

PRESS RELEASE

9517/89 (Presse 189)

1357th Council meeting
- LABOUR AND SOCIAL AFFAIRS -
Brussels, 30 October 1989

President: Mr Jean-Pierre SOISSON

Minister for Labour, Employment
and Vocational Training
of the French Republic

The Governments of the Member States and the Commission of the European Communities were represented as follows:

Belgium

Mr Luc VAN DEN BRANDE Minister for Labour and Employment

Denmark

Mr Henning DYREMOSE Minister for Labour

Germany

Mr Norbert BLÜM Federal Minister for Labour and Social Affairs

Mr Wolfgang VOGT Parliamentary State Secretary to the Federal Minister for Labour and Social Affairs

Greece

Mr Ioannis KOUKIADIS Minister for Labour

Spain

Mr Manuel CHAVES GONZALEZ Minister for Labour and Social Security

France

Mr Jean-Pierre SOISSON Minister for Labour, Employment and Vocational Training

Mr André LAIGNEL State Secretary attached to the Minister for Labour, Employment and Vocational Training, with responsibility for Vocational Training

Ireland

Mr Bertie AHERN Minister for Labour

Italy

Mr DONAT CATTIN Minister for Labour

Mr Ugo GRIPPO State Secretary, Ministry for Labour

Luxembourg

Mr Thierry STOLL

Deputy Permanent Representative

Netherlands

Mr J. de KONING

Minister for Social Affairs
and Employment

Portugal

Mr José Albino da SILVA PENEDA

Minister for Labour and
Social Security

United Kingdom

Mr Norman FOWLER

Secretary of State for Employment

Mr Tim EGGAR

Minister of State,
Department of Employment

o

o

o

Commission

Ms Vasso PAPANDREOU

Member

COMMUNITY CHARTER OF THE FUNDAMENTAL SOCIAL RIGHTS OF WORKERS

The Presidency took note of the Council's agreement to forward to the European Council in Strasbourg the draft Community Charter of the fundamental rights of workers (the text of the draft Charter is annexed hereto). This text will be accompanied by the following report:

REPORT FROM THE PRESIDENCY TO THE EUROPEAN COUNCIL

After a long and constructive discussion, the Presidency notes that the procedure defined by the European Council in Madrid for drawing up the Charter of the fundamental social rights of workers has been observed.

On the basis of the Commission's draft, the social partners were consulted on 17 and 18 October, the European Parliament was informed on 17 October, and the Economic and Social Committee on 18 October.

The Community Charter of the fundamental social rights of workers must express the Member States' desire to harness together economic development and social progress in the Community, while complying with the principle of subsidiarity and, in general, remaining strictly within the powers of the Community authorities as defined by the Treaties.

The amendments submitted by the Member States have been taken into account and a Presidency draft drawn up. It defines the fundamental social rights of European workers in 26 Articles.

The Presidency has taken note of the Council's agreement to forward the attached draft Charter with a view to a decision on adoption by the European Council.

The United Kingdom delegation, having objections to a number of Articles of the Charter, maintained its general reservation.

The Presidency has noted that, before the European Council meets, the Commission intends to submit an action programme on the practical implementation of the rights laid down in this Charter.

It invites the Commission in so doing to take into account the requests made by a number of delegations relating inter alia to the length of annual leave, pay for public holidays and sickness leave, protection of children and adolescents, the situation of pregnant women and mothers of small children, integration of the disabled into the ordinary working environment, health and safety at the workplace, vocational guidance, the mutual recognition of qualifications and temporary work.

In addition, the Presidency wants genuine equality of treatment to be applied to all workers, and to cover all forms of work, in particular work which offers no long-term security. It believes that, allowing for the differences in situation, any worker employed in another Member State in the context of subcontracting or the award of public works contracts should enjoy equal treatment with employees of the host country.

In connection with the priorities which the Council has set itself regarding employment and vocational training, it hopes that the project to set up a European Employment Survey Authority will be examined by the Council at its meeting on 30 November, along with the Community programme for the development of continuing training for employees in undertakings.

Lastly, it stresses the importance which it attaches to continuation of the dialogue between management and labour, particularly as regards the implementation of the principles laid down in the Charter.

RULES GOVERNING WORKING CONDITIONS IN THE MEMBER STATES

Commissioner PAPANDEOU presented the study carried out by the Commission on working conditions in the Member States, as instructed by the European Council in Hanover.

The Council held a brief exchange of views on this study, during which the importance of this topic was emphasized. It requested the Commission to continue its work in conjunction with the Member States.

