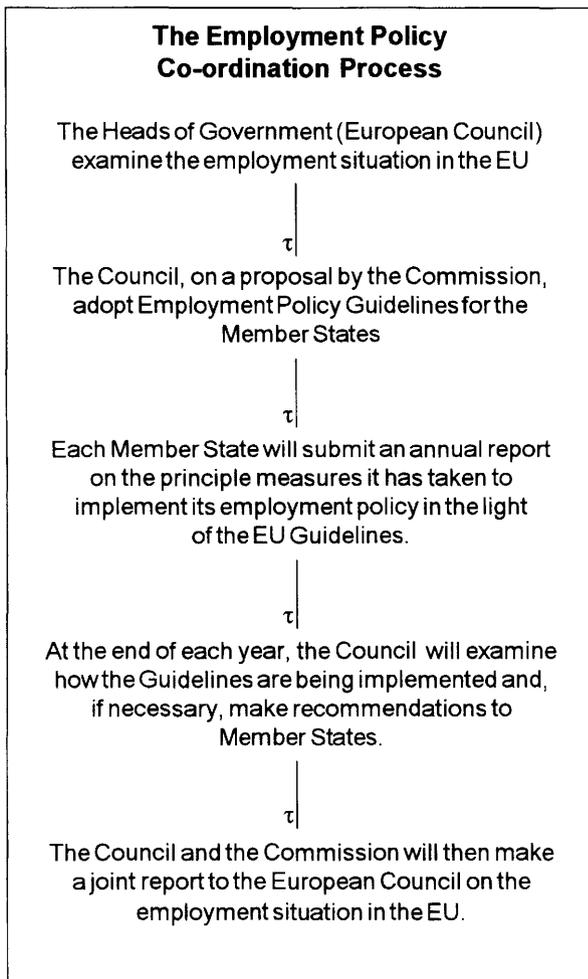


**BACKGROUND BRIEFING**

# Council Adopt 1998 Employment Guidelines

The Treaty of Amsterdam introduced a new "Employment Chapter" into the Treaty Establishing the European Community. This clearly stated that promoting a high level of employment was one of the major objectives of the Union. Whilst employment policy remained primarily the responsibility of individual Member States, the Treaty stated that promoting employment was a matter of "common concern" and that individual policies should fit into a co-ordinated European strategy. The Community was given the task of encouraging co-operation between Member States and, if necessary, complementing their actions.

The Treaty also introduced a new system for promoting the co-ordination of national employment policies. Under this system the Council each year adopt a set of Guidelines which should be incorporated into national employment action plans.



The 1998 Employment Guidelines were adopted by means of a Council Resolution on the 15th of December 1997. The text of the Guidelines is contained in an annex to the Resolution and is reproduced in full below.

The main elements of the Resolution itself are:-

**Paragraph 2** states that the guidelines "will have to be incorporated into national employment action plans drawn up in a multiannual perspective so that they are given practical effect in the form of national objectives which are quantified wherever possible and appropriate"

**Paragraph 3** states that national employment action plans will set deadlines for achieving the desired results in light of the physical and financial resources which can be drawn upon.

**Paragraph 4** requires each Member State to, every year, send the Council and the Commission its national employment action plan. Paragraph 5 goes on to ask Member States to submit their 1998 Action plans in time for the June Cardiff European Council meeting.

**Paragraph 6** commits the Council to carrying out - in the second half of 1998 - an examination of the way Member States have incorporated the Guidelines into their own action plans and a report on the employment situation in Member States which will be submitted to the Vienna European Council in December. Paragraph 8 states that the Commission will produce draft guidelines for 1999 by mid-October.

Perhaps one of the most important paragraphs of the resolution, from a trade union point of view, is **Paragraph 9** which states "The Council affirms that the social partners at all levels will be involved in all stages of this approach and will make an important contribution to the implementation of these guidelines and the promotion of a high level of employment. That contribution will be regularly assessed."

**Paragraph 10** commits the Council to organising regular contacts with the social partners to allow for proper preparation of their six-monthly meetings with the troika of Heads of State or Government and the Commission.



This concept of a regular six-monthly meeting between the European level social partners (the ETUC, UNICE and CEEP), the Commission and the Council troika (the Heads of Government of the current Council Presidential country, the immediate past Presidential country and the immediate forthcoming Presidential country) was proposed by the Luxembourg Presidency last year and approved by the Special Employment Summit last October. The ETUC have welcomed the prospect of this form of participation in the co-ordination of national employment policies which they believe "will strengthen European social dialogue, including dialogue at sectoral level".

The first informal review of progress achieved by Member States in implementing the Employment Guidelines will take place at the Cardiff European Council in June 1998, whilst the first formal consideration under the procedures set out in the Amsterdam Treaty will take place at the Vienna European Council in December. The structures are therefore now in place, it is up to the Member States and the Social Partners to show how such structures can become a positive force in harnessing the combined strength of the entire European economy to fight the continued levels of high unemployment within the European Union.

*The full text of the Council Resolution on the 1998 Employment Guidelines can be found in OJ C30 of the 28th January 1998*

## THE 1998 EMPLOYMENT GUIDELINES

### IMPROVING EMPLOYABILITY

#### ***Tackling youth unemployment and preventing long term unemployment***

In order to influence the trend in youth and long term unemployment the Member States will develop preventive and employability oriented strategies, building on the early identification of individual needs; within a period to be determined by each Member State which may not exceed five years and which may be longer in Member States with particularly high unemployment, Member States will ensure that:

- every unemployed young person is offered a new start before reaching six months of unemployment, in the form of training, retraining, work practice, a job or other employability measure;
- unemployed adults are also offered a fresh start before reaching twelve months of unemployment by one of the aforementioned means or, more generally, by accompanying individual vocational guidance.

These preventive and employability measures should be combined with measures to promote the re-employment of the long term unemployed.

#### ***Transition from passive measures to active measures***

Benefit and training systems where that proves necessary must be reviewed and adapted to ensure that they actively support employability and provide real incentives for the unemployed to seek and take up work or training opportunities. Each Member State:

- will endeavour to increase significantly the number of persons benefiting from active measures to improve their employability. In order to increase the numbers of unemployed who are offered training or any similar measure, it will in particular fix a target, in the light of its starting situation, of gradually achieving the average of the three most successful Member States, and at least 20%.

