

SOCIAL EUROPE

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SOCIAL AFFAIRS AND EDUCATION

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Editorial

Europe is on the move. The implementation of the Single Act and the completion by 1 January 1993 of the internal market do represent significant areas of development for the building up of the Community. A 'social Europe', next to the other 'Volets' of this historical process, next to a monetary and fiscal Europe and an industrial and technological Europe, will represent a key factor for enhancing growth and employment. This is the challenge we are faced with in the context of greater economic and social cohesion as exemplified by the successful reform of the structural Funds.

The building up of a 'social Europe' — that is a Europe of employment, of competencies and of solidarity requires political will and political courage. It also requires a commitment on the part of all groups and individuals — the national authorities at various levels and the social partners in the first instance.

'Social Europe' is there to facilitate the necessary exchanges of information and experiences with a view to increasing convergence and interaction and thus facilitating common approaches.

Vasso Papandreou



Employment — New technology and social change

Actions and guidelines

Local employment development: the contribution of the LEDA programme

In 1986, the Commission of the European Communities launched the Local employment development action programme — LEDA (known initially as the Local labour market development programme). The programme aims to:

- (i) develop solutions to the problems of unemployment;
- (ii) achieve greater understanding of the operation of local labour markets;
- (iii) generate techniques for more effective local employment strategies for use by policy-makers and all those involved at the local level;
- (iv) disseminate information and promote a Community-wide exchange of expertise.

In its first phase, the programme comprised a series of pilot studies which examined how 12 areas in the Community have been tackling unemployment and employment development. These studies were supplemented by several reports on key issues of local economic and employment development. This led to a final report presenting the main lessons drawn from the initial work of the programme.

The final report identified a number of advantages associated with local approaches to employment development:

- (i) local activity is widespread, well established and substantial in scale;
- (ii) local approaches are often innovative, endogenous, flexible, responsive to local needs, and have an emphasis on action; teams working on local projects are often highly motivated and dynamic in their approach;
- (iii) new partnerships between local agencies have been established; national and local bodies have taken on new roles in employment generation; and new development agencies have emerged;

- (iv) local approaches complement and support Community and Member State policy objectives to fight unemployment and create jobs.

The report also identified a number of weaknesses of local initiatives:

- (i) they often lack an overall strategy;
- (ii) their proliferation accentuates existing problems of interagency coordination;
- (iii) local projects frequently lack resources and expertise.

The programme has been expanded in response to the findings of the first phase. Twelve other areas have been selected for a second series of pilot projects and several new activities have been introduced, including seminars and study visits.

This second phase of the programme began in late 1987 and is still in progress. This article presents the priorities and working methods of the programme, and discusses a number of issues raised by the work.

Priorities

The development of local employment initiatives and of solutions to unemployment are the twin focuses of the LEDA programme. These central areas of concern link a range of macroeconomic policies, locally delivered Community and national programmes, and a multitude of local initiatives. Local actions in this sphere encompass spontaneous activity both in the private and social sectors of the economy, as well as deliberate interventions by local authorities and other public bodies and participants. They share a common locus — the local economy and local labour market.

The LEDA programme is therefore focusing on the complex relationships between a variety of participants and activities in the local development process. There is a pressing need for a better understanding of how different types of economies and labour markets work, and how they can increase employment and reduce unemployment. Using this knowledge, the LEDA programme aims to help make both local strategies and national and Community programmes more effective in fighting unemployment and creating jobs.

The programme seeks to achieve this by developing the know-how of local employment development, for use by all those involved in the development process. This work complements the financial support offered to local employment development by the structural Funds of the Community and other EC and national funding instruments. This aim has led to three objectives:

- (i) to generate this know-how from the experience of different types of areas, by developing further methods and techniques and by bringing appropriate theoretical approaches to bear in developing models of good practice;
- (ii) to disseminate this know-how to Community and national policy-makers and administrators, and to local participants in the employment development process throughout the Community;

- (iii) to assist priority areas in the Community to apply this know-how in their efforts to achieve employment development.

Local employment development is a broad and complex field of action with many types of participants — both informal and institutional. The latter not only tend to be based at different levels but operate in separate policy areas, each with their own professional traditions and structures. These policy areas, for example, encompass training and education, business development, industrial and technological promotion, financial resources (public finance and private investment) and provision of infrastructure. A large number of new participants and initiatives have come on the scene in the last few years in response to the problems of high and persistent unemployment, creating substantial needs for technical knowledge and organizational capacity.

Developing expertise

The programme is exploring a broad range of issues on the development and provision of know-how on local employment development. Obviously, some are more important than others, notably those which encompass both substantive elements (i.e. what needs to be done) and organizational elements (i.e. how to undertake local activity). The most significant issues currently under consideration include:

- (i) understanding the existing and potential linkages between the local and international economies, especially in the context of the Single European Market of 1992;
- (ii) fostering the development of methods for assessing local resources (e.g. inventories of natural resources, skills audits) and applying these methods;
- (iii) helping areas to set strategic objectives for the local economy (e.g. in relation to international growth sectors and in targeting efforts to shift the economy towards these sectors);

- (iv) understanding how to create the right conditions for innovation, and for employment and economic growth (e.g. modern vocational and business skills, entrepreneurial attitudes, improved infrastructure, socio-cultural development, achievement of a 'critical mass' of projects and motivated and skilled people);
- (v) improving ways of fostering spontaneous activity (e.g. supporting initiatives by the unemployed and other local groups, strengthening links in the local economy between, for example, banks, businesses and public agencies);
- (vi) creating mechanisms for mobilizing resources and generating synergy (e.g. forums for dialogue between the social partners and other key local actors; development projects and local agencies representing concrete forms of local collaboration and partnership);
- (vii) furthering programme design and management techniques appropriate to the complex environment of local employment development (e.g. information needs, decentralized forms of project management, monitoring and evaluation approaches);
- (viii) understanding conditions for the spread of 'good practice' within the Community and for the successful application of these methods and techniques.

Programme activities

In order to achieve the objectives of the LEDA programme a range of activities has been developed for the second phase of the programme. Some of these projects are being implemented in the participating areas, whilst other activities are open generally to local, national and Community bodies throughout the Community.

Pilot projects

Twelve new areas, representing a cross-section of employment problems and strategies, have been selected to participate in the second phase of the LEDA programme. There are three types of area:

- (i) less-developed rural areas, e.g. Connemara in Ireland, Arcadia in Greece and Chaves in North Portugal;
- (ii) major urban areas facing problems of economic restructuring or decline, e.g. Liège in Belgium, Dundee in the United Kingdom, St Etienne in France and Oberhausen in the Federal Republic of Germany;
- (iii) an intermediate group with mixed characteristics, e.g. the island of Lolland in Storstrøm, Denmark, which has been affected by the closure of its principal industrial employer — the Nakskov shipyard — and which also has a considerable agricultural base.

There are now 24 participating areas, as shown in Figure 1. Pilot studies have been launched in the 12 new LEDA areas. Local teams of researchers are collecting and analysing information about these areas, and initiatives and strategies within them. Review reports are to be prepared following a process involving a dialogue with key local participants, public agencies, employers, trade unions and other organizations in the private, public and voluntary sectors. In each area, this work will culminate in a local consultative conference, as in the first series of pilot studies. This provides an opportunity to widen the debate on local employment development strategies and helps identify priorities for future action.

LEDA continues to support activities in the original 12 areas. These take various forms.

- (i) workshops: with the stimulus of the LEDA programme, many areas continue to have working groups and other forms of cooperation to evalu-

ate the effectiveness of existing strategies and to formulate new initiatives. The programme supports these activities by providing expert advice and arranging exchanges with other areas;

- (ii) study visits to other areas and bilateral exchanges are being fostered between the 24 participating areas. The programme is also developing strong links with the exchange programme of local development agents sponsored by the Commission;
- (iii) collaborative projects which can make a real contribution to the development of new employment initiatives can receive 'software' support from the LEDA programme such as expert advice, feasibility studies, preparatory/developmental research, visits to similar projects in other participating areas, and technical assistance.

Associate areas

The 24 participating areas will continue to provide the main 'laboratories' for learning from different experiences and for developing new methods and techniques of employment development. They will benefit most from the LEDA programme through the application of the know-how it acquires.

However, the depth and breadth of local experience throughout the Community is now so great that it is impossible to represent it by only studying the 24 participating areas. Further areas which have experienced local employment development initiatives are therefore being approached with a view to becoming associated with the programme. Together with the participating areas, they will form a network to share information and expertise. The programme will be able to draw lessons from this wider pool of experience.

International workshop and conferences

A series of workshops has been organized on topics of central interest to employment development, with two objectives:

- (i) to help the participating areas learn from each other's experience;
- (ii) to help the Community and Member States develop policy.

In addition to the local participants, Commission and Member State representatives and experts take part in these meetings. The meetings generate wide-ranging material for policy papers and experts' reports.

Three such workshops have already taken place: on local innovation policies and employment development, on the role of local development agencies in employment development in urban areas, and on employment development in rural and peripheral areas. A number of key issues raised at these workshops are discussed below. Further workshops are planned.

These issues and the feedback from the LEDA programme are being considered by the policy administrators and advisers of Member States and the Commission. This is an important dimension of the programme's efforts to generate know-how and to contribute to policy development. A major conference took place in July in Brussels and it may be followed by the establishment of a permanent Community forum covering issues of local employment development. Moreover, a series of discussions with the social partners (trade unions, employers) is being promoted at Community level.

Dissemination

Both local participants and national and Community policy-makers need to be made aware of this know-how. The workshops and conferences mentioned above and the publication of various re-

ports will contribute to the spread of the lessons learned from the programme. The network of associate areas also will be useful in this respect.

However, the large number and the diversity of localities in need of Community support for employment initiatives, and the equally large number of national and regional bodies with a direct interest in this field require a systematic and sustained effort. The LEDA programme has thus developed an initial programme to publicize its findings, in collaboration with Elise, the European network for information exchange on local employment initiatives. This is a multimedia programme to demonstrate the experience of the LEDA programme to all relevant bodies at Community, national, regional and local levels.

Management training

The ability to use this know-how, especially by local managers, administrators, and technicians does not only depend on being informed. These agencies and individuals often need help to develop their skills in several of the relevant areas of expertise. Setting strategic targets for longer term changes in the local economy and labour market is one such field, where techniques such as 'strategic audits' can be of considerable use. Of equally great importance are matters concerning the design, management, monitoring and evaluation of development programmes.

Management training, in the widest sense of the term, is therefore a central focus in the search for more effective local employment development activity. The LEDA programme is in the process of developing an initial series of management training programmes for those involved in employment development. These will also be suitable for managers of other types of Community-backed local and regional programmes, and are expected to be run in conjunction with several leading management schools in the Community.

Meeting the objectives of the programme

Figure 2 shows how the three operational objectives of the second phase of the LEDA programme will be met. There is a programme of activities working towards each objective.

First, to generate the know-how of local employment development, the programme relies on learning from the best practice in the participating and associate areas, as well as on developing new methods and techniques through workshops, conferences and experts' reports. Secondly, the dissemination of this know-how to both the local participants and to Community and Member State policy-makers is based on meetings and exchanges within the LEDA network as well as on a broader system of publicity. Finally, the objective of assisting the recipients of this know-how to make effective use of it in their particular locality is pursued through specific 'software' support to local projects and through more general management training.

Key issues

Each of the activities of the programme contributes to increasing knowledge about a particular aspect of local employment development or to helping the spread of this information. There are many interrelated and complex issues involved and these need to be tackled in a systematic way as part of the efforts of the programme towards developing the know-how of local employment development. The international workshops of the LEDA programme play a central role in this respect:

- (i) they focus on a particular theme, which both encompasses key issues of interest to the programme and provides the basis for comparing and debating different approaches to tackling issues of employment creation and unemployment;

- (ii) they bring together practitioners from the LEDA areas, who have already taken part in the local review of strategies with Community and national experts, with the aim of developing the participants' understanding of the issues involved, beyond the peculiarities of their individual projects;

- (iii) they are preceded, wherever possible, by visits to local projects to provide examples of relevant local initiatives;

- (iv) they are followed by the publication of policy papers and experts' reports which develop the arguments and provide reference points for further work.