DIRECTIVE ON HEAVY LOADS

The Council adopted its common position on the proposal for a Directive on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers.

This Directive will be the 4th individual Directive within the meaning of the Council Directive of 12 June 1989 on the introduction of measures to encourage improvements in the health and safety of workers at work (framework Directive).

Together with this framework Directive and the individual Directives on the workplace, working equipment and personal protective equipment, on which the Council had already adopted a common position on 5 April 1989, this Directive forms part of the Article 118a package submitted by the Commission in March 1988.

The Directive stipulates that the employer shall take appropriate organizational measures in order to avoid the need for the manual handling of loads by workers

or, where such a need cannot be avoided, to reduce the risk involved in the manual handling of such loads.

The Directive stipulates that employers shall, in accordance with Article 11 of the framework Directive, consult workers and/or their representatives and allow them to take part in discussions on matters covered by this Directive.

DIRECTIVE ON DISPLAY SCREENS

The Council approved its common position on the proposal for a Directive concerning the minimum safety and health requirements for work with display screen equipment.

This Directive will be the 5th individual Directive within the meaning of the framework Directive of 12 June 1989 and will constitute the last part of the Article 118a package submitted by the Commission in March 1988.

Under the Directive, employers are obliged:

- to perform an analysis of work stations in order to evaluate the safety and health conditions to which they give rise for their workers;
- to take the appropriate steps to ensure that the work stations meet the minimum requirements laid down in the Annex to the Directive concerning the equipment, the environment and the operator/computer interface.

The Directive also stipulates that:

- the worker's activities must be planned in such a way that daily work on a display screen is periodically interrupted;

- workers shall be entitled to an appropriate eye and eyesight test and, if necessary, to an ophthalmological examination.

The Directive lays down that consultation and participation of workers and/or their representatives shall take place in accordance with Article 11 of the framework Directive on the matters covered by this Directive.

DIRECTIVE ON CARCINOGENS

This item was postponed until the next Council meeting (Labour and Social Affairs) on 30 November 1989.

SOCIAL SECURITY FOR MIGRANT WORKERS

The Council adopted the Regulation amending Regulation No 1408/71 on the application of social-security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation No 574/72 laying down the procedure for implementing Regulation No 1408/71.

Further to a compromise proposal from the Presidency, which was supported by the Commission, the Council worked out a uniform solution to the problem of the payment of family benefits to members of the family who do not reside in the competent State.

This solution stipulates that all French family benefits will be subject to the scheme of the country of employment and will therefore be exportable, with the exception of housing allowances, the home child-care allowance, the parental child-rearing allowance and the allowance for young children provided until the age of three months.

COMMUNITY CHARTER OF THE FUNDAMENTAL SOCIAL RIGHTS
OF WORKERS

THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE EUROPEAN COMMUNITY
MEETING AT
ON

Whereas, under the terms of Article 117 of the EEC Treaty, the Member States have agreed on the need to promote improved living and working conditions for workers so as to make possible their harmonization while the improvement is being maintained;

Whereas following on from the conclusions of the European Councils of Hanover and Rhodes the European Council of Madrid considered that, in the context of the establishment of the single European market, the same importance must be attached to the social aspects as to the economic aspects and whereas, therefore, they must be developed in a balanced manner;

Having regard to the Resolutions of the European Parliament of 15 March 1989 and 14 September 1989 and to the Opinion of the Economic and Social Committee of 22 February 1989;

Whereas the completion of the internal market is the most effective means of creating employment and ensuring maximum well-being in the Community; whereas employment development and creation must be given first priority in the completion of the internal market; whereas it is for the Community to take up the challenges of the future with regard to economic competitiveness, taking into account, in particular, regional imbalances;

Whereas the social consensus contributes to the strengthening of the competitiveness of undertakings and of the economy as a whole and to the creation of employment; whereas in this respect it is an essential condition for ensuring sustained economic development;

Whereas the completion of the internal market must favour the approximation of improvements in living and working conditions, as well as economic and social cohesion within the European Community, while avoiding distortions of competition;

Whereas the completion of the internal market must offer improvements in the social field for workers of the European Community, especially in terms of freedom of movement, living and working conditions, health and safety at work, social protection, education and training;

Whereas, in order to ensure equal treatment, it is important to combat every form of discrimination, including discrimination on grounds of sex, colour, race, opinions and beliefs, and whereas, in a spirit of solidarity, it is important to combat social exclusion;

Whereas it is for Member States to guarantee that workers from non-member countries and members of their families who are legally resident in a Member State of the European Community are able to enjoy, as regards their living and working conditions, treatment comparable to that enjoyed by workers who are nationals of the Member State concerned;