#### ***Encouraging a partnership approach***

The actions of the Member States alone will not suffice to achieve the desired results in promoting employability. Consequently

- the social partners are urged, at their various levels of responsibility and action, to conclude as soon as possible agreements with a view to increasing the possibilities for training, work experience, traineeships or other measures likely to promote employability;
- the Member States and the social partners will endeavour to develop possibilities for lifelong training.

#### ***Easing the transition from school to work***

Employment prospects are poor for young people who leave the school system without having acquired the aptitudes required for entering the job market. Member States will therefore:

- improve the quality of their school systems in order to reduce substantially the number of young people who drop out of the school system early;
- make sure they equip young people with greater ability to adapt to technological and economic changes and with skills relevant to the labour market, where appropriate by implementing or developing apprenticeship training.

### II. DEVELOPING ENTREPRENEURSHIP

***Making it easier to start up and run businesses*** by providing a clear, stable and predictable set of rules and by improving the conditions for the development of risk capital markets. The new facilities offered by the EIB combined with the Member States' efforts will enable new businesses to be set up more easily. The Member States should also reduce and simplify the administrative and tax burdens on small and medium-sized enterprises. To that end the Member States will:

- give particular attention to reducing significantly the overhead costs and administrative burdens for



businesses, and especially small and medium-sized enterprises, in particular when hiring additional workers;

- encourage the development of self employment by examining, with the aim of reducing, any obstacles which may exist, especially those within tax and social security regimes, to moving to self employment and the setting up of small businesses, in particular by employed persons.

### ***Exploiting the opportunities for job creation***

If the European Union wants to deal successfully with the employment challenge, all possible sources of jobs and new technologies and innovations must be exploited effectively. To that end the Member States will:

- investigate measures to exploit fully the possibilities offered by job creation at local level, in the social economy and in new activities linked to needs not yet satisfied by the market, and examine, with the aim of reducing, any obstacles in the way of such measures.

***Making the taxation system more employment friendly*** and reversing the long term trend towards higher taxes and charges on labour (which have increased from 35% in 1980 to more than 42% in 1995). Each Member State will:

- set a target, if necessary and taking account of its present level, for gradually reducing the overall tax burden and, where appropriate, a target for gradually reducing the fiscal pressure on labour and non wage labour costs, in particular on relatively unskilled and low-paid labour, without jeopardising the recovery of public finances or the financial equilibrium of social security schemes. It will examine, if appropriate, the desirability of introducing a tax on energy or on pollutant emissions or any other tax measure;
- examine, without obligation, the advisability of reducing the rate of VAT on labour intensive services not exposed to cross-border competition.

### **III. ENCOURAGING ADAPTABILITY OF BUSINESSES AND THEIR EMPLOYEES**

#### ***Modernising work organisation***

In order to promote the modernisation of work organisation and forms of work:

- the social partners are invited to negotiate, at the appropriate levels, in particular at sectoral and enterprise levels, agreements to modernise the organisation of work, including flexible working arrangements, with the aim of making undertakings productive and competitive and achieving the required balance between flexibility and security. Such agreements may, for example, cover the expression of working time as an annual figure, the reduction of working hours, the reduction of overtime, the development of part time working, lifelong training and career breaks;
- for its part, each Member State will examine the possibility of incorporating in its law more adaptable types of contract, taking into account the fact that forms of employment are increasingly diverse. Those working under contracts of this kind should at the

same time enjoy adequate security and higher occupational status, compatible with the needs of business.

#### ***Support adaptability in enterprises***

In order to renew skill levels within enterprises Member States will:

- re-examine the obstacles, in particular tax obstacles, to investment in human resources and possibly provide for tax or other incentives for the development of in house training; they will also examine any new regulations to make sure they will contribute to reducing barriers to employment and helping the labour market adapt to structural change in the economy.

### **IV. STRENGTHENING THE POLICIES FOR EQUAL OPPORTUNITIES**

#### ***Tackling gender gaps***

Member States should translate their desire to promote equality of opportunity into increased employment rates for women. They should also pay attention to the imbalance in the representation of women or men in certain economic sectors and occupations. Member States will:

- attempt to reduce the gap in unemployment rates between women and men by actively supporting the increased employment of women and will act to reverse the under representation of women in certain economic sectors and occupations and their over representation in others.

#### ***Reconciling work and family life***

Policies on career breaks, parental leave and part time work are of particular importance to women and men. Implementation of the various Directives and social partner agreements in this area should be accelerated and monitored regularly. There must be an adequate provision of good quality care for children and other dependants in order to support women's and men's entry and continued participation in the labour market. The Member States will:

- strive to raise levels of access to care services where some needs are not currently met.

#### ***Facilitating reintegration into the labour market***

The Member States will:

- give specific attention to women, and men, considering a return to the paid workforce after an absence and, to that end, they will examine the means of gradually eliminating the obstacles in the way of such return.

#### ***Promoting the integration of people with disabilities into working life***

The Member States will:

- give special attention to the problems people with disabilities may encounter in participating in working life.



## COUNCIL DIRECTIVE 97/80/EC ON THE BURDEN OF PROOF IN CASES OF DISCRIMINATION BASED ON SEX

It was in May 1988 - almost ten years ago - that the European Commission first submitted a proposal for a Council Directive on the burden of proof in cases of equal pay and sex

discrimination. Whilst the promotion of equal pay and equal opportunities between men and women had always been a fundamental principle of the European Union, and despite the fact that major Directives on equal pay and equal opportunities had been adopted in 1975 and 1976, experience showed that it was very difficult for complainants to prove that an evident difference in pay or treatment amounted to unlawful discrimination, the fundamental problem being the burden of proof which rested on the complainant.

The 1988 Commission proposal attempted to alleviate this problem by suggesting that once the complainant showed that there was a *prima facie* case of discrimination, it would then be up to the respondent to prove that there had been no breach of the principle of equal treatment. The draft Directive was based on Article 110 of the Treaty and therefore required unanimous support from the Council of Ministers. Despite several attempts between 1988 and 1994 it never received such support and in October 1994 the Commission decided to initiate consultations with the Social partners under the Maastricht Social Policy Agreement and Protocol arrangements.