Local innovation policies

The first of these workshops focused on innovative policies on employment development and was attended mainly by representatives of those LEDA areas facing industrial restructuring or decline. The promotion of innovation and the introduction of new technologies are central to the efforts in most of the areas. A variety of schemes have been introduced focusing on enterprise creation and development, training, university/industry links and inter-company cooperation. However, the intention of the sponsors of these schemes in relation to increased employment in the locality is not always clear and their success also is not always properly measured.

A series of issues relating to these points was explored at the workshop drawing from the experience of areas such as Aalborg (which hosted the meeting), Hamburg, Nottingham, Tilburg, Ravenna and Shannon. The workshop drew out the components of successful local innovation policies and emphasized the importance of creating a receptive environment. This can be much more important than the 'hardware' of technology itself. The fairly long time-scale for achieving a self-sustaining process of employment growth was stressed. The workshop also analysed the organizational structure for successful

local strategies of employment development through innovation. These points will be presented in a forthcoming report.

Local development agencies

The role of local development agencies in promoting employment was the subject of a second workshop. This focused on the experience of urban areas participating in the LEDA programme and looked particularly into the work of development agencies in Barcelona (which hosted the meeting), Hamburg, Nottingham, Tilburg, Bruay-sous-Laen, Genk, Shannon, Ravenna, Dundee and Storstrøm.

There are several organizations in most LEDA areas charged with developing employment. In addition, existing organizations, such as local authorities, have taken on new roles in economic and employment development. The workshop explored the main models of local development organizations in terms of legal and political autonomy in relation to other local economic agents, their financial resources and their work. These agencies' role in the range of local initiatives and development programmes was debated by focusing on their origins, functions and organizational structure.

A series of issues concerning 'vertical' linkages with national and Community authorities, as well as 'horizontal' ones at the local and regional level, were examined. The crucial role of local agencies in the implementation of national and Community programmes and in fostering local initiatives was emphasized. Also underlined were areas of concern regarding inter-agency coordination and performance evaluation. These points will be dealt with in detail in the forthcoming experts' report.

Rural and peripheral areas

A third workshop was held on local development in rural and peripheral areas. Four of the areas in the first series of LEDA studies (Les Baronnies,

Shannon, Sitia and North Alentejo) provided examples for discussion, whilst participants from several areas from the second series of the programme were also involved (Basilicata, Arcadia, Con-nemara, Lolland and Chaves). The workshop reviewed the fundamental problems affecting rural and peripheral areas, including depopulation and low education and skill levels, remoteness from markets and economic and institutional structures. The workshop also considered possible strategies and likely sectors for potential growth in different types of areas. It concluded with an examination of appropriate instruments for employment development: e.g. training schemes, local action programmes, regional universities and

other educational establishments and local development agencies. The conclusions of the meeting and other points raised during the workshop will be developed further and will be presented in the experts' report. They cover the need:

- (i) to pursue a strategy for the development of local skills and resources as a prerequisite of economic development activity;
- (ii) to diversify the local economy, shifting away from over-dependency on traditional farming, welfare and migrants' remittances;
- (iii) to recognize the strong links that already exist with the outside economy and to prepare for the even

greater challenge of the Single European Market of 1992.

For further information on the programme contact:

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Figure 1

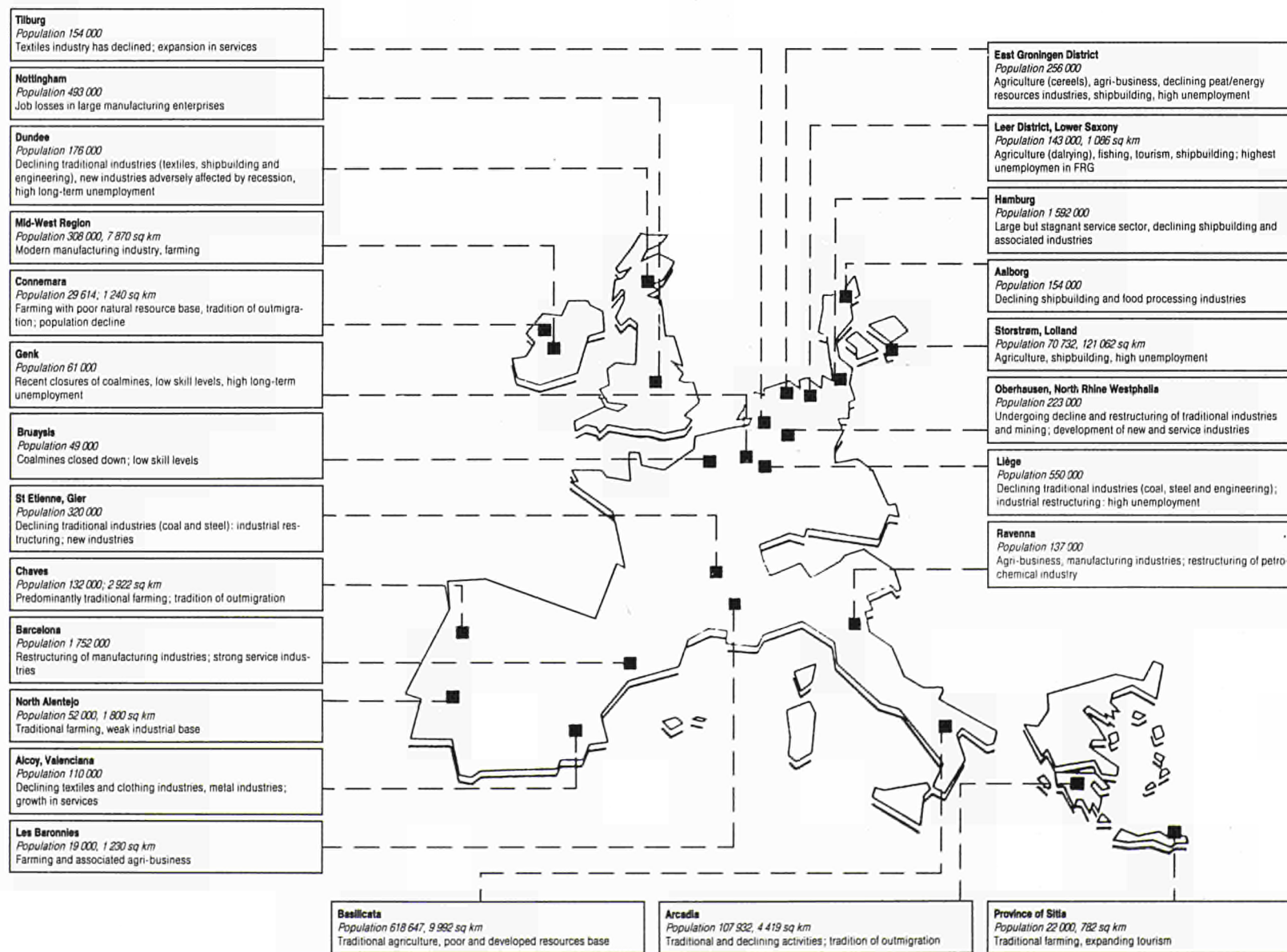
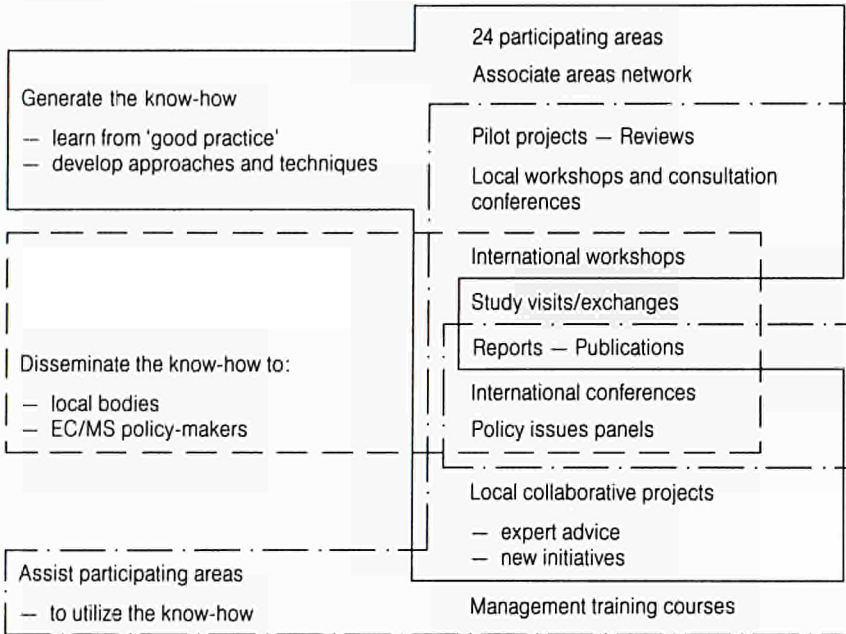


Figure 2

Objectives

Activities



ESF-assisted advanced training in industrial informatics as a generator of economic initiatives¹

With no specialized university departments in the local area and with no major companies to support economic initiatives, is it a credible proposition to launch a training centre for advanced industrial informatics, firmly rooted in the local and regional economy? There lay the whole crux of the problem facing the project presented in 1985 by the Bayonne Chamber of Commerce and Industry for the launching of the Institut du Logiciel et des Systèmes (IDLS).

1. Introduction

In the south of France, at the western gateway to Spain, lies the Pays Basque. The region is well-known for its quality of life and strong identity. It forms part of an area which receives strong support from the EEC in the framework of its economic development programmes. Although a number of companies of world renown have chosen to set up in this area, the bases for wide-ranging economic development still need to be broadened at a time when unemployment has reached a high level. In the absence of a sufficient pool of intellectual resources to produce a multiplying effect in support for initiatives launched by local economic operators, the Bayonne Chamber of Commerce has gone as far as it can in its search for investors or to stimulate the development of local companies.

It was in response to such limitations that, at the end of 1985, the CCI decided to set up an institute for advanced training in high technology.

Unlike many other circles, the European Social Fund (ESF) did not question the wisdom of such an initiative. Placing its trust in human endeavour and taking the measure of exactly what was at stake, the ESF lent the project its unconditional support. There would, after all, have been good reasons for it to adopt an attitude of unenterprising objectivity, for example:

- (i) a lack of experience in advanced technological training on the part of the Chamber of Commerce in general;
- (ii) the totally innovative nature of such a project in this region;
- (iii) the extremely ambitious nature of the project;
- (iv) the relatively modest size of the companies supporting the project (they were and remain SMEs);
- (v) the absence of locally available teaching staff.

However, the initiative has been crowned with success. As from 1988-89, students completing the course will be

awarded the DESS diploma, the highest educational qualification awarded by the French universities (diplôme de 3ème cycle). This has been made possible thanks to cooperation between the University of Bordeaux 1 and the University of Pau and the Pays de l'Adour with which the IDLS has signed an agreement; in future all successful students will be awarded this university diploma. It should also be stressed that all students have now found employment whereas they had all been seeking work at the start of the course — 60% of them finding jobs in the local area.

This has injected new life into local companies, projects are increasing and today the centre has achieved a significant level of self-financing.

How was such an initiative able to succeed given the difficulties of starting up? How can the full effects of such a project be gauged? What are the criteria for such a project to be repeated elsewhere? These are the questions we shall endeavour to answer here.

2. The context

The effect and importance of the project cannot be properly understood without some knowledge of the initial background to the operation. The French Pays Basque is universally recognized for its quality of life and pleasant climate, with the sea, the mountains and tourist resorts all close at hand.

What is less well-known is that the area also has a number of important industrial centres: two large aeronautics companies each employ 2 000 people; 10 medium-sized companies employ between 100 and 500 people and a whole spectrum of industrial SMEs (about 100 in all) are active in such diverse sectors as footwear, agri-food-stuffs, construction, mechanical engineering and informatics. Prior to the

¹ Article by Mr M. J. Tortos, Director of the Institut du Logiciel et des Systèmes (IDLS).

ESF project, the only training facilities offered by the region were to Bac +2, advanced technician level.

The region has experienced steady economic growth in the last few years with the combined effect of both indigenous development and the arrival of new companies finding the area and its proximity to Spain ideal for their development.

One of the basic steps taken by the Chamber of Commerce in order to promote economic development was to provide very personalized support for the creation and development of companies. In short, presence in the field.

This led to the development of know-how in start-up and file management and familiarity with financial circles active in the sphere of company development. An extensive knowledge of companies was also achieved. The weakness of this action lay in its very dynamism: apart from the sporadic one-off successes, such as the arrival of SONY and the implantation of AMAIA in the field of artificial intelligence, the long-term development of the region was impeded by the absence of any regenerative potential, which requires staff and training. It was this realization which prompted the idea of providing facilities for future decision-makers. Support for the launch of such a centre was also achieved by focusing energies on a joint project bringing together partners from industry and the universities. This is how the advanced training project was decided upon, the corollary being the founding of a specialized institute.