Whereas inspiration should be drawn from the Conventions of the International Labour Organization and from the European Social Charter of the Council of Europe;

Whereas the Treaty, as amended by the Single European Act, contains provisions laying down the powers of the Community relating, inter alia, to the freedom of movement of workers (Articles 7, 48-51), to the right of establishment (Articles 52-58), to the social field under the conditions laid down in Articles 117-122 - in particular as regards the improvement of health and safety in the working environment (Article 118a), the development of the dialogue between management and labour at European level (Article 118b), equal pay for men and women for equal work (Article 119) - to the general principles for implementing a common vocational training policy (Article 128), to economic and social cohesion (Article 130a to 130e) and, more generally, to the approximation of legislation (Articles 100, 100a and 235); whereas the implementation of the Charter must not entail an extension of the Community's powers as defined by the Treaties;

Whereas the aim of the present Charter is on the one hand to consolidate the progress made in the social field, through action by the Member States, the two sides of industry and the Community;

Whereas its aim is on the other hand to declare solemnly that the implementation of the Single European Act must take full account of the social dimension of the Community and that it is necessary in this context to ensure at appropriate levels the development of the social rights of workers of the European Community, especially employed workers and self-employed persons;

Whereas, in accordance with the conclusions of the Madrid European Council, the respective roles of Community rules, national legislation and collective agreements must be clearly established;

Whereas, by virtue of the principle of subsidiarity, responsibility for the initiatives to be taken with regard to the implementation of these social rights lies with the Member States or their constituent parts and, within the limits of its powers, with the European Community; whereas such implementation may take the form of laws, collective agreements or existing practices at the various appropriate levels and whereas it requires in many spheres the active involvement of the two sides of industry;

Whereas the solemn proclamation of fundamental social rights at European Community level may not, when implemented, provide grounds for any retrogression compared with the situation currently existing in each Member State,

HAVE ADOPTED THE FOLLOWING DECLARATION CONSTITUTING THE "COMMUNITY CHARTER OF THE FUNDAMENTAL SOCIAL RIGHTS OF WORKERS":

TITLE I

FUNDAMENTAL SOCIAL RIGHTS OF WORKERS

FREEDOM OF MOVEMENT

1. Every worker of the European Community shall have the right to freedom of movement throughout the territory of the Community, subject to restrictions justified on grounds of public order, public safety or public health.
2. The right to freedom of movement shall enable any worker to engage in any occupation or profession in the Community in accordance with the principles of equal treatment as regards access to employment, working conditions and social protection in the host country.

3. The right of freedom of movement shall also imply:

- harmonization of conditions of residence in all Member States, particularly those concerning family reunification;
- elimination of obstacles arising from the non-recognition of diplomas or equivalent occupational qualifications;
- improvement of the living and working conditions of frontier workers.

EMPLOYMENT AND REMUNERATION

4. Every individual shall be free to choose and engage in an occupation according to the regulations governing each occupation.

5. All employment shall be fairly remunerated.

To this effect, in accordance with arrangements applying in each country:

- workers shall be assured of an equitable wage, i.e. a wage sufficient to enable them to have a decent standard of living;
 - workers subject to terms of employment other than an open-ended full time contract shall receive an equitable reference wage;
 - wages may be withheld, seized or transferred only in accordance with the provisions of national law; such provisions should entail measures enabling the worker concerned to continue to enjoy the necessary means of subsistence for himself and his family.
6. Every individual must be able to have access to public placement services free of charge.

IMPROVEMENT OF LIVING AND WORKING CONDITIONS

7. The completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community. This process must result from an approximation of these conditions while the improvement is being maintained, as regards in particular the duration and organization of working time and forms of employment other than open-ended contracts, such as fixed-term contracts, part-time working, temporary work and seasonal work.

The improvement must cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies and those regarding bankruptcies.

8. Every worker of the European Community shall have a right to a weekly rest period and to annual paid leave, the duration of which must be harmonized in accordance with national practices while the improvement is being maintained.
9. The conditions of employment of every worker of the European Community shall be stipulated in laws, in a collective agreement or in a contract of employment, according to arrangements applying in each country.

SOCIAL PROTECTION

According to the arrangements applying in each country :

10. Every worker of the European Community shall have a right to adequate social protection and shall, whatever his status and whatever the size of the undertaking in which he is employed, enjoy an adequate level of social security benefits.

Persons who have been unable either to enter or re-enter the labour market and have no means of subsistence must be able to receive sufficient resources and social assistance in keeping with their particular situation.