Such consultations resulted in the Commission deciding that action was necessary and a second round of consultations was initiated to see if the Social partners could reach a European Framework Agreement. The Social partners decided not to enter into discussions to try to reach an agreement and therefore the Commission submitted its own proposals for a Directive which was finally adopted by the Council on the 15th of December 1997 (Directive 97/80/EC).

### Aim:

The aim of the Directive is to ensure that the measures taken by Member States to interpret the principle of equal treatment are made more effective. This is achieved by redefining the nature of the burden of proof in cases of discrimination based on sex.

### Indirect Discrimination:

The inclusion of a clear definition of indirect discrimination is an important feature of the Directive. The definition (which can be found in Article 2) is as follows: "*indirect discrimination shall exist where an apparently neutral provision, criterion or practice disadvantages a substantially higher proportion of the members of one sex unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex*"

### Burden of Proof:

The key provisions of the Directive are to be found in Article 4 which states:

1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.
2. This Directive shall not prevent Member States from introducing rules of evidence which are more favourable to the plaintiffs.
3. Member States need not apply paragraph 1 to proceedings in which it is for the court or competent body to investigate the facts of the case.

### Information:

Article 5 requires Member States to bring the provisions of the Directive to the attention of all people concerned.

### Non-Regression:

Article 6 provides additional "non-regression" protection by stating that implementation of the Directive will under no circumstances be sufficient grounds for a reduction in the general level of protection of workers

Member States are required to bring into force the laws necessary to comply with the Directive by the 1st of January 2001 at the latest.

*The full text of the Directive can be found in the Official Journal L14, 20th January 1998)*



## COUNCIL DIRECTIVE 97/81/EC CONCERNING THE FRAMEWORK AGREEMENT ON PART-TIME WORK CONCLUDED BY UNICE, CEEP AND THE ETUC

The Social Affairs Council on the 15th December 1997 adopted the Directive which gives legal validity to the Framework Agreement on Part-Time Work which was adopted by the social partners on the 6th of June 1997. As previously with Directives based on the procedures contained in the Social Policy Agreement of the Maastricht Treaty, it is a short Directive which contains the full text of the Social Partners Agreement as an annex.

The Commission originally put forward proposals for protecting the rights of temporary and part-time workers during the early 1980s, but these failed to receive the necessary support in the Council. These were eventually withdrawn in 1990 and replaced by three new proposals concerning "atypical contracts". Only one of these three proposals was able to progress. The proposal on safety and health issues for temporary workers and workers on fixed-term contracts only required qualified majority support in Council, which it received, and it was adopted in June 1991.

The other two proposals - both of which required unanimous support - failed to progress. In 1995 the Commission made it clear that it considered it essential that further progress was achieved and would consequently make use of the Maastricht Social Policy Agreement and Protocol procedures which would allow the proposals to be adopted by all Member States other than the United Kingdom.

A first stage of consultation with the European-level Social Partner organisations was launched in September 1995, and a second stage in April 1996. The Social Partners eventually adopted a Framework Agreement covering part-time workers in June 1997, and it is this agreement which has now been given legal validity by the new Directive. The Social Partners agreed in January 1998 to commence negotiations to try to agree on a similar Framework Agreement covering workers on fixed-term contracts.

### The Part-Time Directive

As with the previous case where a Directive gave legal validity to a Social Partner Framework Agreement (the Framework Agreement on Parental Leave), the Directive does not itself contain any substantive

provisions in relation to individual rights. It merely implements the Framework Agreement, the full text of which is attached as an annex to the Directive.

**Article 1** states that the purpose of the Directive is to implement the Framework Agreement adopted by the Social Partners.

**Article 2** of the Directive contains the main provisions, as follows:

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than the 20th January 2000, or shall ensure that, by that date at the latest, the social partners have introduced the necessary measures by agreement, the Member States being required to take any necessary measures to enable them at any time to be in a position to guarantee the results imposed by this Directive. They shall forthwith inform the Commission thereof. Member States may have a maximum of one more year, if necessary, to take account of specific difficulties or implementation by a collective agreement. They shall inform the Commission forthwith in such circumstances. When Member States adopt the measures referred to above, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.
2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they have adopted or which they adopt in the field governed by this Directive.

Thus, Member States must either adopt the necessary legislation to comply with the Directive by the 20th January 2000, or alternatively the Directive can be implemented via agreements between the Social Partners at national level.

*The full text of the Framework Agreement was featured in Issue 2/97 of the Bulletin. The full text of the Directive can be found in The Official Journal L14 of the 20th January 1998.*



# Commission Proposes Directive on Supplementary Pension Rights

Since its inception, one of the fundamental objectives of the European Union has been to achieve the free movement of workers and their families between Member States. Free movement is also seen as an essential ingredient of the Single European Market. Whilst early legislation concentrated on removing direct barriers to free movement (in particular the landmark 1968 Directive), more recent initiatives have concentrated on removing some of the less obvious barriers. One such barrier is the ability of workers to preserve their pension rights when they take up employment in other Member States. For most European workers and their families, their pensions consist of a mixture of statutory pension schemes and supplementary occupational schemes. Regulations introduced in the early 1970s provided a measure of protection for the transferability of statutory pension rights, no such protection exists for supplementary pensions.

In a Recommendation adopted in 1992 (92/442/EEC), the Council urged Member States to "promote, where necessary, changes to the conditions governing the acquisition of pension and, especially, supplementary pension rights with a view to eliminating obstacles to the mobility of employed workers". Recent changes in the regulations applicable to the free movement of payment and capital have removed any remaining technical restrictions on the ability to ensure that benefits under supplementary pension schemes are paid to members and former members, as well as to members of their families or their survivors, in all Member States.

In order to safeguard the supplementary pension rights of employed and self-employed persons moving within the European Union, and therefore further contribute to the principle of free movement, the Commission has introduced proposals for a new Directive on this subject. The basic provisions of the draft Directive are to require Member States to take the necessary measures to:

- ⊖ Ensure that vested pension rights are preserved when supplementary pension scheme members move from one Member State to another;
- ⊖ Ensure that schemes will make full payment of benefits due to members, their families and

survivors in other Member States;

- ⊖ Enable posted workers to continue to contribute to supplementary pension schemes, such contributions being treated by the host Member States as equivalent to an approved supplementary pension scheme within the host country for tax purposes.