3. The procedure

The choice of the exact context for the project was determined by two considerations:

- (i) the ability to find the necessary support locally for the credible launch of such a training project;
- (ii) the need to use this training project to promote concrete achievements and services for a majority of the companies in the region.

The examination of these two criteria led to a dual choice:

- (i) technological training: in this vast field attention focused on industrial informatics as being particularly rich in potential;
- (ii) technological training, as it appeared that this constituted a major weakness in the economic fabric of the region and therefore a serious deficiency;
- (iii) the choice of industrial informatics because, on the one hand, Bayonne and the surrounding region are fortunate enough to count several high-technology companies in this field and also because industrial informatics is a tool which not only services high-technology companies but also lies at the root of increases in productivity in the traditional sectors. Technologies linked to industrial informatics affect shoe manufacturers as much as they affect advanced electronic companies. Consequently, after much debate and deliberation, the broad lines of approach were laid down. All that remained was to determine the target.

There was an immediate desire to aim the future institute at an advanced, or even very advanced, level. In practical terms, this meant, training students to Bac +5 or Bac +6 level, in an engineering speciality. Would this really correspond to the needs of the local, even regional economy? The eternal debate: should the response be to the immediate needs of the market or should future developments be anticipated and even influenced?

It was decided to go for an ambitious project, providing advanced training. The implications were twofold:

- (i) as regards the training staff, experts would have to be recruited wherever they could be found;
- (ii) as regards the employment of graduates, the focus would have to be on France or even Europe as a whole.

At the same time, the local economic fabric would be able to count on the presence of specialized engineers with

high potential. The core of students who would remain in the Pays Basque could not fail to inject new energy into the local economy.

A technological choice had been made and a target level had been set. It remained to find the suitable formulae for launching a training scheme of this kind. Continuing training may appear a paradoxical choice as the image of such training usually tends to associate it with satisfying immediate needs at an intermediate level rather than future needs at an advanced level.

Yet what formula other than continuing training programmes could ensure the fast and flexible implementation? And in fact the project did soon receive the backing of the European Economic Community through the ESF and subsequently that of the regional authorities and the French Government. The whole process of initial consideration of the idea, implementation of the technical programme and actual activation of the training courses was completed within a very short period of time. The first course began at the end of 1985 with an intake of 15 unemployed trainees.

4. The project in operation

Right from the outset, the Institute endeavoured to project a brand image in line with its objectives. Over 150 candidates in pursuit of just 15 places was already an initial success. In order to adhere to the stated objectives, the following strategy was adopted:

- (i) advanced level: highly rated lecturers from universities throughout the country were asked to contribute to the theoretical instruction. The teaching supervisor was recruited from a university;
- (ii) the operational support for the course was provided by the industrial sector which made a major contribution in the form of teaching staff (50%) with practical, up-to-date know-how in the use of industrial informatics;

- (iii) a firm grounding in the realities in the field and the economic consequences: this was provided by means of internal projects carried out by the trainees for local companies in the course of their training.

In this way, the project enjoyed the support of companies, specialists from industry and university lecturers and the overall guidance of the Institut du Logiciel et des Systèmes, which managed the training. In addition, there were two powerful innovations:

- (i) not only was the syllabus pitched at the most advanced level, as desired by the promoters right from the outset, but it also extended to technological fields generally taught as separate disciplines: one of the most notable aspects of the training provided lies in the linkage of technologies which are normally taught in isolation, such as mechanical engineering, electronics, informatics or sensor physics. One of the major advantages of this approach is that it trains specialists proficient in a range of technologies who can therefore quickly assume a coordinating role in projects where today integration and complementarity are key concepts;
- (ii) another major innovation was the goals which the project set itself: in this case, the traditional period of training within the firm followed by students takes on a very particular aspect: the institute conducts actual 'case studies' with its partners in industry and the trainees are considered as consultants sent by the institute and enjoy the full framework of support which such a consultant would normally expect for solving problems. This has two practical consequences:
 - (a) the trainees learn to assume responsibility, being immediately entrusted with important projects;
 - (b) a large measure of self-financing, the services being sold to industry by the Institute (FF 20 000).

Was such a totally innovative system going to find favour in the industrial en-

vironment right from the very first year? The answer was a resounding 'yes'. Following a prospection campaign, the Institute had to turn down requests from a certain number of industrialists who wanted to take in trainees on the terms offered as there were not enough trainees to meet the demand. The first 15 graduates from the course all found employment.

The second year saw an accentuation of two phenomena:

- (i) the credibility of the action: as established by the engineers sent directly by companies to follow the training course (there were three of them for the second year of intake);
- (ii) a marked strengthening of links with the universities, the sector traditionally associated with training. Thanks to the cooperation thus established with the universities, the second year saw the course leading to a diploma in systems engineering from the University of Bordeaux 1.

The second year also proved a resounding success, with all the trainees finding employment, which is a prime consideration, and the number of case studies submitted by the companies also up on the first year.

The third year saw another important innovation: the opening up of the course to students with no basic training. In this way an on-going teaching programme was quickly adopted by the traditional training structures constituted by the universities by establishing the basic training course. The value of such an operation lies in the diffusion of the innovations afforded by this project by which the ESF sets great store. The specific activities on which this programme is based must lend themselves to subsequent dissemination. The closer involvement of the private sector (in the shape of the Bayonne Chamber of Commerce) and the university sector (the Universities of Bordeaux and Pau), on the basis of this project supported by the ESF, went even further as application was made for the course to lead to a nationally-recognized diploma: the DESS (Diplôme d'Etude Supérieur Spé-

cialisé) which is the highest qualification awarded by a French university in the field of technology. The application was successful with the result that, as from the fourth year, the trainees could sit for a national diploma highly thought of by companies (DESS in automatized industrial production systems, conferred by the Universities of Bordeaux 1 and Pau).

5. The effects

This brief account shows how quickly this project, promoted as a pilot operation by the ESF, brought together the Chamber of Commerce and industrial circles (which is only natural) but also the Chamber of Commerce, industrial circles and the universities (which is less evident). to qualify for a national diploma of such standing as the DESS by the fourth year, i.e. in less than three years, is a striking achievement much to the credit of the promoters of this project, one of which was clearly the ESF.

Over and above this recognition, the exceptionally high percentage of trainees who find employment on completion of the course and the high esteem enjoyed, despite its youth, by the Institut du Logiciel et des Systèmes, stress should be laid on the important consequences of the project for the region. Potential investors no longer see the region as a technological training desert. In the IDLS they can find a partner aware of and responsive to the need for advanced technologies. For local companies, the Institute provides a means of access to a relational network able to deal with technical problems and provide concrete solutions for technological problems. Likewise for local companies, it facilitates recruitment and injects real dynamism into their management: more than 40% of trainees who have completed the course to date are now working in local companies at high levels of responsibility. At the same time, it should be mentioned that large companies also felt encouraged enough to recruit trainees from the Institute as from

the very first year and that today the Institute also works with companies in areas geographically far from the training centre such as Lille or Paris.

Finally, the realization of this project is one of the keys providing access for the region to European networks for the purposes of both training (the Institut du Logiciel et des Systèmes has, for example, joined the Comett project), scientific animation (the IDLS has organized a high-level colloquium in the Pays Basque region) and research (the IDLS has opened an applied research department of interest to the SMEs, allowing them to become involved in projects of a European dimension).

By way of conclusion, it may be said that, after three years of existence, the project supported by the ESF, has generally lived up to expectations. The gamble has therefore paid off. A regional centre of advanced technological training has been set up with the support of both local companies and universities all over the country and with the aim of benefiting the local economy while remaining an institute of advanced training. It has succeeded when there could have been 1 001 reasons for it to fail.

The reasons for its success are undoubtedly methodological (the approach adopted was certainly the right one). They are certainly linked to market

conditions and consequently the needs of companies, but above all and without any doubt they are connected with the motivation of the promoters of the project, whether they be advisers (the Bayonne Chamber of Commerce), the industrialists who were closely involved (SEI, AT, Turbomecan, AMAAIA, etc.) or the universities who agreed to give a hand (University of Bordeaux 1 and the University of Pau and the Pays de l'Adour). But the gamble would never have paid off, or even have been made, without the initial support of the ESF, which served as a catalyst in securing the support of other bodies. The ESF was the first to show a very real interest in this project despite the risks involved.

Employment — New technology and social change

Analyses, debates, studies

Employment policy in the Member States

In response to the wish expressed by Member States' delegations in the Council to receive information on developments in national employment policies, the Commission set up a mutual information system called Misep. The system operates on the basis of contributions from correspondents in public administrations or organizations and a Commission representative.

It provides the relevant authorities in each Member State with regular quarterly information on measures and trends in the employment policies conducted in the other Member States.

Social Europe presents a selection of the information exchanged through Misep in each issue. The Commission accepts no responsibility for the use of this information, which comes from official national sources. It is presented as a summary, on a regular basis, to enlighten the reader on the evolution of various aspects linked to national employment policies.

Developments at a glance

Overall developments

- | | |
|---|---|
| <input type="checkbox"/> Belgium | Employment policy |
| <input type="checkbox"/> Spain | Reforming public employment service
Parliamentary report on unemployment |
| <input type="checkbox"/> France | Employment plan |
| <input type="checkbox"/> United Kingdom | Abolition of the Training Commission |

Aid to the unemployed

- | | |
|----------------------------------|---------------------------------|
| <input type="checkbox"/> Belgium | Humanizing unemployment control |
| <input type="checkbox"/> Ireland | Voluntary work |

Training

- | | |
|--|--|
| <input type="checkbox"/> Federal Republic of Germany | Training places |
| <input type="checkbox"/> Portugal | Vocational training priorities |
| <input type="checkbox"/> United Kingdom | Employment training programme
Training for 1992 |

Special categories of workers

- | | |
|--|---|
| <input type="checkbox"/> Belgium | Flemish LTU plan |
| <input type="checkbox"/> Denmark | Intensifying efforts to combat long-term unemployment |
| <input type="checkbox"/> Federal Republic of Germany | Girls' vocational counselling |
| <input type="checkbox"/> Ireland | 'Youth reach' |
| <input type="checkbox"/> Spain | Youth contracts evaluated |

Placement

- | | |
|-----------------------------------|-------------------|
| <input type="checkbox"/> Portugal | Adapting to Sedoc |
|-----------------------------------|-------------------|

Miscellaneous

- | | |
|--|-------------------------|
| <input type="checkbox"/> Federal Republic of Germany | Social security card |
| <input type="checkbox"/> Italy | Transborder cooperation |
| <input type="checkbox"/> United Kingdom | Employment Act 1988 |

Overall developments

Belgium: Employment policy in the new government agreement

At the beginning of May, the Prime Minister presented the new government's agreement to the Belgian Parliament. This agreement describes in particular the main thrusts of the new government's employment policy. This article summarizes the major themes of Belgian employment policy over the coming years.

Overall policy

Increasing employment and combating unemployment remain the main concerns of the Belgian Government. This concern must be present in every single policy area: economic policy and taxation, educational policy, budgetary policy and social policy.

To this end, the government will continue to give prime importance to general economic balances, which constitute the basic condition for stable and growing employment. Similarly, corporate competitiveness and profitability have to be safeguarded.

The government's policy will also focus on more selective and highly labour-intensive public investments, on encouraging corporate investment and on strengthening households' purchasing power.

The fiscal and para-fiscal structure, mastery of wage costs and flexibility should make Belgium into a country which is attractive for employers to create jobs and workers to work in. As regards schooling, there must be a better fit between educational and employment policy. Finally, the government wants to bring to the fore the social dimension within the process of European integration.

Employment policy specifically

Supporting this overall approach of employment policy, there is, given the unemployment situation, a need for a policy specifically aimed at employment. To this end, the problem of structural

unemployment and the improved integration of young people on the labour market will be focused on. Efforts to help young people and the long-term unemployed (LTUs) will be continued and intensified. As regards young people, the private sector will be asked to make a special effort, whereas LTUs are the most important target group for public employment programmes.