FREEDOM OF ASSOCIATION
AND COLLECTIVE BARGAINING

11. Employers and workers of the European Community shall have the right of association in order to constitute professional organizations or trade unions of their choice for the defence of their economic and social interests.

Every employer and every worker shall have the freedom to join or not to join such organizations without any personal or occupational damage being thereby suffered by him.

12. Employers or employers' organizations, on the one hand, and workers' organizations, on the other, shall have the right to negotiate and conclude collective agreements under the conditions laid down by national legislation and practice.

The dialogue between the two sides of industry at European level which must be developed, may, if the parties deem it desirable, result in contractual relations, in particular at inter-occupational and sectoral level.

13. The right to resort to collective action in the event of a conflict of interests shall include the right to strike, subject to the obligations arising under national regulations and collective agreements.

In order to facilitate the settlement of industrial disputes the establishment and utilization at the appropriate levels of conciliation, mediation and arbitration procedures should be encouraged in accordance with national practice.

14. The internal legal order of the Member States shall determine under which conditions and to what extent the rights provided for in Articles 11 to 13 apply to the armed forces, the police and the civil service.

VOCATIONAL TRAINING

15. Every worker of the European Community must be able to have access to vocational training and to receive such training throughout his working life. In the conditions governing access to such training there may be no discrimination on grounds of nationality.

The competent public authorities, undertakings or the two sides of industry, each within their own sphere of competence, should set up continuing and permanent training systems enabling every person to undergo retraining more especially through leave for training purposes, to improve his skills or to acquire new skills, particularly in the light of technical developments.

EQUAL TREATMENT FOR MEN AND WOMEN

16. Equal treatment for men and women must be assured. Equal opportunities for men and women must be developed.

To this end, action should be intensified wherever necessary to ensure the implementation of the principle of equality between men and women as regards in particular access to employment, remuneration, working conditions, social protection, education, vocational training and career development.

Measures should also be developed enabling men and women to reconcile their occupational and family obligations.

INFORMATION, CONSULTATION
AND PARTICIPATION FOR WORKERS

17. Information, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in the various Member States.

This shall apply especially in companies or groups of companies having establishments or companies in several Member States of the European Community.

18. Such information, consultation and participation must be implemented in due time, particularly in the following cases:

- when technological changes which, from the point of view of working conditions and work organization, have major implications for the work force are introduced into undertakings;
- in connection with restructuring operations in undertakings or in cases of mergers having an impact on the employment of workers;
- in cases of collective redundancy procedures;
- when transfrontier workers in particular are affected by employment policies pursued by the undertaking where they are employed.

HEALTH PROTECTION AND SAFETYAT THE WORKPLACE

19. Every worker must enjoy satisfactory health and safety conditions in his working environment. Appropriate measures must be taken in order to achieve further harmonization of conditions in this area while maintaining the improvements made.

These measures shall take account, in particular, of the need for the training, information, consultation and balanced participation of workers as regards the risks incurred and the steps taken to eliminate or reduce them.

The provisions regarding implementation of the internal market shall help to ensure such protection.

PROTECTION OF CHILDREN AND ADOLESCENTS

20. Without prejudice to such rules as may be more favourable to young people, in particular those ensuring their preparation for work through vocational training, and subject to derogations limited to certain light work, the minimum employment age must not be lower than the minimum school-leaving age and, in any case, not lower than 15 years.
21. Young people who are in gainful employment must receive equitable remuneration in accordance with national practice.

22. Appropriate measures must be taken to adjust labour regulations applicable to young workers so that their specific needs regarding development, vocational training and access to employment are met.

The duration of work must, in particular, be limited - without it being possible to circumvent this limitation through recourse to overtime - and night work prohibited in the case of workers of under eighteen years of age, save in the case of certain jobs laid down in national legislation or regulations.

23. Following the end of compulsory education, young people must be entitled to receive initial vocational training of a sufficient duration to enable them to adapt to the requirements of their future working life; for young workers, such training should take place during working hours.

ELDERLY PERSONS

According to the arrangements applying in each country:

24. Every worker of the European Community must, at the time of retirement, be able to enjoy resources affording him or her a decent standard of living.
25. Every person who has reached retirement age but who is not entitled to a pension or who does not have other means of subsistence, must be entitled to sufficient resources and to medical and social assistance specifically suited to his needs.

DISABLED PERSONS

26. All disabled persons, whatever the origin and nature of their disablement, must be entitled to additional concrete measures aimed at improving their social and professional integration.