The draft Directive is still in its early stages and has yet to be considered by the main EU institutions. Future issues of the Bulletin will cover its progress through the various legislative stages.

## Clause-By-Clause Analysis

### Article 1

The aim of the directive is stated as being "to ensure that appropriate protection is given to rights, whether vested or in the course of acquisition, of members of supplementary pension schemes who move from one Member State to another. Such protection refers in particular to the preservation of pension rights under both voluntary and compulsory supplementary pension schemes, with the exception of schemes already covered by Regulation (EEC) No 1408/71" Regulation 1408/71 is the main provision relating to application of statutory social security schemes to workers and their families moving within the European Union.

### Article 2

The Directive will apply to "members of supplementary pension schemes who have acquired or are in the process of acquiring rights in one or more Member States, and to members of their families and their survivors."

### Article 3

This Article provides the legal definition of terms used in the Directive. Perhaps the main ones are:

- "pension rights" means any benefits to which a scheme member is entitled under a supplementary pension scheme;
- "vested pension rights" means any entitlement to benefits obtained after fulfilment of the minimum conditions, in particular of vesting periods, required by the rules of a supplementary pension scheme.



- *"Vesting period" means any period taken into consideration for admission to a supplementary pension scheme and for the acquisition of rights thereunder;*
- *"worker" means an employed or a self-employed person;*
- *"posted worker" means a worker who is posted to work in another Member State and who within the terms of Title II of Regulation (EEC) No 1408/71 continues to be subject to the legislation of the Member State of origin, and "posting" shall be construed accordingly;*

Articles 4 to 8 contain the main provisions of the proposed Directive.

#### **Article 4**

Member States are required to take the necessary measures *"to ensure that the vested pension rights of supplementary pension scheme members are preserved when they move from one Member State to another"*. Member States must ensure that there is full preservation of vested pension rights with respect to supplementary pension scheme members who are no longer contributing as a consequence of their moving from one Member State to another. This Article also applies to members of their families and their survivors.

#### **Article 5**

Member States must ensure that, as far as members of supplementary pension schemes, members of their families and survivors are concerned, *"supplementary pension schemes make full payment in other Member States of all benefits due under such schemes"*.

#### **Article 6**

This article relates specifically to the case of posted workers - i.e. workers who are required to work in another Member State by their employers. It requires Member States to adopt measures *"to enable contributions to continue to be made to a supplementary pension scheme established in the Member State of origin by, or on behalf of a posted worker who is a member of such scheme during the period of his or her posting to the host Member State"*. Where such contributions continue to be made to a supplementary pension scheme in the Member State of origin, *"the host Member State shall recognise these as equivalent to contributions to a supplementary pension scheme in the host Member State"*.

#### **Article 7**

This Article links in with the provisions of Article 6. In

cases where a posted worker continues to make contributions to a supplementary pension scheme, the host Member State must treat such contributions in the same way it would treat contributions paid to a comparable scheme established in the host Member State, as far as taxation is concerned.

#### **Article 8**

Member States are required to take measures to ensure that managers of supplementary pension schemes *"provide adequate information to scheme members as to their pension rights and the choices which are available to them under the scheme when they move to another Member State"*.

Articles 9 to 14 deal with the various supplementary provisions.

**Article 9** gives Member States the right to make the provisions of Article 6 applicable only to postings that commence on or after the date of entry into force of the Directive, if they so choose.

**Articles 10** requires Member States to introduce into their national legal systems whatever measures are necessary to provide a legal recourse to persons who believe the provisions of the Directive have not been applied in their case. Furthermore, **Article 11** requires Member States to establish a system of penalties for breaching the national measures adopted to comply with the Directive.

**Article 12** relates to compliance and follow-up provisions, including the following:

- Member States will be required to bring in the necessary provisions to comply with the Directive within 18 months of it coming into force.
- As an alternative, Member States may allow management and labour to introduce the required provision by way of agreement, in which case the
- Member state must take the necessary steps to enable them to guarantee the results imposed by the Directive.
- Within two years of the Directive coming into force Member States must inform the Commission of the provisions introduced to comply with it.
- The Commission must draw up a report, within six years of the Directive coming into force, on the application of the Directive along with proposals for any necessary amendments.

**Articles 13 and 14** are purely administrative provisions concerning the manner in which the Directive will come into force.



# Minimum Pay in the European Union

Over recent years considerable attention has been focused on the question of minimum wages in the European Union, both in terms of a means of greater social protection for the most disadvantaged in society and as a protection against the dangers of competition within the Single Market having the effect of driving down acceptable living standards. Two concepts have been frequently discussed at European level - a *minimum wage* and an *equitable wage* - and it is important to distinguish between the two. The concept of an equitable wages was contained within the EU's Charter of Fundamental Social Rights and it was defined as "a wage sufficient to enable them (i.e. the workers) to have a decent standard of living". The Commission published an initial Opinion on an Equitable Wage in September 1993 (1) and a Progress Report in January 1997 (2). A minimum wage is normally defined as a minimum level of remuneration guaranteed either by law or collective agreement. National minimum wage levels - minimum levels to protect the lowest paid in society - are set by law in France, Luxembourg, the Netherlands, Portugal and Spain and - to some extent - by collective agreements in Austria, Belgium, Denmark, Germany, Greece, Italy, Finland and Sweden.

## Comparing Minimum Pay

Comparisons of minimum pay levels are very difficult to undertake because of differences in systems, scope and definitions between Member States. However, the Statistical Office of the European Communities - Eurostat - recently published comparisons between the monthly statutory minimum wages in seven Member States (3). The comparisons attempt to take into account different price levels by making use of Purchasing Power Standards (PPS) - a calculation which expresses the minimum wage level in terms of the amount of standard goods and services they will buy. The figures also look at the minimum wage level as a percentage of average gross earnings of male manual workers in manufacturing industry.