The following specific actions are being undertaken to achieve this objective:

(a) National agreement (accord interprofessionnel)

For the next round of social consultation (1989-90), the government is appealing to the social partners to make employment a central issue. To this end, it is making a series of recommendations to them: consolidate the reduction of working time and compensatory hirings in accordance with the collective agreements concluded during the period 1983-88; use a significant amount of the resources available to increase employment; increase the employment and training opportunities of young persons; examine the forms of redistributing work, etc.

(b) Guidance for young jobseekers

ONEM, the national employment office, will invite all young unemployed persons who have been in receipt of benefit for six months to a guidance interview. To guide them, ONEM will draw on all the available means: traineeships for young people, complementary training, apprenticeship contracts, etc.

To make this measure operational, constructive consultation is needed between the communities and the regions.

(c) Measures reducing social charges

The various measures for reducing or exempting from social charges will be harmonized and improved. Measures giving exemptions from employers' social security contributions in the context of additional hirings or hirings on a com-

bined training/work contract will be harmonized, clearly circumscribing the target groups and encouraging the employment of LTUs.

(d) Measures for redistributing work

Redistributing work can take various forms such as working-time reductions, part-time work in all its forms, career breaks, and greater flexibility in working time.

Social security needs to be adapted systematically to all these forms of redistributing work. In this context, the intention is to improve the status as regards labour law and social security of voluntary part-time workers and workers employed under new working systems.

(e) Employment and training

Suitably adapted training has a key influence on the employment chances of young people. Thus it is important that, in addition to their general training, young people should be trained so that they are suited to the labour market. This implies shared responsibility between public authorities and enterprises.

Within this setting, industrial apprenticeship and the 'middle classes' training hold a central place for young people aged 16 to 18. For workers aged 18 to 25, efforts will focus on the system laid down by Royal Decree 495.

The necessary resources for promoting specific projects for LTUs and the disadvantaged will be made available. The communities will remain in charge of the projects.

(f) Measures for reducing long-term unemployment

As regards specific employment programmes, greater stress will be laid on helping LTUs. To this end, the harmonization of the different systems will be pursued and linked to the improvement of the workers' status.

Furthermore, there will be a gradual increase in total numbers of jobs available in employment programmes, taking

developments in unemployment into consideration.

In the public sector, the harmonization of systems will take place by extending the system of grant-aided *contractuels* to ministries, para-State bodies and provinces which can no longer employ the 'put-to-work' unemployed.

When increasing the contingent of grant-aided *contractuels* more attention will be given to LTUs (the grant will be differentiated according to the person who is put to work).

The TCT (programme for LTUs) is being maintained in the non-market private sector. On the other hand, no further CST projects (special programme for temporary employment) will be approved so that the system will be phased out.

Spain: Negotiating INEM's reform

The General Council of INEM (Oficina integrada de Empleo), the national employment office, is composed jointly of representatives of public administration and of the most representative employers' and trade-union bodies. An extraordinary meeting of the Council was convened on 8 July 1988 where the Ministry of Labour and Social Security put to the social partners the main thrusts for reforming INEM. These would strengthen its position as a key instrument in combating unemployment. This reform corresponds to the priority given to employment policy in the governmental programme.

Reforming INEM is taking place in an economic context favourable to net employment creation; but this context will generate greater demands stemming from the emergence of new technologies and the increasing competition facing Spanish enterprises on the national and international market for goods and services. Thus the problem of unemployment linked to the probable in-

crease in the working population will, over the coming decade, give rise to a series of needs which INEM will have to meet.

Such is the background to the reform, the main thrusts of which are the following:

- (a) developing systems for vocational assessment and guidance;
- (b) improving the quality of basic and recurrent vocational plans and programmes and their integration within the service;
- (c) creating and developing permanent services for detecting the needs as regards manpower and vocational skills;
- (d) strengthening and opening up placement and guidance services as well as making known employment promotion schemes;
- (e) setting up a system of actively managing employment benefits to avoid demotivation of the unemployed and to discourage fraud.

To meet these challenges, the following is needed:

- (i) greater individualization of the service;
- (ii) debureaucratization of the functions to enable rapid responses to be given according to demands and needs;
- (iii) adaptation to the environment; and
- (iv) strengthened coordination with other initiatives from either public administration or private bodies.

Another aim of the reform is to increase the involvement of the social partners in monitoring the Institute's management through the General Council and the Executive Committees of the provinces. In parallel with this, the creation of the **Economic and Social Council** will ensure that there is an overall consultation and concertation body for social policy which will circumscribe more clearly the functions of the General Council of INEM.

To ensure that the reform in question achieves the hoped-for results, on the

one hand the employment offices must become elements which really do link and integrate the functions of INEM and, on the other, specialized units have to be created for promoting employment and enterprise as well as for coordinating locally the initiatives of the employment offices and the training centres: OPEC (Oficina de Promoción del Empleo y de Cualificación).

Employment and skills promotion offices — OPEC

The aim in creating OPECs is to provide a framework for and to coordinate the entire network of employment offices without at any time substituting for them.

The functions of an OPEC are

- (a) to coordinate employment management on specific local or vocational markets within the overall labour market, and to direct the task of prospecting this labour market;
- (b) to direct a number of employment offices with which it will have on-going contacts, ensuring their coordination in areas of the OPEC's competence; to link the employment offices, INEM's training centres and those recognized by INEM; and to keep tabs on courses by constantly updating the lists of recognized centres and experts/teachers;
- (c) to obtain, for the continuing canvassing of the market, the requisite information from enterprises and training centres for programming its activities;
- (d) to stimulate and coordinate activities with other public authorities, mainly the municipal authorities and the autonomous communities;
- (e) to take on the following tasks:
 - (i) to provide and disseminate information and advise on employment promotion measures;
 - (ii) to support corporate start-ups and existing enterprises by providing them with information and

advice on what needs to be done for new corporate projects;

- (iii) to manage the funds earmarked for INEM collaboration agreements with the different public authorities relating to the temporary recruitment of unemployed persons for carrying out community works and services;
- (iv) to monitor the objectives and the evaluation of the results of different programmes.

Integrated employment offices — INEM

The main thrust of the reform concerns the employment offices; a much greater integration of the tasks is foreseen both within each office and between the office and its environment. This integration focuses on four main areas:

- (a) the integration and specialization of personnel to ensure a regular updating of the knowledge of INEM officers working in each office;
- (b) computerization so that complete computerization of all the offices will be achieved in the short term and, within them, of their four main functions (assessment-placement, vocational training, employment contracts and benefits);
- (c) coordination with the OPEC with a view to facilitating, through computerization, the coordination and updating of files;
- (d) integration with the environment and the local social services.

In short, INEM offices need to be designed as integral units seeking to provide a diversified service meeting the needs of the user through trying to find solutions adapted to each individual case.

The broad outline of INEM's reform described above will be discussed and fleshed out over the coming weeks during meetings with the most representative trade-union and employer's organizations.

Spain: Parliamentary report on unemployment

On 3 July 1987 the Ministers for Economics and Finance and for Labour and Social Security set up an expert committee to study the problem of unemployment in Spain. This followed from a parliamentary debate in October 1986 on the employment situation and the 'irregular' economy. One year later, on 28 June 1988, the chairman of the committee presented the committee's findings to Parliament's Social and Employment Policy Committee. The final report dealt with the severity of the problem, its causes and the remedies to solve it.

The problem

The Spanish unemployment rate is approximately double that of the European average. The report puts forward the thesis that this is the consequence of the sharp drop in employment which occurred in Spain between 1975 and 1985. This situation can only be remedied if employment rises steadily and in excess of the increase of the activity rate foreseen. The Committee considers that a special programme is needed to reverse the unemployment situation if the standard of living is not to fall. This programme will have to be based on economic growth, wage moderation and a flexible system of labour relations.

The Committee's analysis is based on official statistics; these, it states, are technically as reliable as those elsewhere in Europe. They provide data on the magnitude of unemployment as well as its composition and duration.

As its starting point, the document makes estimates to the year 2000 of the growth of the labour force, both the employed and the unemployed. It foresees that if the Spanish unemployment rate is to be brought down to 10% by the end of the century, employment will have to increase by between 3.9 and 4.5 million people between 1985 and the year 2000. In other words, depending on which scenario is chosen, between 260 000 and 300 000 jobs will have to be found per year.

The Committee looks on unemployment as both an economic and social problem. It is an economic problem because it means that human resources are under-utilized so that there is a loss of production and therefore reduction in the standard of living. And insofar as unemployment is distributed unevenly across the population, it is also a social issue. For it affects the more vulnerable groups most: the young, women and adults with a low educational level. And since they remain unemployed for a long time, their vocational skills deteriorate, so that in the long run they can only live through transfer payments.

The causes

The experts pinpoint several causes of this situation. Over and above the rise in oil prices and the consequent drop in economic activity worldwide, there is a variety of national factors which have had a negative impact on employment. These include the growth of costs of labour and credit, the lack of a coherent economic policy during the first years of the political transition between 1975 and 1977 and the effects of labour saving associated with the process of modernizing the Spanish economy. For these reasons the Spanish situation differs markedly from that of the rest of Europe. The high level of unemployment in Spain is above all the result of a process of labour rationalization. Elsewhere in Europe unemployment is the outcome of employment not rising at the same rate as the working population.

In this context three stages can be distinguished in the pattern of employment in Spain: from 1959 to 1974, the very rapid economic growth gave rise to an expansion of employment without any problems of unemployment. This expansion was based in essence on income from tourism, remittances from emigrants and foreign investments. 1975 to 1985 was a period of protracted rise in unemployment caused by the sudden shedding of manpower under pressures from inflation and the strong rise of labour costs at the same time as the working population remained virtually stable. From 1985 onwards the trend

changes, resulting from high GDP growth levels and controlled inflation. Not only has this helped employment creation, but it has also raised considerably the activity rate. This is because hopes of finding employment have risen among women and young people.

The remedies

Given the scale of the unemployment problem and the need to create employment in the long term, the Committee puts forward a set of mutually supportive measures drawing on the experience of the last two years when the growth of the Spanish economy has been accompanied by substantial employment increases. On the one hand, there needs to be a range of economic policy measures. These would strive to guarantee continuous and stable economic growth, making it possible to broaden the productive capacity of the system, control inflation, ensure equilibrium in the balance of payments and reduce the public deficit. On the other hand, there would be a range of labour measures designed to foster the capacity of the labour market to adapt in such a way that competitiveness will be raised. This would be achieved by making the current system of labour relations more flexible and by wage moderation. Thus family incomes can rise, because employment is enhanced together with the mechanisms of social protection, meaning, above all, unemployment benefits.

France: The September 1988 employment plan

On 14 September the government adopted a new plan for employment based on four principal ideas:

- (a) combating unemployment can only be tackled over time. This requires the continuation and extension of efforts already being made;
- (b) the instruments of employment policy need to be improved;

(c) actions of the State and regional and local initiatives need to be complementary for greater effectiveness in the fight against unemployment;

(d) enterprises have to be encouraged to implement a forward-looking strategy for managing employment.

Continuing and extending existing activities

Efforts for contacting and training the unemployed must be continued. Additional finance is being made available to provide for 406 000 *stages* (training periods) in 1988. For 1989 efforts will be redoubled since 530 000 *stages* will be made available.

To these training activities should be added the range of existing integration schemes: TUCs (community work projects for young persons), SIVPs (initiation into working life traineeships), adaptation contracts and qualification contracts. In 1989 these schemes will reach more than one million young people. Thus employment measures will bring up to 1 530 000 the number of beneficiaries of either a training or an integration measure in 1989.

The quantitative approach cannot be the sole response to tackling the problems of employment. Though it will remain indispensable, it has to be backed up by an enhanced effort for raising quality.

Improving employment policy instruments

Four measures have been decided on to this end:

- (i) reforming the *stages* for 16 to 25 year-olds. Their reorganization will give young people without any qualifications access to training enabling them to acquire lower (CAP — certificate of skill proficiency) or higher (BEP — certificate of occupational studies) vocational qualifications.

From 1989 three types of *stage* will be brought in of average durations of 400, 800 and 1200 course hours. These measures will cover some 110 000 young people;

(ii) organizing training for young TUCs. This will take the form of introducing an average of 600 hours training into TUCs. Thus, on concluding a TUC, a young person will be able to take up training providing qualifications. 40 000 young people will benefit from the combined TUC training scheme;

(iii) encouraging a more responsible attitude towards SIVPs. The government's thrusts as regards such *stages* seek to spell out in more detail the requisite conditions for signing, extending and monitoring the contracts concluded with enterprises and to increase corporate financing. An agreement has just been reached to this effect between the government and the social partners.