These measures must concern, in particular, according to the capacities of the beneficiaries, vocational training, ergonomics, accessibility, mobility, means of transport and housing.

TITLE II
IMPLEMENTATION OF THE CHARTER

27. It is more particularly the responsibility of the Member States, in accordance with the national practices, notably through legislative measures or collective agreements, to guarantee the fundamental social rights in this Charter and to implement the social measures indispensable to the smooth operation of the internal market as part of a strategy of economic and social cohesion.
28. The European Council invites the Commission to submit as soon as possible initiatives which fall within its powers, as provided for in the Treaties, with a view to the adoption of legal instruments for the effective implementation, as and when the internal market is completed, of those rights which come within the Community's area of competence.
29. The Commission shall establish each year, during the last three months, a report on the application of the Charter by the Member States and by the European Community.
30. The report of the Commission shall be forwarded to the European Council, the European Parliament and the Economic and Social Committee.

MISCELLANEOUS DECISIONS

Relations with Poland - Conclusion of the EEC-Poland Agreement

The Council adopted the Decision concerning the conclusion of the Agreement between the European Economic Community and the Polish People's Republic on trade and commercial and economic co-operation, signed on 19 September 1989 in Warsaw. The Agreement can thus enter into force once the two parties have notified each other of the completion of the necessary internal procedures, probably on 1 December 1989.

EEC-EFTA relations

The Council adopted its common positions concerning the conclusion of five co-operation agreements between the European Economic Community and

- Austria,
- Finland,
- Norway,
- Sweden, and
- Switzerland

on a programme plan to stimulate the international co-operation and interchange needed by European research scientists (SCIENCE).

Fisheries

The Council adopted the Regulations:

- amending, for the second time, Regulation No 4196/88 concerning fishing by vessels of the Member States in the Norwegian exclusive economic zone and the fishing zone around Jan Mayen. The purpose of this proposal is to allocate among the Member States an additional quota of 1 500 tonnes for "Other species" in the Norwegian fishing zone south of 62°N in 1989.

- amending Regulation No 4195/88 laying down certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Norway in Community waters. The purpose of this Regulation is to increase the Norwegian quota for ling and tusk by 3 000 tonnes in exchange for the "Other species" quota allocated to the Community;
- on the conclusion of the Protocol defining for the period from 21 May 1989 to 20 May 1992 the fishing opportunities and the financial compensation provided for by the Agreement between the European Economic Community and the Government of the Republic of Madagascar on fishing off the coast of Madagascar;
- on the conclusion of the Protocol setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Government of the People's Republic of Angola on fishing off Angola for the period from 3 May 1989 to 2 May 1990.

Agriculture

The Council adopted the Decision amending for the third time Decision 88/303/EEC recognizing West Flanders as being officially swine fever free, with the province of Antwerp continuing to be classified as swine fever free.

Customs union

The Council adopted the Regulations:

- on the temporary import of containers;
- opening and providing for the administration of Community tariff quotas for:
 - = certain kinds of prepared or preserved tunas coming from Portugal (1990) amounting to a volume of 1 000 tonnes for categories ex 1604 14 10 and ex 1604 20 70, duty-free;

= dried figs amounting to 200 tonnes at 1,1% tariff duty and certain dried grapes amounting to 1 900 tonnes at zero duty coming from Spain (1990).

Amendments to the Directives on the medical and para-medical professions

The Council adopted the Directive amending Directives 75/362/EEC, 77/452/EEC, 78/686/EEC, 78/1026/EEC and 80/154/EEC relating to the mutual recognition of diplomas, certificates and other evidence of formal qualifications as doctor, nurse responsible for general care, dental practitioner, veterinary surgeon and midwife, together with Directives 75/363/EEC, 78/1027/EEC and 80/155/EEC concerning the co-ordination of provisions laid down by law, regulation or administrative action relating to the activities of doctors, veterinary surgeons and midwives.

(See Press release for the Internal Market Council on 14.VI.89 - 7324/89 Presse 112.)

Appointments

The Council replaced:

- a full member of the Committee of the European Social Fund
- an alternate member of the Committee of the European Social Fund
- an alternate member of the Advisory Committee on Vocational Training.