### Current Levels of Minimum Wage in Purchasing Power Standards and as a Percentage of Average Earnings.

	Monthly statutory minimum wage 1997 in PPS	As % of average gross earnings of male manual workers in 1996
BELGIUM	1,079	48
GREECE*	555	44
SPAIN	580	42
FRANCE	945	59
LUX.	1,094	47
NETH.	1,025	49
PORTUGAL	501	59

\* Minimum wage figures for Greece relate to non-manual workers

Eurostat comments that, in real terms, minimum wage levels in the above Member States have been comparatively stable or have fallen slightly over the last 17 years, except in France and Luxembourg where they have risen by over a quarter. Gaps between minimum wages and average earnings narrowed slightly between 1980 and 1996 in Belgium, France and Luxembourg, but widened slightly in the other four Member States where minimum wage legislation applies.

The same Eurostat Report provides a summary of statutory national minimum wage systems which is reproduced below.

## Towards an Equitable Wage

The 1993 Commission Opinion on Equitable Wages called on Member States to take action designed to ensure that the right to an equitable wage was respected. However the 1997 Progress Report said that there were few signs that Member States had viewed the Opinion as a catalyst for action and that the majority of Member States felt that intervention in wage setting was not desirable and should be avoided. Nevertheless, the Commission pledged itself to



continue the dissemination of good practices on equitable and average wage levels and monitor the effects of continuous training on earnings.

### SUMMARY OF CURRENT MINIMUM WAGE PROVISIONS IN SEVEN EU MEMBER STATES

	BELGIUM	GREECE	SPAIN	FRANCE
Date of introduction in current form	1975	1991	1980	1970
Coverage	Private sector employees aged 21 and over	All employees 19 or over (non-manual) & 18 or over (manual)	All employees 18 or over	All employees 18 or over
Fixing Method	Negotiated by Social Partners	Annual negotiations by Social Partners	Set by Government	Set by Government
Updating Method	1. Automatic indexation 2. Periodic review	Annually according to Government inflation forecasts	Annually according to Government inflation forecasts	1. Automatic indexation 2. Annual review
Rate	Monthly	Monthly for non-manual workers, daily for manual	Monthly and daily	Hourly
Present level in national currency	BEF 43,343 per month	GRD 138,316 per month, GRD 6,195 per day	ESP 66,630 per month, ESP 2,221 per day	FRF 39.43 per hour
In force since	1.10.97	1.07.97	1.01.97	1.07.97
	LUXEMBOURG	NETHERLANDS	PORTUGAL	
Date of introduction in current form	1973	1969	1974	
Coverage	All employees 18 or over	All employees 23 or over	All employees 18 or over	
Fixing Method	Set by Government	Set by Government	Set by Government	
Updating Method	1. Automatic indexation 2. Periodic review	Twice annually	Annually according to Government inflation forecasts	
Rate	Monthly	Weekly	Monthly	
Present level in national currency	LUF 46,275 per month	NLG 517.80 per week	PTE 56,700 per month	
In force since	1.02.97	1.07.97	1.01.97	

#### References:

(1) Commission Opinion on an Equitable Wage (Brussels, European Commission COM (93) 388, September 1993)

(2) Equitable Wages - A Progress Report (Brussels, European Commission COM (96) 698, January 1997)

(3) Eurostat Statistics in Focus, Population and Social Conditions, No 16/97, Minimum Wages in the European union 1997.



# NEWS



## ETUC Proposals For Social Policy Action Programme

The December 1997 meeting of the ETUC Executive Committee approved a document setting out the ETUC proposals for the Social Policy Action Programme in 1998. The proposals include the following:

### 1. Employment & working time

- A Framework instrument on the right and conditions of access to continuing vocational training.
- Revision and extension of the Directive on the organisation of working time.
- A Directive on child-care and care facilities for the elderly (art 119 initiative).
- Provisions facilitating access for disabled people to the labour market.

### 2. Restructuration

- Inclusion of social provisions in public procurement contracts.
- Reinforcement of information and consultation procedures in existing EU directives

### 3. Freedom of movement

- Extension of the general system of recognition of certificates and qualifications.

### 4. Work organisation and working conditions

- Directives on telework and protection against sexual harassment at work.
- Restructuring of social security systems in order to ensure adequate cover for atypical workers.
- Protection in the event of individual dismissals.

### 5. Enlargement

- Decision on observer status for social partners from the accession countries

### 6. European rights

- Protection of trade union representatives in European bodies.



## Amending The Mutual Recognition Directives

The European Commission have published a proposal for a Directive amending the 1989 and 1992 Directives on the general system for the recognition of professional qualifications and the whole series of individual directives introduced in the 1970s and 1980s on the recognition of qualifications for specific professional groups. The new proposal comes in response to the proposal to simplify European

legislation (the SLIM initiative). The new proposal seeks to do three things : (i) to simplify the current complex legal provisions on the mutual recognition of professional qualifications, (ii) to bring elements of the various provisions into line with each other, and (iii) to introduce some new provisions in relation to experience that can be taken into account when considering an application for the recognition of qualifications.

The proposed Directive incorporates into the general system the legal requirement to take into account, when examining an application for recognition, experience gained after obtaining the qualification in question. It introduces the concept of regulated education and training contained in the first Directive and is designed to achieve more uniform application and interpretation of the two general system Directives in the Member States. As regards the Sectoral Directives, the new proposal will, amongst other things, facilitate updating of the technical provisions concerning the titles of qualifications eligible for automatic recognition in the Member States. It will also help to ensure legal certainty as regards the recognition of education and training undergone in third countries by Community nationals.

At the moment there is no proposed final implementation date - this will be determined at a later stage of the legislative process.



## Council Declaration on Racism and Xenophobia

At its meeting on the 16th December 1997, the Council of Ministers adopted a Declaration on respecting diversity and combating racism and xenophobia. The Declaration:

θ Welcomes the Commission's initiative in proclaiming 1997 as the "European Year Against Racism" and noted that the initiative had promoted numerous measures at every level of society which have helped to increase awareness of the wealth that lies in cultural diversity.

θ Stresses that efforts deployed within the Member States must be intensified so that Europe's citizens, from earliest childhood, acquire greater understanding of and greater respect for other people. They considered that education in respect and tolerance forms an important part of the education of every young European.

θ Stresses the importance of the role of education, which endeavours at all ages and at all levels of



education to increase understanding and mutual respect among young people by helping them to come into contact with other cultures with an open mind and to approach diversity in a positive manner. They felt that school, which along with the family is the first place in which young people learn social skills, must be supported in its efforts to impart democratic values.