(iv) preventing long-term unemployment. The training and reintegration schemes for LTUs will be maintained and strengthened. At the same time short training periods (150 hours over three months) at the onset of unemployment would appear to be indispensable to prevent long-term unemployment.

To this end, a new scheme has been created: SRPA, (le stage de reclassement professionnel pour adultes), a traineeship designed to getting unemployed adults back to work. This scheme will be administered by ANPE, the national employment agency, and should cater for 40 000 persons in 1989.

Supporting local and regional initiatives

The resources appropriated by the State for combating unemployment must be backed up by taking better account of local situations. To this end, two priority actions are being taken:

- (i) creating FRILE — a regional aid fund for local initiatives. Endowed with FF 250 million, the aim of this fund is to stimulate and support local initiatives which directly create employment. The administration of the fund is completely devolved to the regional prefects;

(ii) aiding corporate start-ups. The current schemes for helping the unemployed to set up on their own are being strengthened. To compensate for the fragile character of newly started enterprises, it has been decided to bring in 'consultancy vouchers'. The aim is to stimulate the new entrepreneurs to draw more broadly on external chartered accountants or management consultants to ensure the follow-up and success of their projects.

Modernizing corporate employment and training strategies

Vocational training has to be considered as a priority productive investment. The former CDF (training development agreements) scheme is being renewed and its funding strengthened. These pluriannual agreements concluded between the State and branch organizations, enterprises or groups of enterprises aim at increasing and guiding training provided by enterprises for their wage-earners — the training being needed for the process of modernization.

One new scheme has been brought in: CIF (training tax credit). This also seeks to stimulate enterprises to invest in training over and above the legal requirements set by the Law of 30 December 1987. This additional effort will give rise to a tax credit.

United Kingdom: Abolition of the Training Commission

The Secretary for Employment announced in mid-September that the governing body of the Training Commission was being abolished and that plans were in hand to abolish the Commission itself.

The decision followed the vote of the Trades Union Congress (TUC) during its 1988 annual congress to boycott the government's Employment Training Programme. This recently launched programme seeks to provide all adult un-

employed persons with on average six months' training. With an annual budget of UKL 1.4 billion, it should cater for 600 000 persons a year.

History

The Training Commission was established by the Employment Act 1988 to replace the Manpower Services Commission.

The tripartite MSC was set up in 1974. It had a governing body of three members appointed after consultation with the TUC, three members appointed after consultation with the Confederation of British Industry (CBI), two local authority representatives, an educationalist and a chairman. The function of the MSC was to run the public employment and training service. Following the General Election in June 1987, the Government changed the Commission's role, focusing it sharply on vocational education and training. The 1987/88 budget was in the range of UKL 3.1 billion (total planned provision for the Department of Employment Group will be UKL 4.03 billion in 1989/90).

The future

The Commission has been replaced by the Training Agency. Located within the Department of Employment, the Agency is directly responsible to the minister. It is in charge of running the programmes of the Commission.

In the longer term the Agency will be replaced. This will be part of a fundamental restructuring process of national training policy to be detailed in a White Paper published in November 1988.

This paper will establish a new central agency to coordinate the provision of training in cooperation with local training bodies. These bodies will be endowed with considerable authority to organize training and job creation initiatives at local level.

Employers and individual trade unions will be invited to participate in the local training bodies to which will be devolved use of the resources previously provided in the budget of the Training Commission.

Aid to the unemployed

Belgium: Humanizing daily unemployment checks

The philosophy of Belgian regulations on unemployment is to guarantee unemployment benefit to the involuntarily unemployed who are available for the labour market.

Maintaining such a philosophy presupposes that this availability is regularly checked. For otherwise a situation arises in which the right to benefit becomes universal and there is no link whatsoever with the will to work. A compensation system which is not limited in time of necessity involves monitoring unemployment. Hence, the unemployed are required to sign on daily (except Saturdays, Sundays and legal holidays) at the administrative centre of their place of residence.

However, since 1982, a growing number of categories of the unemployed has been exempt from the municipal control. Furthermore, the introduction of the social security card has replaced daily signing on for the unemployed from the building and the diamond sectors.

Now the Ministry of Employment and Labour is preparing to change the regulations with the aim of more systematically humanizing the control, while taking into account the need to maintain the advantages of the current monitoring system.

Humanization

Daily checks, as they currently exist, fill a whole set of functions: combating 'black work', determining unemployment compensation, checking availability for the labour market, etc.

Despite these functions, daily signing on does not stop 'black work'. Moreover, the control is often felt as being humiliating, particularly by workers who

have worked for many years and then become unemployed following, for instance, corporate restructuring or closure. Furthermore, it would be difficult to maintain that these daily controls are encouraging for those who really are looking for a job.

For these reasons, the Minister is proposing that the daily unemployment control be humanized step by step. Bringing in a single type of flexibility for all categories of the unemployed is not desirable because the unemployed are not a homogeneous group: they belong to different age brackets, they have different occupational backgrounds and they have become unemployed under different conditions.

Proposals

The aim of the Minister is to achieve ultimately overall humanization of unemployment control, enabling the negative control requirement to be transformed into positive monitoring.

Concretely, what is being proposed is a thorough-going flexibilization of the control. This foresees general dispensation from signing on for the first six months of unemployment and subsequent weekly checks for other unemployed persons. The proposed change must go hand in hand with a regular follow-up of the jobseeker by the placement services.

Given the new structures of the Belgian State, this reform will be carried out in consultation with the community and regional authorities.

Pending discussions with his colleagues, the Minister for Employment and Labour has already decided on two measures:

- (i) from 1 November 1988 all unemployed persons aged 50 and over are exempt from daily signing on. They have to report once a month to the administrative centre of their place of residence;
- (ii) from 1 January 1989 all unemployed persons with a record of 20 years of work who are not yet 50 will also be

exempt from daily signing on and will only have to put in an appearance once a month.

Ireland: Voluntary work

Two initiatives aimed at bringing together voluntary groups who need workers and unemployed people who need work opportunities have recently been introduced.

The Voluntary Work Option is designed to allow unemployed people to become involved in voluntary work without losing their unemployment payments. Under the terms of the option, the unemployed person taking up voluntary work is paid the same rate and has the same entitlements as beforehand and remains on the Live Register. The person must still satisfy the conditions for receiving unemployment payments. These include genuinely looking for paid employment and being available for work or a place on a training course if the opportunity arises.

At the same time, a pilot grant scheme to encourage voluntary bodies to involve unemployed people in community and social services activities has been launched. Financial assistance will be made available over a three-month period to voluntary bodies who avail themselves of the scheme. Grants will be given having regard to the nature of the project undertaken by the voluntary group, the number of unemployed people involved and the value of the voluntary work in developing the skills of the unemployed people taken on. The grant may be used to meet the organization's administrative and other expenses in setting up the project including the reimbursement of any out-of-pocket expenses incurred by the unemployed person. The voluntary group will be required to report on the outcome of the project at the end of the three-month period. The results of the pilot scheme will be evaluated and further development of the scheme will be considered in the light of those results.

Training

Federal Republic of Germany: The situation of the training places market

1988 experienced a further significant quantitative improvement in the availability of training places. The chances of finding a training place have hardly ever been better. For the first time since 1980/81 more places were available than persons registered at the employment offices to fill them. At the end of the vocational guidance year on 30 September only some 24 900, or roughly 5% of all applicants, did not have any training place. This figure included 14 900 girls and 3 100 foreigners. At the same time some 61 900 places remained unfilled. This means that at the end of September unfilled vacancies were up by 39% and unplaced applicants were down by 27% compared with the previous year.

Quantitatively speaking, for the first time in seven years, the overall supply of training places (as defined by the Vocational Training Promotion Act) is significantly in excess of the overall demand, having exceeded it only slightly in the previous year. The trend is away from a shortage of places towards a shortage of young people looking for a training place, although there are significant differences between regions, occupations and specific groups.

Overall, companies and public authorities notified the employment services of 566 400 training places in 1987/88; this was 20 000, or about 4%, more than in the previous year. This trend has been developing over a longer period. It is due to a large extent to the falling numbers of applicants and the resulting difficulties in filling vacancies. As a consequence a greater proportion of the places to be filled is notified to the employment offices, the more so since the activities of the vocational guidance service are moving in the same direction. This will probably contribute to a continuing rise in the rate of involvement of the employment offices in

an attempt to fill the training places. In 1985 the rate was 67%, one year later 71% and in the last year 79%. It is not possible to infer from the increase in notified vacancies that there has been an increase in vacancies overall — just as this could not be inferred in past years.

In 1987/88 there were 532 800 applicants registered at the employment offices for company training places; that was 59 000, or 10% down on the previous year. The main cause of this was the falling number of school-leavers, itself the result of demographic changes. A further influence is the falling number of re-applicants from the previous year as well as the growing trend for persons having obtained the upper secondary school-leaving certificate to go on to higher education. Forecasting the development of the rate to which people looking for a training place draw on the employment offices is not yet possible. However, various factors point towards a continuing downward trend in the rate of involvement which was 87% in 1987. These factors include the falling proportion of lower secondary school-leavers in the applicants as well as applicants' improved opportunities.

The chances of young people still differ very considerably from one region to another. Whereas in many areas of southern Germany those seeking training places particularly in trade and industry can to some extent choose among training places, there are some areas in northern and western Germany where there is still an overall shortage of training places. Thus, in south Bavaria there are still some 13 800 vacant places compared with some 1 000 applicants who have not been found places and in Baden-Württemberg the relationship is 14 400 to 2 000. On the other hand, the employment offices in Lower Saxony and Bremen report 3 200 unfilled places compared with 5 200 unplaced applicants. And in North-Rhine Westphalia the relationship is 9 000 to 10 400.

In most occupations concerned with manufacturing as well as in some services — such as hotels and restaurants — there is an increasing shortage of

young applicants. This development is found everywhere in Germany, but is more pronounced in the south and south-west than in the north. On the other hand, the demand for administrative, service, and office occupations exceeds the provision of training places for the whole of the country. But compared with the past year, the imbalances are not so great.

The easing of the training-places market benefits all categories of job-seekers, though to varying degrees. Girls still have more trouble finding training places than boys.

Also, young foreigners benefit relatively little from the improved placement possibilities and have increasingly turned to vocational guidance. There were in total 45 300 young foreigners looking for training places within companies in this way, 4 100 (10%) more than in 1986/87. This increase was probably also caused by demographic changes since the baby-boomers of foreigners are now leaving school. But vocational guidance activities have also been successful in rousing young foreigners' interest in training. Their entry to training is to some extent still hampered by incomplete schooling.

As in previous years, efforts are continuing to place those applicants who have been unable to find a training place by the end of the vocational guidance year. The success of these efforts depends on companies and public authorities informing employment offices rapidly of training places as they become vacant through applicants turning them down or training being broken off, so that these places can be offered again. In regions which still have too few training places available, companies and public administrations are being urged to create additional training places, or to provide such places for the first time.

Portugal: Vocational training grants 1989

A ministerial decree of 15 June 1988 (*Official Gazette* No 136, Series II of 15 June 1988) laid down the guidelines for

the 1989 activities of the Ministry of Employment and Social Security as regards the priorities for vocational training grants. Thus, irrespective of whether financing is of ESF activities or collaborative vocational training, requests for support should satisfy one of the following four conditions:

- (a) employment is guaranteed by training bodies to all participants successfully completing a training activity;
- (b) training is for workers of enterprises which are being restructured: bringing in new technologies or new forms of managements;
- (c) training provides access to occupations with good employment opportunities;
- (d) training concerns the upgrading and further improvement of the workers.

In addition to these conditions, three degrees of priority are laid down for ranking applicants for grants:

- (i) first priority goes to requests for grants which meet conditions (a) and (b) above and those concerning the framework programmes organized by central or regional public administration provided they offer good employment opportunities;
- (ii) second priority goes to requests for actions for unemployed young people, women in occupations where they are under-represented, the disabled and persons belonging to other socially disadvantaged groups, migrant workers, workers made redundant by corporate restructuring or long-term unemployed adults registered at IEF employment centres;
- (iii) third priority goes to other requests by decreasing order of the intensity of unemployment affecting the regions where training takes place.

For each of these three areas of priority, the new legislation defines still other criteria for selection giving preference to activities giving access to the level of middle managers and highly qualified staff, to corporate start-ups, to trainers' training, to innovative actions and development agents.