Bruxelles, le 30 octobre 1989

NOTE BIO(89) 314 AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

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PREPARATION DU CONSEIL AFFAIRES SOCIALES DU 30 OCTOBRE 1989

Le débat sur une Charte communautaire des droits sociaux fondamentaux dominera les travaux de ce Conseil qui, contrairement à ce qu'il avait été initialement prévu, se tiendra à Bruxelles et non à Luxembourg. Les Ministres ont été saisi d'une version révisée du projet de la Charte élaborée par la Présidence. Ce projet se différencie, par rapport au projet que la Commission a présenté le 29 septembre 1989, essentiellement par le fait qu'il ne vise que les travailleurs (saliariés ou indépendants) et non plus l'ensemble des citoyens. Il étend cependant l'égalité de traitement dans les domaines de la passation des marchés publics et de la sous-traitance aux travailleurs temporaires (comme il avait été prévu initialement dans l'avant-projet de la Charte. Par ailleurs, s'agissant de la mise en oeuvre de la Charte, il est mentionné que les initiatives à prendre relèvent d'abord de la responsabilité des Etats membres et, dans le cadre de ses compétences de la responsabilité de la Communauté. Cette dernière formule semble être inacceptable pour la Commission. Madame PAPANDREOU considère que les initiatives à prendre relèvent, selon le cas, de la responsabilité des Etats membres ou de la responsabilité de la Communauté, en application du principe de subsidiarité. Pourtant, le compromis de la Présidence semble être acceptable dans son ensemble. De l'avis de Madame PAPANDREOU il ne dilue pas le projet de la Commission. Le Commissaire avait fait déclaré récemment au Parlement européen qu'elle préférerait personnellement voir la Charte sociale adoptée par onze pays contre un, lors du prochain Conseil européen, si l'unanimité ne devait être atteinte "qu'au prix d'une Charte diluée".

Le projet de la Charte est destiné à être adopté, sous forme de déclaration solennelle, par le Conseil européen de Strasbourg. Le Conseil européen est en outre appelé à inviter la Commission à poursuivre ses actions en cours dans le domaine social et à lui présenter au plus tard le 31 décembre 1989 un programme d'action et un ensemble d'instruments y afférent. L'intention de Madame PAPANDREOU est d'accélérer l'élaboration de ce programme d'action afin de le présenter au Conseil des Ministres si possible même avant le prochain Conseil européen.

Le projet de Charte sociale qui sera examiné au Conseil de ce lundi fait l'objet d'une réserve générale et de nombreuses réserves spécifiques du Royaume-Uni (15 paragraphes sur les 32 de la Charte). Il y a aussi une réserve portugaise (appuyée par l'Espagne) concernant l'égalité de traitement dans le domaine de la sous-traitance.

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Autres points de l'ordre du jour :

PRESTATIONS FAMILIALES

Lors du Conseil "Affaires sociales" du 29 septembre 1989, un large accord est intervenu sur le compromis de la Présidence française visant à distinguer, parmi les prestations familiales existantes en France, celles qui relèveraient désormais du critère du pays d'emploi (et seraient donc "exportables") par rapport à celles qui continueraient à relever du critère du pays de résidence (et seraient donc "non exportables"). La Délégation FR s'est déclarée disponible à considérer "exportable" également l'allocation pour jeune enfant (comme l'ont demandé IT, ESP et PORT). Le Ministre italien s'est toutefois opposé dans le Conseil à une modification des règles actuelles de priorité en cas de cumul des droits à prestations familiales, règles qui peuvent conduire, conformément à la jurisprudence de la Cour, à ce que l'Etat d'emploi, en l'absence d'une demande expresse auprès de l'Etat membre de résidence, doive verser la totalité des prestations familiales.

Le Conseil sera saisi du compromis français, modifié à la suite des discussions du Conseil "Affaires sociales" du 29 septembre, sur la question des prestations familiales des travailleurs. La Présidence suggère un amendement aux règles de priorité en cas de cumul des droits à prestations familiales dans le but de préciser que le nouveau système (qui fait intervenir également le pays de résidence de la famille du travailleur pour le remboursement) ne s'appliquerait que lorsque des prestations familiales sont prévues au titre de l'exercice d'une activité professionnelle.

DIRECTIVE "ECRANS DE VISUALISATION"

Le Conseil est proche d'un accord majoritaire sur cette directive, les délégations ayant encore des réserves générales (IRL) ou particulières (UK, NL) n'excluant pas la possibilité de se rallier à la majorité.

La proposition de la Commission constitue une des directives particulières prévues par la directive cadre relative à la santé et sécurité des travailleurs au travail (directive 89/391/CEE). Elle contient des prescriptions minimales visant à préserver la sécurité et la santé des travailleurs par un aménagement adéquat des postes de travail utilisant des écrans de visualisation.

La proposition couvre l'ensemble des équipements à écran de visualisation à l'exception d'un certain nombre d'équipements spécifiés à l'art. 2 (7 types d'équipements).