## Profit Sharing Schemes : Call For Full Study

Opening the debate at the January plenary session of the European Parliament on new moves to encourage profit-sharing schemes, Marie-Thérèse Hermange MEP gave details of the adoption of a Council recommendation known as the Pepper Scheme back in 1992 that was aimed at encouraging an increase in employee shareholdings, and also other schemes involving the workforce in the company. Mrs Hermange - the rapporteur on the new Commission Report (Pepper II) explained that progress had been slow or non-existent except in the UK and France. In these countries, legislation and tax incentives designed to promote such schemes had been introduced, but elsewhere it was left to both sides of industry to agree on voluntary schemes and

this seemed to have had little success. Explaining the advantage of such schemes, especially in terms of encouraging the interest of the workforce in the company and in many cases leading to improved productivity, Mrs Hermange called on the Commission to produce a detailed study on the situation in each member state based on consultation with all relevant parties.

Her views were largely shared by speakers in the debate and replying for the Commission Padraig Flynn also agreed, adding that in many cases such schemes had led to employees accepting a flexible approach to wage negotiations. He agreed on the need for a detailed study, which he undertook to carry out. However, at present, he said, it was difficult to compare accurately the situation in the member states in view of the different approach and different national legislation.



## EU Unemployment Falls In November

Seasonally-adjusted unemployment fell to 10.6% in November 1997 according to the latest report from EUROSTAT. This compares with 10.7% in the four previous months and 10.8% in November 1996. In



## Trade Union Density In EU Member States

The following table is adapted from the article by Waddington, Hoffman and Lind - "European Trade Unionism in Transition : A Review of the Issues" which appears in the ETUI Transfer Journal (Vol 3 No. 3). It shows the progression of trade union density (percentage of employed working population who are trade union members) over time.

Changes in Trade Union Density Since 1950 (%)

Country	1950	1955	1965	1970	1975	1980	1985	1990	1995
Austria	61	64	63	62	56	58	58	46	43
Belgium	37	n/a	n/a	46	53	57	54	51	53
Germany (*)	36	38	38	38	37	41	39	33	30
Denmark	53	59	63	64	67	80	73	71	82
Spain	n/a	n/a	n/a	n/a	30	14	14	17	15
France	33	21	19	21	23	17	15	10	9
UK	44	45	43	49	52	55	49	39	32
Greece	n/a	n/a	n/a	36	n/a	37	37	34	n/a
Italy	45	43	29	38	43	54	51	39	39
Ireland	37	n/a	n/a	53	55	57	56	50	38
Netherlands	43	41	40	40	38	35	29	25	26
Portugal	n/a	n/a	n/a	59	52	59	52	32	32
Sweden	67	71	68	73	75	88	92	82	83
Finland	34	33	42	51	67	70	69	72	81

(\*) Figures for Germany relate to West Germany except for 1995 figures



November every Member State with available data saw a fall or no change. Spain's 20.8% was still by far the EU's highest rate. Lowest was Luxembourg's 3.6%. Next lowest was Austria with 4.5% for the fifth month running. The EU average for men was 9.2%; for women, 12.6%, and for the under 25s, it was 19.1% (men), 22.8% (women) and 20.8% overall. Lowest EU rate was 7.8% for men 25 and over. Eurostat estimates 17.9 million were unemployed in the EU in November.

#### Unemployment Rates in November and October 1997

	November	October
Luxembourg	3.6%	3.7%
Austria	4.5%	4.5%
Netherlands	n/a	4.9%
Denmark	n/a	5.8%
Portugal	5.9%	6.0%
UK	6.9%	7.0%
Sweden	9.2%	9.7%
Belgium	9.3%	9.4%
Ireland	9.8%	9.9%
Germany	10.0%	10.0%
EU	10.6%	10.7%
Italy	n/a	12.2%
France	12.5%	12.6%
Finland	12.8%	13.0%
Spain	20.8%	20.8%
Greece	n/a	n/a



### Expert Group On Industrial Change Established

In its Conclusions to the Special Employment Summit last November, the European Council considered "that particular attention should be given to sectors undergoing major industrial change". It called upon "a high-level expert working party operating under the Commission's authority to analyse likely industrial changes in the Community and to look into ways of anticipating them better so as to guard against their economic and social effects in a manner consistent with the principles of the Treaty". The Commission have now appointed such a group under the chairmanship of Pehr Gyllenhammar, Chairman Designate of Commercial Union plc and senior adviser to Lazard Frères & Co. After consultation of the social partners a first report will be submitted to the Council for subsequent submission to the Cardiff European Council".

The Group's mandate is to analyse industrial change, and to make recommendations for measures or

instruments which could be developed, where appropriate, or adapted from successful practices with regard to employment, competitiveness and economic growth. On the basis of analysis concerning the forces driving industrial change, the Group will examine how to anticipate change, and how to deal with change, in terms of economic and social policies, as well as identifying the impact of change on different industrial sectors, including those which may deserve particular attention. The Group will also examine the contribution of the social dialogue and the impact of public policies (such as Structural Funds and state aids) on successful accommodation of industrial change.

The ETUC has welcomed the decision to establish the High level Working Party. ETUC General Secretary, Emilio Gabaglio said "I welcome the decision to set up a high-level group on the restructuring of industry, which is something the European trade unions have been wanting for years, and has again been proven necessary by the Renault affair".

Two of the members of the Group are former trade union leaders: Jacques Chérèque, a former French Minister and Chairman of the European resource centre on reconversion and change, and past Deputy General Secretary of the CFDT, and Bruno Trentin, former General Secretary of the CGIL.



### EWC and Parental Leave Directives And The UK

The two Directives adopted by the Social Affairs Council meeting on the 15th of December 1997 which have the effect of extending the two Directives already adopted under the Maastricht Social Policy Agreement procedures to the United Kingdom have now been published in the Official Journal (OJ L10, 16th January 1998). The details are:

⊖ Council Directive 97/74/EC of 15 December 1997 extending to the United Kingdom of Great Britain and Northern Ireland, Directive 94/45/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purpose of informing and consulting employees.

⊖ Council Directive 97/75/EC of 15 December 1997 amending and extending to the United Kingdom of Great Britain and Northern Ireland, Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC.