United Kingdom: Employment training — more help for training providers and trainees

Employment training, the new programme for unemployed adults, is to offer a new feature with its start-up funding of up to UKL 20 000 for training agents.

The first contracts for those employers, local authorities, and voluntary, education and training organizations involved were to be signed during July 1988 and the Training Commission are issuing prospectuses outlining the qualifying criteria, funding arrangements and details of the types of training planned.

Training agents will be responsible for trainee recruitment, counselling, assessment, individual action plans and referral to a suitable training manager. The agent will receive a standard fee of UKL 20 for each person completing assessment and agreeing a personal action plan, plus UKL 15 for each successful referral to a training manager.

Training managers will be responsible for the delivery of the action plan to include directed training and practical training on projects or with an employer. For this they will be paid UKL 15 per trainee plus a training grant of UKL 17.50 per trainee per week.

In addition, a grant of up to UKL 40 may be paid where high-cost training is involved, for example, for people with disabilities or learning difficulties.

Employers are expected to contribute about UKL 5 per day for each trainee in a practical training placement and the trainees will receive a training allowance based on the previous state benefits plus between UKL 10 and UKL 12 depending on circumstances. They will also be paid travel expenses, lodging allowance and childcare costs (up to UKL 50 per week for children of single parents). After three months and successful completion of the training plan a trainee will receive a cash bonus of UKL 20 plus another UKL 30 if a vocational qualification is gained. The payments rise progressively according to the

length of time put in on training. For example, a period of six to nine months would draw UKL 40 plus UKL 60 for a vocational qualification; nine to 11 months UKL 60 plus UKL 90; and 11 to 12 months UKL 80 plus UKL 120. While training managers and employers will ultimately be expected to finance the bonuses, the Training Commission is to offer financial support until March 1991 by matching their contributions pound for pound.

People who have been unemployed for over six months will be eligible for employment training with priority going to 18 to 24 year-olds who have been unemployed for between six to 12 months and those aged between 18 and 50 who have been out of work for more than two years. The voluntary programme lasts for up to a year and once under way will provide training for 600 000 people a year.

Special help is to be offered on employment training to people who have been out of work for more than five years, those with disabilities and ex-offenders. This includes:

- (a) an introductory period of up to 10 weeks which will not be deducted from the entitlement of up to 12 months' full-time training;
- (b) a chance to try out the scheme for up to four weeks before signing on as a trainee when benefits only, plus some travel costs, will be paid. Once they become full-time trainees they get an additional training allowance;
- (c) the opportunity to attend part-time for an initial period.

It is hoped that this special help will raise commitment to the idea of returning to the labour market in the case of those who have been out of work for more than five years and raise awareness of the benefits to be gained from training.

The modules will be arranged by the training manager and delivered through projects which also offer literacy and numeracy provision, computer literacy and basic workshop and office skills.

United Kingdom: Training for 1992

The Department of Trade and Industry (DTI) as part of their single market campaign have produced, together with the Training Agency, a fact-sheet which is intended to increase employer awareness of the demands which the single market will inevitably make in the area of training provision. It points out that the skills of the workforce may possibly be the decisive factor in competing successfully in the single market and identifies the following key points which firms need to consider in looking at their training needs as part of an action strategy for 1992:

- (i) The need for employers to have adequate links with training providers;
- (ii) the need for employers to know about new developments in training available locally and for their type of business;
- (iii) the new or improved skills which will be needed and who, in the company, will need them;
- (iv) the type of training which will suit individual employers best and where to obtain it;
- (v) the need for an effectively planned and managed training programme.

The fact-sheet points out that the changes which the single market is bringing will need a range of new and improved skills in pursuing the new opportunities. Technical changes such as the development of harmonized standards could require retraining for many categories of staff, such as designers, marketing managers, and quality control staff.

Sources of advice

Training needs will have to be identified as soon as possible. The fact-sheet provides information on the wide range of advice available to help employers do this:

- (a) For almost all sectors of industry, there is an industry training organization responsible for providing advice

on identifying company training needs and on the availability of training to meet these needs:

- (b) local employer networks have been set up in over 100 localities. These networks, often based on the local Chamber of Commerce, bring together local employers to provide advice on local labour market trends and training provision;
- (c) the Training Agency is piloting TAPs (Training Access Points) in about 30 localities. TAPs are a local service with local and national information. They offer a user-friendly, computerized data base to help employers find the most effective training to meet their company's needs. TAP also offers expert advice to help employers convert the information into action: the whole system is geared to producing results for their company;
- (d) Pickup (the professional, industrial and commercial updating programme) was introduced in 1982 by the Department of Education and Science (DES) to assist educational institutions provide more and improved vocational courses for employers who wish to re-train or update the skills of their employees. The courses are short, flexible and cost-effective, and can be designed to meet the needs of individuals, whole organizations, or a particular industry or profession. Pickup courses are paid for by the consumer. Financial support may be available to employers from a number of local and national sources and in addition employers can consult the Pickup training directory — a national data base which holds up-to-date information on the availability of over 13 000 short courses and training opportunities available in the United Kingdom;
- (e) the National training index provides information about a range of training facilities available and will give advice about the suitability of particular courses or materials;
- (f) the British Institute of Management's Helpline is opening for business in

December 1988. It is a computer-based information and retrieval service providing access to a wide range of business and management data. BIM's own information data bases covering the field of management education, short courses, management games, videos and training firms can be accessed through the service;

- (g) Maris-Net (the Materials and resources information service network) is an on-line data base holding information about self-study materials; training organizations and services; private-sector short courses; computer-based training and interactive videos, and training films and videos.

Training provision

Once a company has identified its training needs, it will then have to decide on the type of training provision it needs. An enormous variety of training is available. That is why it is important to take advice and select the training most likely to meet individual needs. The fact-sheet points out that many options are open to employers including short courses, workplace training and open learning. The greater degree of flexibility within current training provision means that employers should be able to choose courses which will increase the skill level of their workforce whilst causing minimum disruption to business activities. They can find information about the range of training materials in the Open learning directory which is published by the Training Agency.

The Government will be investing some UKL 3 billion in training through the Training Agency in 1989. The fact-sheet encourages firms to take full advantage of the help available to improve the skill levels of their workforce and goes on to describe the two largest programme: the two-year YTS for 16 and 17 year-old school-leavers, and employment training for the adult unemployed. These will provide an increasingly important source of recruitment as the number of young people coming into the labour market falls over the next few years. Both programmes enable em-

ployers to assess the aptitude of trainees before employment and share the cost of equipping them with relevant skills related to company needs.

Management training will be of vital importance in helping to prepare companies for the single market. The fact-sheet describes how the Council for Management Education and Development has been formed to spearhead the 'Management Charter Initiative'. The first phase is a Code of Practice: organizations large and small are encouraged to subscribe to the Code — committing themselves to the development of their managers, to consulting the individual about his or her career plan and complementing on-the-job experience with in-house and external training.

The fact-sheet is part of a comprehensive DTI service which provides information and advice to employers and emphasizes the need for industry to start preparing now in the area of training provision in order to meet the challenge posed by the creation of the single market in 1992.

Special categories of workers

Belgium: TOP-Plan — the Flemish Executive's four-year plan for LTUs

The governmental accord of the Flemish Executive stipulates that an action programme be developed in order to significantly reduce long-term unemployment in Flanders in the coming four years.

The problem of long-term unemployment is worsening. In Flanders there are some 110 000 persons who have been

unemployed for more than two years, of whom 70 000 for more than five years. Furthermore, a growing number of job-seekers run the risk of becoming an LTU. Even in those regions which have been experiencing favourable developments in employment and a significant drop in the rate of unemployment in general, the number of LTUs has been rising.

The TOP-plan has been set up to deal with this situation. This plan seeks to reorientate the initiatives for putting the unemployed to work (*tewerkstelling*) and training (*opleiding*) them more towards those unemployed persons who have poor chances of reintegrating into working life (LTUs and the unemployed with little or no training).

Basic ideas

For the Flemish Executive it is quite clear that an effective policy for fighting long-term unemployment cannot be limited to a curative approach but needs also preventive measures to avoid having some categories of the unemployed becoming LTUs.

But in the light of the current scale of long-term unemployment, priority is being given to curative measures, i.e. to those aiming to get LTUs back to work.

The end purpose of this policy is obviously the creation of additional viable and stable jobs. This implies bringing in a series of preparatory and supporting measures for training and placement. Vocational readaptation and geographical mobility are only two examples.

Although such a plan in principle aims at all LTUs, priority must be given to those unemployed who are particularly hard hit by unemployment. For this reason three categories of the unemployed are given preferential treatment within the TOP-plan: the very long-term unemployed, the unemployed with little or no training, and the unemployed with dependants.

These are the basic ideas behind the four-year TOP-plan. Its implementation will require close collaboration between the various partners, public and private, at all levels. Because resources

for investment in the fight against unemployment remain limited, the plan is geared in the first place towards using better and more selectively the existing instruments as well as towards greater concordance with policies carried out in this respect at the national and European levels. However, some new, complementary measures are foreseen.

Concrete proposals

(a) Placement

In the future, the Flemish public placement service, RVA, will invite LTUs (two or more years) to a reorientation interview. This will enable the placement officer to examine with the LTU those aspects which should enable him/her to significantly improve her/his chances of moving back into the labour market. In practice, the LTU will be offered either suitable training or employment, (conceivably temporary). At the same time a 'reinsertion agreement' will be drawn up between the LTU and the RVA which will enable the active pursuit of placement efforts.

An existing instrument which facilitates the placement of LTUs is the job-club. Promoting these clubs will be intensified and in those regions where there is a considerable concentration of LTUs, additional clubs will probably be set up.

Finally, those in charge of RVA's placement service want to reorganize it so as to improve the dissemination of information on the various employment measures for the unemployed. In this context, a special effort will be made for intensive training and readaptation of the service's placement officers.

(b) Putting the unemployed to work

In the first place, a proposal has been tabled to modify the provisions as regards the difficult-to-place unemployed, with the aim of limiting the field of application to LTUs.

Finding temporary work through the RVA T-Service will be more selective for the benefit of LTUs.

In the public sector, priority will be given to LTUs for the compulsory replacement of those taking a career break.

In general, an attempt will be made to reorientate towards LTUs the existing programmes for mopping up unemployment. One part of these projects will be reserved for LTUs aged 50 or more and for LTUs aged at least 40 who have only had limited training.

The Flemish government will set up investment programmes aimed at renovating or cleaning up sites and buildings provided that such work brings about the employment of LTUs.

Finally, the Flemish government is seeking to work on an agreement with the national government on adapting regulations concerning specific programmes for mopping up unemployment (such as young persons' traineeships and local employment agencies) to facilitate access to them by LTUs.

(c) Training

The possibilities for individual in-company vocational training will be enlarged and orientated more selectively towards LTUs.

The capacity of the RVA training centres as well as the permanent training centres of the 'middle classes' will be considerably increased. Enhanced adaptation to the specific needs of LTUs is also seen to be indispensable.

The scope of *schakelprojecten*, or reintegration projects, will be extended. They will be restructured in line with developing a closer link between vocational training and moving back into working life. Within this framework reintegration agreements are also foreseen between those who have undergone training and RVA to ensure more effective placement.

Resources and supporting structures

TOP-plan should be implemented mainly through the existing training and placement structures at the level of the Flemish community.

The Flemish RVA services deal with workers' training whereas the 'middle classes' training centres continue to do the same job for the unemployed who want to set up on their own. In both cases, RVA remains the body responsible for drawing up activities, new and others, to foster the placement of LTUs.

However, since these services have had to make sterling efforts as regards new technologies and reconversion policies over these last few years, their adaptation and extension are indispensable for carrying out the TOP-plan. To take two examples:

- (i) For organizing the reorientation interviews, it will be necessary for the sub-regional employment services (of which there are 18 for the whole of Flanders) to hire three placement officers especially entrusted with these interviews. Changing the equipment and additional training for the staff of placement services are more than desirable;
- (ii) Providing 10 000 unemployed persons annually with pre-training and actual vocational training will require budgetary resources of the order of BFR 2.5 billion per annum.

In order to limit the additional costs to the greatest extent possible, the resources (human and financial) are going to be mobilized in a more coordinated way. To cover the additional financial costs, the Flemish Executive is proposing in particular to release budgetary funds through a more selective policy as regards employment premiums, to create a 'TOP Fund' by means of rearranging the existing fund for teaching and training, to make the greatest possible use of the different European funds and to require the Belgian national authorities to make available to the Flemish community additional financial resources earmarked for actions on behalf of LTUs.