Deux Délégations (NL et UK) souhaitent réduire le champ d'application de la directive par l'exclusion des "écrans de télévision" et des "écrans de radar".

La Commission a en outre proposé que les travailleurs bénéficient d'un examen ophtalmologique avant de commencer le travail sur écran et par la suite au cas où il se plaindraient de troubles visuels. Devant l'opposition notamment de DK, NL et UK, le Président a suggéré de se limiter à un examen approprié des yeux et, au cas où cet examen le rend nécessaire, à un examen ophtalmologique. PORT considère ce texte trop faible pour la protection des travailleurs; UK, à l'opposé, le juge trop fort.

DIRECTIVE "AGENTS CANCERIGENES"

Il n'est pas certain que le Conseil puisse adopter une position commune en première lecture sur cette directive dans la mesure où plusieurs Etats membres (DE, DK, NL notamment) estiment qu'il y a encore trop de questions en suspens.

La proposition de la Commission vise à protéger les travailleurs contre les risques pour leur santé et sécurité du fait d'une exposition à des agents cancérogènes pendant le travail.

Bien que le Parlement n'avait pas encore rendu son avis, le Conseil avait débattu de cette proposition en décembre 1988 et était parvenu à un large consensus (IT et DK ayant des réserves) sur un texte qui s'écartait de la proposition de la Commission sur plusieurs points.

A la suite de l'avis du Parlement européen, la Commission a remis une proposition modifiée reprenant plusieurs amendements proposés par celui-ci; le COREPER en a débattu sans toutefois tenir suffisamment compte des modifications proposées, les Délégations maintenant pour l'essentiel leurs positions de 1988. La Commission a, dans ces conditions, émis une réserve générale sur le texte du COREPER.

Les points principaux en suspens portent, d'une part, sur l'identification et l'appréciation des risques (IT et la Commission souhaitant un texte plus renforcé) et, d'autre part, sur la liste des substances, préparations et procédés suspectés d'être cancérogènes (DE et la Commission étant en faveur d'une liste de 7 produits cancérogènes au lieu de 4 suggérés par la Présidence).

Plusieurs autres points de nature essentiellement technique restent en suspens.

DIRECTIVE "CHARGES"

La Commission a transmis au Conseil en mars 1988 une proposition de directive concernant les prescriptions minimales de sécurité et de santé relatives à la manutention manuelle de charges comportant des risques notamment dorso-lombaires pour les travailleurs. Le Conseil pourrait adopter une position commune à ce sujet.

Amitiés,

C. STATHOPOULOS



Bruxelles, le 30 octobre 1989

NOTE BIO(89) 314 (suite 1) AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

CONSEIL AFFAIRES SOCIALES DU 30 OCTOBRE 1989

La réunion du Conseil a été consacrée, dans la matinée du 30 octobre, à la discussion des différentes directives qui figuraient à l'ordre du jour. Le Conseil a adopté une position commune sur la directive "charges".

Cette directive fixe des prescriptions minimales de sécurité et de santé concernant la manutention manuelle de charges comportant des risques notamment dorso-lombaires pour les travailleurs. L'employeur prend les mesures d'organisation appropriées, ou utilise les moyens appropriés, et notamment les équipements mécaniques, en vue d'éviter la nécessité d'une manutention manuelle de charges par les travailleurs. Lorsque la nécessité d'une manutention manuelle de charges par les travailleurs ne peut être évitée, l'employeur prend les mesures d'organisation appropriées, utilise les moyens appropriés ou fournit aux travailleurs de tels moyens, en vue de réduire le risque encouru lors de la manutention manuelle de ces charges.

Le Conseil n'a pas pu adopter une position commune sur la directive "agents cancérigènes". Ce point a été renvoyé au COREPER. Par contre, la majorité qualifiée nécessaire a été réunie pour l'adoption de la directive "écran de visualisation". L'adoption formelle devrait intervenir dans l'après-midi, certaines délégations souhaitant inscrire des déclarations au procès-verbal, mais lors du débat de ce matin 11 délégations (sauf UK) s'étaient déclarées prêtes à donner leur accord. La proposition couvrira l'ensemble des équipements à l'écran de visualisation à l'exception de 7 types d'équipements spécifiés. Les écrans de télévision et de radar n'ont pas été exclus (en ce qui concerne naturellement leur utilisation dans le cadre de relations de travail), les travailleurs bénéficieront s'ils le souhaitent d'un examen approprié des yeux et, au cas où cet examen le rend nécessaire, à un examen ophtalmologique.