## Working Time Reduction and Job Creation

The Deputy General Secretary of the ETUC, Jean Lapeyre, has emphasised that a reduction in working time must form a part of an overall job-creation strategy. Speaking to a Conference in Paris on the 9th January 1998, he said, "The reduction in working hours is a historical process, although less linear than it has been so far. That process has been won by labour struggle. We must forge a new policy of full employment from employment needs and opportunities"

He went on to say that the ETUC's position is that a reduction in working time must form part of a part of a job-creating economic strategy. The Luxembourg Summit conclusions made the reduction of working time an aspect of the solutions for jobs. "One missing essential to make this strategy effective is the adoption of a European Economic Cooperation Pact to balance out the Stability Pact adopted in Amsterdam", said Lapeyre.

The ETUC believes that growth alone, though vital, will not be enough to put the 18 million unemployed back on the road to work. The essential added ingredient is a substantial reduction and reorganisation of working time - and it has to be a negotiated policy, added Lapeyre. "All the legislative frameworks in the world will not deliver effective employment outcomes without a negotiated and agreed reduction and reorganisation of working time", he said. This working time conference is the first in a rolling series of conferences to be staged in several European capitals.



## EP Committee Review Implications of Marschall Judgement

Following the judgment in the Marschall case, delivered by the EU Court of Justice on 11th November 1997, the European Parliament Committee on Women's Rights held a mini-hearing on this subject to decide what Parliament's position should be on an amendment to Directive 76/207 on the equal treatment of men and women in areas such as employment, training and promotion at work, and working conditions.

The Marschall case concerns a Mr Marschall, a teacher in Schwerte, Germany who had applied for a higher teaching position. He was informed that a woman candidate was to be appointed to the position:

the two candidates were equally suitable and, since fewer women than men were employed in the relevant pay and career bracket, the woman candidate had to be promoted by virtue of the Law on officials of the Land of North Rhine-Westphalia.

The European Court of Justice decided that the rules as applied by North-Rhine Westphalia were not contrary to articles 2(1) and 2(4) of the Equal Opportunities Directive. The Court concluded that where there are equally qualified male and female candidates and where there is an imbalance between male and female employees, giving priority to equally-qualified female candidates - where this is designed to restore balance - is not contrary to Community law provided that an objective assessment of each candidate is assured and that, accordingly, promotion of a male candidate is not excluded from the outset. The Court felt that just because a male and female candidate were equally qualified it did not, in effect, mean that they had the same chances as a number of deep-rooted prejudices and stereotypes continue to exist.

In her speech to the hearing, Ms Ilse Ridder-Melchers, Minister for Equal Rights in the Land of North-Rhine/Westphalia, welcomed the judgment in the Marschall case, which, she said, was a historic decision for European women. The new case-law it represented had implications beyond the issue raised by the staff regulations of North-Rhine/Westphalia and was applicable to other cases. She believed that, in the face of "in built" discrimination, there was a need to adopt measures to restore a balance. Prominent among these measures should be quotas, which would enable women to enjoy positive discrimination where they were under-represented. She claimed that the 1976 directive on equal treatment of men and women had greatly improved the lot of women. This directive and the judgment in the Marschall case could provide a foundation for creating effective tools to boost equal opportunities.

Ms Vogel-Polsky, Emeritus Professor at the Free University of Brussels, was less sanguine about the Marschall judgment. She believed it was similar to the Kalanke judgment. It did not resolve the contradiction between positive measures and the fundamental right to equal treatment between the sexes. She suggested that, in the light of the fresh possibilities for equal opportunities opened up by the draft Amsterdam Treaty, new legislation should be drawn up which would provide for positive measures. Directive 76/207, even if amended, would not be able to meet the need for measures in favour of women, as it regarded positive measures as derogations from equal treatment.



# NOTICE BOARD

## European Commission infoNet WWW Site

The European Commission (DGX - information for trade unions, women and young people) have launched their new internet WWW site which is known as infoNet. The site contains a selection of both news and documentation on issues of interest to European trade unions including the info rapid and info special reports and the European Trade Union Information Bulletin. At present the site operates in English and French, however certain of the information products are also available in Spanish, German and Italian editions.

As well as regular information sources, the site will also cover in detail a number of themes. Notes on the Amsterdam Treaty are already available and files on topics such as EMU, enlargement, women and young people are in preparation. Other features available on the site include an updated timetable of meetings and events, a selection of documents outlining developments in the various European institutions, and a "Postbox" section which allows users to submit their own comments, ideas and views on European policies.

Access to the site is open to trade unionists and social organisations and access is via a password. To join, you need to request a password by contacting:

European Commission DG X/A.5  
T120 8/22.  
Fax 00 32 2 299 9302  
e-mail: [trunsoaf@dg10.cec.be](mailto:trunsoaf@dg10.cec.be)

## EIROn-Line

The WWW Site of the European  
Industrial Relations Observatory

EIROnline contains up-to-date information and analysis on the most important events and issues in industrial relations in the 15 EU Member States and Norway, and at the overall European level.

<http://www.eiro.eurofound.ie/>

## Trade Unions and Europe Teaching Pack

We are pleased to announce the publication of a special Teaching Pack on trade unions and Europe. Designed specifically with the needs of trade unionists in mind, the 230 page teaching pack is divided into three main sections:

### 1. The Organisation Book:

This reviews the development of the European Union, the role and functions of the main institutions and the specific role of trade unions within the EU decision-making and policy formulation process.

### 2. The Workbook:

The Workbook contains a series of activities designed to stimulate discussion on the issues raised in the Organisation Section and the Factfiles.

### 3. Factfiles:

A series of detailed descriptions of key areas of European social and industrial relations policy. Issues covered in individual files are:

- ⊖ The Maastricht Social Chapter;
- ⊖ The 1995-1997 Social Action Programme;
- ⊖ The Labour Market in EU Member States;
- ⊖ An ABC of Social Europe;
- ⊖ European Funding Programmes;
- ⊖ Health & Safety;
- ⊖ 1996 Intergovernmental Conference;
- ⊖ Guide to the 1997 Amsterdam Treaty;
- ⊖ European Works Council Directive;
- ⊖ Parental Leave;
- ⊖ Economic & Monetary Union;
- ⊖ Sources of further information.