Prospects

The TOP-plan opens up a number of interesting prospects and it is hoped that many LTUs will use it to move back into working life.

It should not be forgotten that unemployment (and long-term unemployment in particular) brings psychological and social consequences to which the classical macroeconomic approach does not always give sufficient attention. A more planned approach like the TOP-plan is an important aid when a strategy is to be developed which enables a not inconsiderable part of the population of working age to avoid being excluded from the labour market.

Denmark: Intensifying initiatives to combat long-term unemployment

The Danish Government has concluded an agreement with the biggest opposition party, the Social Democrats, concerning an intensification of initiatives to combat long-term unemployment.

The bill and the administrative improvements which will be put before the *Folketing* (Danish Parliament) in late 1988 will comprise the following main elements.

Improvements in information and guidance initiatives

After being unemployed for a period of three months all unemployed persons are invited to a personal interview at the public employment service. The aim is to strengthen information and guidance initiatives with a view to improving the training and employment opportunities of the person in question. This interview will become compulsory for unemployed persons who are members of an unemployment insurance fund.

In order to make these early measures more efficient, unemployed persons who are considered in connection with this three-month interview to have a special risk of becoming long-term unemployed will be offered an inspiration course of one to two weeks' duration.

Unemployed persons who have no vocational training background are offered a second individual interview after nine months' unemployment.

Training offers, job offers and enterprise allowance

The main aim of this new legislation is to enhance the unemployed persons' chances of obtaining employment by improving the offers available to them and by making the offers at an earlier stage of unemployment. It will also be possible for unemployed persons to set up their own business with an enterprise allowance at an earlier stage than before.

As something new, an unemployed person obtains a right to a training offer. This means that the public employment service has a duty to make a specific training offer. The type of training will depend on the background and skills of the unemployed person as well as the needs of the labour market and in most cases the training will be of three to six months' duration.

Unemployed persons who have no training background other than compulsory schooling will — before the first job offer — be entitled to a training offer of up to two and a half years' duration. This right is obtained after 12 months' unemployment.

On completion of the first job offer a person shall have a right to a training offer. All persons who have been unemployed for six months obtain this right. The training offer may have a duration of up to one and a half years with a possibility of extension for a further period of six months.

The present rules concerning training allowances and enterprise allowances will continue in force.

Under the new rules a person may receive an enterprise allowance after five months' unemployment if he/she wants to start his/her own business. What is new is that this also applies to unemployed persons under the age of 25 years.

In order to motivate unemployed persons to undergo training and thus increase their employment opportunities, it will also be possible to receive a second job offer.

The right to a second job offer is being introduced for unemployed persons who have completed their first job offer and have subsequently completed a training offer provided by the public employment service of at least three months' duration or participated in training with a training allowance for at least six months.

Unemployed persons who have chosen to set up their own business with an enterprise allowance are entitled to a second job offer if they have been running their own business for a period of at least 12 months.

Unemployed persons above the age of 50 years shall be entitled to further job offers. The current age limit is 55 years. The right to receive a training allowance or enterprise allowance is being maintained.

Availability

In order to strengthen guidance concerning training and employment opportunities to unemployed persons, the unemployment insurance funds will be involved in these activities. The unemployment funds must contact their unemployed members not more than six months after the start of their period of unemployment in order to contribute to ensuring that the members avail themselves of the existing employment and training opportunities. This will normally take place through a personal interview with the member.

The existing rules concerning the requirement to be 'available for work' will be made more precise. The general duty to be available for work will be drafted in such terms that the members will, after a specified period of unemployment, have a duty to take up work within a broader vocational and geographical area than that which was earlier covered by the term 'appropriate work'. This should be seen in the light of the

need for increased flexibility and mobility on the labour market.

Rules will be laid down which impose the duty on the unemployment insurance funds to initiate more systematic guidance efforts at intervals of six months, and in this connection they are to evaluate whether the member can be considered to be available for work. The first evaluation shall take place after some six months' unemployment.

Federal Republic of Germany: Extending career openings for girls and women

The demand for women's equality has broad societal acceptance. But careers counselling does not end with analysis and the resulting demands for equality. The task of careers counselling — and this is what it is measured by — is rather to help in achieving these demands, be it only partly.

Achievement of equality of opportunity being the central aim, careers counselling has therefore, depending on the starting position, to work out partial aims for girls having to make an occupational choice. What is important in this respect is to broaden the career perspectives of girls and to open up the chances to carry them through. This has to be done in full knowledge of the personal and local conditions (level of information, state of discussion, willingness to change, cooperation partners, structure of the training and labour market).

This can mean different things in different regional settings, e. g.

- (a) to ensure vocational training for all girls;
- (b) to strive to change the focus of vocational training towards a greater choice of careers;

- (c) to draw on the local supply and corporate interests to make use of a favourable labour market situation for the benefit of girls;

- (d) to enable more girls to be trained in what have been untypical occupations or a specific sector.

In summary, the starting point for careers counselling must be found in the social and anthropological conditions of the girl and her environment. Aids to broaden career prospects should hence not turn into a gender-specific topic. To achieve behavioural changes which are effective in the longer term it is necessary also to approach young men who are making a career choice about the topic and to involve them in the discussion.

Career guidance

In classroom sessions on career choice, greater efforts should be made than heretofore to make girls (as well as boys) aware of the traditional pattern of career choice and prejudices and to contribute to overcoming them. It is, moreover, important to make proposals which encourage girls having to make a vocational choice. These include in particular discussions with girls who are being trained in occupations so far untypical for women, as well as practical test periods in 'new' occupational areas, e. g. *Probierwerkstatt* (test workshop). Similarly, special action-oriented seminars are being designed.

Parents have an important role to play in career choice for girls, since the girls need family backing and encouragement to take up new paths. Thus targeted information and discussion sessions for parents are indispensable.

Vocational counselling

Individual cases to be helped by vocational counselling are based on the personal requests of the person seeking advice. In the course of conversations, the knowledge and experience of the girl will be assessed and new information provided in the light of the individual's requirements.

In the context of broadening the range of career choice for girls, such personal counselling sessions are ideal for developing vocational alternatives. Girls who are thinking of taking up training in a career which has not traditionally been that of women need particular counselling support. In such cases it is also advisable to actively involve the parents as cooperation partners and to broach the subject of possible conflicts.

Placement in training

The vocational guidance service must actively support young women in carrying through their career aspirations.

This is all the more important where careers which are thus far untypical for women are concerned.

In the context of its placement activities, the vocational guidance service approaches firms and organizations in industry likely to carry out training. What matters mainly is to canvass a sufficient supply of training places for girls in qualified occupations. In addition to hiring girls and training them in various occupations (including those which have so far been untypical for women), it is necessary to ensure that women will be employed in vocations for which they were trained. This includes the demand for equal opportunities for the vocational advancement of women.

Prospects

In achieving the demand for equality of opportunity, a distinction has to be drawn between a long-term societal task (the general broadening of the occupational range for girls and equality of treatment as regards training and employment) and short-term measures for girls seeking training places.

Vocational counselling is striving for both goals. But it depends to a considerable extent on the collaboration of others, particularly parents, teachers and trainers. Talks with third persons over the whole question and specific public relations work are indispensable as accompanying measures which support the work of vocational counselling.



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Ireland: 'Youth reach' — A new programme for unqualified early school-leavers

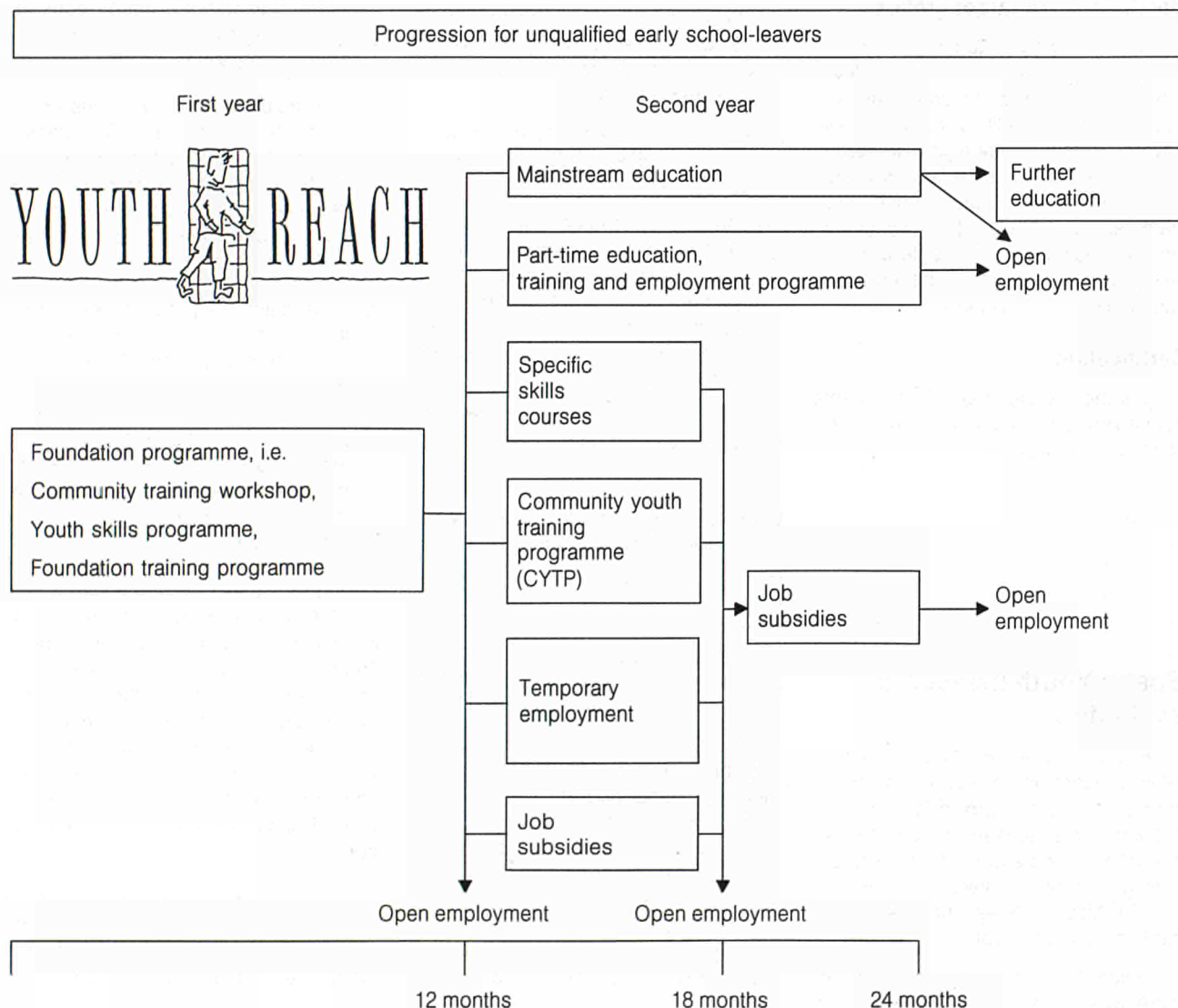
In mid-October the Government announced a new programme aimed at unqualified early school-leavers. Under the programme, young people who have left the education system without qualifications and who fail to find employment will be offered up to two years further education and training. This is a development of the Social Guarantee intro-

duced in 1985 which guarantees six months education/training for this group.

As well as extending the period of education/training from six months to two years, the other main innovations are in the structuring of the education/training programmes themselves and the joint management of the new system by education and employment authorities.

Young persons participating will firstly be placed on a year-long founda-

tion programme which will be provided by either the local Vocational Education Committee or the local FÁS (National Training and Employment Authority) training centre. Following this broadly based general foundation programme, the participant may opt to return to mainstream education or to proceed to a progression programme which will build on the skills acquired in the first year and equip the young person with job-related skills. Figure 1 gives an overall picture of the progression system which will be introduced in January 1989.



Numbers of early school-leavers

The number of unqualified school-leavers each year is of the order of 6 000 people, or about 10% of the school-leaving population. Recent surveys indicate that about half of these young people have found employment a year later, leaving about 3 000 unemployed. In 1989, FÁS will provide foundation training for 2 400 early school-leavers and the Vocational Education Committees will provide special programmes for 600. In future years the Vocational Education Committees will provide foundation training for an increasing proportion of early school-leavers.