Madame PAPANDREOU a exprimé sa satisfaction pour l'adoption des directives "charges" et "écran de visualisation". Il s'agit, a-t-elle remarqué, d'une reconnaissance de l'influence importante de la législation communautaire sur le développement de mesures et de programmes de santé et de sécurité dans le lieu de travail. Ces directives contribuent, a-t-elle ajouté, au renforcement des mesures qui concernent la santé et la sécurité de millions de travailleurs.

Le débat sur la Charte sociale aura lieu en séance dans l'après-midi d'aujourd'hui. Les ministres ont discuté lors d'un dîner hier soir une série d'amendements et poursuivront leur travail lors du déjeuner.

Amitiés,


C.D. EHLERMANN

Bruxelles, le 30 octobre 1989

NOTE BIO(89) 314 (suite 2 et fin) AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

CONSEIL AFFAIRES SOCIALES

Onze délégations ont pu marquer leur accord sur le projet de la Charte sociale tel qu'il a été modifié suite aux travaux du Conseil d'aujourd'hui. La délégation du Royaume-Uni ayant des objections à l'égard de plusieurs articles de la Charte, a maintenu sa réserve générale. Toutes les délégations se sont mises pourtant d'accord sur la procédure. Le projet sera transmis (avec les réserves britanniques) au Conseil européen, en vue de son adoption. Le Commissaire, Madame PAPANDREOU, s'est déclarée satisfaite de ce résultat, qui lance, comme elle a dit, un message politique aux travailleurs. Elle a aussi annoncé son intention de présenter au Conseil le programme d'action qui accompagnera la Charte d'ici la fin novembre. Ceci est en quelques mots le résultat des débats au Conseil sur la Charte sociale.

Le projet de la Charte a subi certaines modifications lors des travaux du Conseil. Les articles 3 et 5 se référant à l'égalité de traitement lors du recours à la sous-traitance et à la passation des marchés publics ont été supprimés. Reste l'article 2 qui stipule que "le droit à la libre circulation permet à tout travailleur d'exercer toute profession dans la Communauté selon les principes de l'égalité de traitement, les conditions de travail ainsi que la protection sociale du pays d'accueil". Dans le rapport de la Présidence au Conseil européen (ayant recueilli l'accord des 12 délégations), celle-ci exprime le souhait qu'une telle égalité soit assurée également en ce qui concerne la sous-traitance et la passation des marchés publics.

Aussi l'article 28 du projet a été modifié pour tenir compte de la disponibilité de la Commission de présenter son programme d'action en novembre. Le nouveau libellé prévoit que "le Conseil européen invite la Commission à présenter le plus vite possible les initiatives qui relèvent de ses compétences prévues aux Traités en vue de l'adoption des instruments juridiques pour la mise en oeuvre effective, au fur et à mesure de la réalisation du Marché Intérieur, de ceux des droits qui relèvent de la compétence de la Communauté.

Tenant compte du souhait de la délégation allemande de voir inclus au programme d'action certains droits (DE voulait initialement les annexer même au texte de la Charte), le rapport de la Présidence invite la Commission à tenir compte de cette demande qui concerne notamment la détermination des congés annuels, le maintien du salaire pendant les jours fériés et de maladie, la protection des enfants et des adolescents, la situation des femmes enceintes et des mères ayant des enfants en bas âge, l'intégration des handicapés en milieu ordinaire de travail, la protection de la santé et de la sécurité dans le milieu de travail, l'orientation professionnelle, la reconnaissance mutuelle des qualifications et le travail temporaire.

Lors de sa conférence de presse conjointe avec le Président du Conseil, M. SOISSON, qui a eu lieu à l'issue des travaux, Madame PAPANDREOU a exprimé sa satisfaction pour le résultat obtenu. Elle a répété son souhait de voir la Charte adoptée par douze délégations, tout en soulignant qu'elle préférerait personnellement un accord à onze, lors du prochain Conseil européen, si l'unanimité ne devait être atteinte "qu'au prix d'une Charte diluée". Le Commissaire a, par ailleurs, précisé que le programme d'action qui sera présenté d'ici la fin novembre est une décision de la Commission qui sera transmis au Conseil pour information. Madame PAPANDREOU s'est exprimée aussi en faveur d'une interprétation la plus large possible de l'article 118 A du Traité.

Le Conseil a enfin marqué son accord sur le compromis de la Présidence concernant le règlement sur les prestations familiales, ainsi que sur la directive "écrans de visualisation".

Amitiés,

C. Stathopoulos