There is also a comprehensive index. The Pack has been compiled by Pat Hughes of the EC Trade Union Information Project (Midlands Region) and Alan Burnett, Editor of the European Trade Union Information Bulletin. It is produced in loose leaf format (A4 drilled) for easy updating. Currently it is available in English.

Price: £14.25p (Please add £1.40p postage)  
Discounts are available for trade unions ordering bulk copies. Cheques should be made payable to Euroquad. Orders should be sent to:

EUROQUAD  
c/o 53 Regency Gardens, Yardley Wood,  
Birmingham B14 4JS UK

## CONTACTS

INFORMATION

ORGANISATIONS

PUBLICATIONS

### European Commission Offices

#### Austria

Kärtner Ring 5-7, AT-1010 Wien  
Phone: (43-1) 516 18  
Fax: (43-1) 513 42 25

#### Belgium

Rue Archimède 73/Archimedesstraat 73  
B-1040 Bruxelles/Brussel  
Phone: (32-2) 295 38 44  
Fax: (32-2) 295 01 66

#### Denmark

Østergade 61 (Højbrohus)  
Postbox 144  
DK-1004 København K  
Phone: (45-33) 14 41 40  
Fax: (45-33) 11 12 03

#### Finland

Pohjoisesplanadi 31/Norra esplanaden 31  
PL 234/PB 234  
FIN-00131 Helsinki/Helsingfors  
Phone: (358-9) 6226544  
Fax: (358-9) 656 728

#### France

288, boulevard Saint-Germain  
F-75007 Paris  
Phone: (33-1) 40 63 38 00  
Fax: (33-1) 45 56 94 17/18/19

2, rue Henri-Barbusse (CMCI)  
F-13241 Marseille Cedex 01  
Phone: (33-4) 91 91 46 00  
Fax: (33-4) 91 90 98 07

#### Germany

Zitelmannstraße 22  
D-53113 Bonn  
Phone: (49-228) 530 09-0  
Fax: (49-228) 530 09-50, 530 09-12

Kurfürstendamm 102  
D-10711 Berlin  
Phone: (49-30) 896 09 30  
Fax: (49-30) 892 20 59

Erhardtstraße 27  
D-80331 München  
Phone: (49-89) 202 10 11  
Fax: (49-89) 202 10 15

#### Greece

2, Vassilissis Sofias,  
GR-10674 Athina  
Phone: (30-1) 725 10 00  
Fax: (30-1) 724 46 20

#### Ireland

Jean Monnet Centre, 18, Dawson Street,  
Dublin 2 Ireland  
Phone: (353-1) 662 51 13  
Fax: (353-1) 662 51 18

#### Italy

Via Poli, 29, I-00187 Roma  
Phone: (39-6) 69 99 91  
Fax: (39-6) 679 16 58, 679 36 52

Corso Magenta, 59

I-20123 Milano  
Phone: (39-2) 48 01 25 05  
Fax: (39-2) 481 85 43

#### Luxembourg

Bâtiment Jean Monnet  
Rue Alcide De Gasperi  
L-2920 Luxembourg  
Phone: (352) 43 01-1  
Fax: (352) 43 01-34433

#### Portugal

Centro Europeu Jean Monnet  
Largo Jean Monnet 1-10ø  
P-1200 Lisboa  
Phone: (351-1) 350 98 00  
Fax: (351-1) 350 98 01/02/03

#### Spain

Paseo de la Castellana, 46  
E-28046 Madrid  
Phone: (34-1) 431 57 11  
Fax: (34-1) 576 03 87

Av. Diagonal, 407 bis, Planta 18  
E-08008 Barcelona  
Phone: (34-3) 415 81 77 (5 lignes)  
Fax: (34-3) 415 63 11

#### Sweden

Nybrogatan 11, Box 7323  
S-10390 Stockholm  
Phone: (46-8) 562 444 11  
Fax: (46-8) 562 444 12

#### The Netherlands

Korte Vijverberg 5,  
2513 AB Den Haag  
Nederland

Postal address  
Postbus 30465  
2500 GL Den Haag  
Nederland  
Phone: (31-70) 346 93 26  
Fax: (31-70) 364 66 19

#### United Kingdom

Jean Monnet House  
8, Storey's Gate, London SW1 P3 AT  
Phone: (44-171) 973 19 92  
Fax: (44-171) 973 19 00, 973 19 10

9/15 Bedford Street (Windsor House)  
Belfast BT2 7AG  
Phone: (44-1232) 24 07 08  
Fax: (44-1232) 24 82 41

4 Cathedral Road, Cardiff CF1 9SG  
Phone: (44-1222) 37 16 31  
Fax: (44-1222) 39 54 89

9 Alva Street, Edinburgh EH2 4PH  
Phone: (44-131) 225 20 58  
Fax: (44-131) 226 41 05

### Other Organisations

#### European Foundation for the Improvement of Living and Working Conditions.

Loughlinstown House, Shankill, Co.  
Dublin, Ireland.  
Tel: 00 353 1 282 6888  
Fax: 00 353 1 282 6456

#### JANUS

Secretariat:  
André Garrigo, Cives Europe,  
Bld Clovis 12a/Clovislaan 12a, B-1040  
Brussels.  
Fax: 00 32 2 732 23 92.

#### CEDEFOP

European Centre for the Development of  
Vocational Training  
Marinou Antipa, 12, Thessaloniki  
(Thermi) 57001 Greece  
Tel: 00 30 31 490 111  
Fax: 00 30 31 490 102

#### European Trade Union Institute (ETUI)

Boulevard Emile Jacqmain, 155  
B - 1210 Brussels, Belgium.  
Tel: 00 32 2 224 0470  
Fax: 00 32 2 224 0502

#### European Trade Union Confederation (ETUC)

Boulevard Emile Jacqmain 155,  
1210 Brussels, Belgium.  
Tel: 00 32 2 224 0411  
Fax: 00 32 2 224 0455

## EUROPEAN TRADE UNION INFORMATION BULLETIN



Editor: Alan Burnett, infoBASE EUROPE

Produced by MBO Education & Training Ltd, 3, Dorchester Road, Fixby, Huddersfield, UK

Fax: 00 44 1484 423 828 E-mail: Bulletin@mboelma.demon.co.uk

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