Identification of target groups

Under the Social Guarantee, FÁS (in consultation with all second-level schools) prepares a comprehensive register of all unqualified early school-leavers. Updated twice a year, in February and October, this register will form the basis for the 'Youth reach' programme. The process will involve ensuring that eligible young people are contacted and advised of the benefits they can obtain from participation.

Certification

It is the intention that all participants will be provided with meaningful and recognized certification.

Spain: Youth measures evaluated

Royal Decree 799/1985 of 15 May 1985 brought in incentives for hiring young workers and provided for the extension of this measure to various existing programmes and contracts. The decree was in force between 1 June 1985 and 31 May 1988 as stipulated in its third and final provision.

Before the publication of this decree, there was no scheme in Spain which

fostered the hiring of young people on open-ended contracts, this being the group most affected by unemployment. To counteract this situation the decree introduced a new incentive scheme by which the State covers 50% of the employer's social security contributions (the rate of contributions being 12% instead of the normal 24%) for the whole duration of the contract, in four specific cases:

- (i) when the enterprise hires a young person under 26 years full-time on an open-ended contract;
- (ii) when at the end of a practical work contract (*contrato en prácticas*), a training contract (*contrato para la formación*) or a relief contract (*contrato de relevo*) the company decides to convert the contract into a full-time open-ended contract;
- (iii) when a cooperative takes on as a member worker a young person under 26;
- (iv) when a fixed-term contract in force at the time of the publication of the royal decree is converted into an open-ended contract (*Misep. Basic information report on employment policy* in Spain provides more details on this type of contract).

The results obtained since bringing in this measure are as follows:

Open-ended employment contracts for young people

1985 (July-December)	55 785
1986	104 430
1987	118 522
1988 (January-May)	83 291
Total	362 028

It is difficult to assess the impact that this measure has had on the employment of young people. The statistical data available show, however, that the rate of unemployment of young people under 26 has dropped from 45.7% before the decree came in to 40.3% at the end of the period in 1988 (figures taken from Epa, the survey of the working population relating to the first quarter of 1988).

This trend has been maintained, as is shown by the significant improvement of employment of young people under 25 since the measure was launched (1 710 660 persons in 1985 compared with 2 178 140 in 1988).

But it should be remembered that this positive development in the rate of youth unemployment and employment is not only a direct consequence of this type of contract. It is also the overall result of the current employment policy for young people, the main thrusts of which are:

- (a) to improve training. To these ends, Plan Fip (national training and vocational integration plan) consists solely of training and vocational integration programmes;
- (b) to enable insertion by means of different types of contracts: training contracts and practical work contracts, in which employers' social security contributions are reduced and, in some cases, grants are paid to the employers;
- (c) to facilitate integration by encouraging the recruitment of young people on open-ended contracts as well as by giving priority to schemes supporting the employment of young people in cooperatives, supporting local initiatives, self-employment and the hiring of women in occupations or industries where they are under-represented.

In the course of the first six months of 1988 there were more than 300 000 contracts for supporting the employment of young people in programmes specifically designed for them. Roughly one third of these contracts were offered to young people under 26 within the setting of Royal Decree 799/1985, which shows the considerable impact of this type of contract on the total number of contracts.

The Ministry of Labour and Social Security has recently started to look into a new programme for supporting the hiring of young people for an indefinite period.

Placement

Portugal: Adapting Sedoc to the Portuguese situation

Article 218 of the Treaty of Portugal's membership to the European Communities lays down that the Commission will help adapt Sedoc to Portuguese realities. Sedoc is the European system for disseminating registered job offers and requests for international matching.

The Portuguese version of Sedoc, particularly its technical revision and adaptation to the Portuguese situation, has been carried out by Portuguese occupational specialists, working for IEF, the employment and vocational training institute. The 'Methodological instructions for using Sedoc' have also been revised from the technical viewpoint; this is the indispensable instrument for various users, especially the placement officers of the employment services. The 'Alphabetical index' of occupations according to the 'Sedoc classification' as well as its equivalence to the 'National classification of occupations' are currently being drafted.

Training sessions for Sedoc trainers have in the meantime been run at IEF in Lisbon as well as in the French and German employment services, the aim being to get Sedoc started in Portugal. Topics tackled were in particular the possibilities and limits to free movement of workers within the Community; the principles of Sedoc's operations, particularly classification, coding and matching job offers with demand; and the integration of the Sedoc system into the internal functioning of the employment services in the respective countries.

Miscellaneous

Federal Republic of Germany: Social security card

The Federal Government has passed a bill introducing a new social security identity card and modifying other social laws.

Illegal employment practices lead to evasion of taxes and social contributions and to an abuse of social security benefits. The fight against illegal working, against abuse of benefit and against the misuse of the hours or earnings threshold for compulsory membership of the social security scheme (Geringfügigkeitsgrenze) has become a duty of the social welfare State.

The bill provides in particular for the following measures:

1. Every employee will receive a social security card which the employer has to be shown when the employment starts. This new social security card provides the same data as is already to be found in the existing identity card of the social insurance book which establishes proof of membership. For better handling, the new card will be produced as a plastic card and not, as previously, on delicate thin paper. This will, however, continue to be used in the interim period until all plastic social security cards have been issued.
2. In a number of sectors and trades (building, fairground entertainment, fairs and exhibitions, office cleaning) where strict monitoring has already taken place because employment is often carried on without compliance with social and tax legislation and the law pertaining to foreigners, a requirement will be brought in for workers to carry their social security card on them.
3. The employer is required to notify the authorities for control purposes if the social security card is not presented.

4. Workers who are required to carry their social security card on them must be registered by employers as from the first day of their employment. This is a simplified immediate registration which is additional to the normal registration.
5. So as to better combat the misuse of benefits, payment bodies (i.e. the employment office or the health insurance companies) have the right to withdraw the social security card when they are paying allowances to the worker concerned.
6. Jobs which are under the hours or earnings threshold for compulsory membership of the social security scheme (geringfügige Beschäftigungsverhältnisse) will be included in the existing registration procedure for social security.
7. The rights of control of the authorities responsible for fighting illegal employment will be enlarged. In cases where workers have to carry the social security card on them, the competent officers can demand its presentation. For control purposes they are allowed to enter premises and offices of employers and third parties.
8. Offences against the major requirements laid down in the bill will be punished by a fine of up to DM 5 000.
9. The low wage threshold (Geringverdienergrenze) up to which the total social security contribution has to be paid by the employer and which was raised every year, will be fixed permanently at its present rate of DM 600 per month. Since the hours and earnings threshold for compulsory membership of the social security scheme (Geringfügigkeitsgrenze) will continue to rise from its current monthly level of DM 440, the low wage threshold will become meaningless in a few years.

The World Economics Institute in Kiel estimates that from 7 to 10% of gross national product is lost every year through clandestine work. That represents some DM 130 billion to DM 180 bil-

lion. ZDH, the national handicrafts association, estimates the loss in the crafts' area to be 10% of its total turnover, roughly DM 40 billion. IaW, the institute for applied research, estimates as a maximum 5% of GNP the turnover of the shadow economy. The association of criminal investigation officers estimates that there are some 500 000 clandestine workers who swindle the economy out of some DM 170 billion annually.

Italy: Transborder cooperation between Italy and France

In the course of 1987 a transborder collaboration programme was launched between Italy and France. At a meeting which took place at Lyon on 12 and 13 November 1987, existing problems were examined and the following three areas of cooperation were identified for the regions Rhône-Alpes and Piedmont:

- (i) exchange of young workers;
- (ii) vocational guidance;
- (iii) exchange of information.

The programme has been developed in the course of 1988. A follow-up meeting is foreseen at Bardonecchia in December 1988 to examine the results achieved and to launch a new cooperation programme. The new programme should also involve the maritime regions for France and Liguria for Italy.

United Kingdom: Employment Act receives royal assent

The Employment Act 1988 which reforms industrial relations and trade union law and makes new arrangements for employment and training has received royal assent.

Provisions within the Act relating to arrangements for employment and training came into effect on 26 May 1988. From this date the Manpower Services

Commission is renamed the 'Training Commission' in recognition of its increased focus on training. One of its most important tasks will be to run the Employment Training Programme (see article above). The Act will also enable up to six additional members to be appointed to the Commission, thus increasing its employer representation. These are expected to be drawn from retailing, tourism and leisure, banking and finance — industries which have experienced rapid growth.

The main purposes of the trade union and industrial relations parts of the Act are to:

- (i) give union members statutory rights to protect themselves against abuse of power by their unions;
- (ii) enhance union democracy and accountability;
- (iii) enable union members to enforce these and other statutory rights; and
- (iv) to remove all statutory support for the closed shop (i.e. that all dismissals of employees for not belonging to a trade union (or a particular trade union) will be automatically unfair.

LEDA conference: employment creation through local development

Brussels, 7 and 8 July 1988

A conference on 'Employment creation through local development', was held in Brussels on 7 and 8 July 1988 as part of the Local employment development action (LEDA) programme of the Community. The programme, launched in 1986 by Directorate-General V of the Commission of the European Communities, aims to help local areas in the European Community tackle unemployment and develop new employment opportunities by exploiting the potential for local development. Under the programme, strategies in local employment and economic development have been explored and pilot actions carried out in 24 areas of high unemployment in the Member States. LEDA supports localities with expert advice and technical assistance and, thus, complements other EC programmes which provide financial support. It seeks to identify good, successful practices and to make these ideas and experiences widely known throughout the Community (see also: 'Local employment development: the contribution of the LEDA programme' in this issue).

On the basis of a series of case studies from areas participating in the programme, together with more general information on local development strategies and initiatives, the conference addressed policy issues concerning the development of responses to employment problems and the ways in which objectives may be achieved. The role of local actors and agencies, and of national and Community support for local employment development was considered. In addition, the conference provided an opportunity for consultation between participants, which is an integral part of the development of the LEDA programme. The main groups of participants at the conference were: senior policy administrators or advisers from national ministries; representatives of the various Community institutions; representatives of wider public and private sector bodies and experts in the field.

Balanced development: social and economic cohesion

The opening address was delivered by Mr Yennimatas, Greek Minister for Employment, who stressed the parallel commitment of the EC to social as well as economic cohesion which he felt was well reflected in the LEDA programme. Mr Yennimatas felt, however, that regional development potential was not being exploited fully. He emphasized the need for a balanced distribution of resources between urban and rural areas and special measures to assist under-privileged groups. The importance both of know-how and the decentralization of means and policy were highlighted. Mr Yennimatas also spoke of the need for flexibility in responses to ensure their appropriateness to specific local conditions. The development of linkages between local and central authorities was also important for maximizing the effectiveness of local actions.

Employment problems and challenges across the Community

The opening session was concerned with employment problems and challenges across the Community. It was seen to be important to identify the range of conditions in which Local employment initiatives (LEIs) operate with a view to understanding better the mechanics of local development.

Mr Martinos, LEDA Programme Manager, outlined the pilot areas included in the programme and identified two major sub-categories, namely industrialized urban areas characterized by high unemployment and under-developed rural economies. The wide diversity of conditions, problems and actions within areas in these sub-categories was highlighted and illustrative examples provided. Mr Martinos stressed, however, that the areas were not chosen merely because of the problems they were experiencing but, more importantly, because of the interesting local actions which are being taken to respond to problems. It was emphasized also that the development of community-based services — infra-

structural development projects — and the preservation and development of traditional activities to coexist with more modern patterns of development must not be neglected. The fact that all the regions studied had hidden strengths and unexploited potential was isolated for comment. Overall, it was felt that disillusionment with traditional approaches has provided the incentive for new initiatives.

Local responses to employment problems

Detailed case studies of three contrasting LEDA areas which analysed local problems, strategies, the degree of local cooperation and the development of new institutional structures were provided in the second session. The aim of the session was to identify common patterns in local approaches and difficulties which might be eased by appropriate support.

A profile of problems and actions in the under-developed rural area of Les Baronnies, Drome, France was presented. Poor cooperation amongst local actors and a lack of political power and resources were identified as factors limiting the effectiveness of local action. The necessity to incorporate into the local strategy measures to exploit the potential of all of the region, including the urban area, was emphasized. Psychological obstacles as opposed to innate structural problems, and the failure to mobilize and exploit fully human and financial resources were identified as further impediments to progress.

The presentation on the problems and strategies adopted in the relatively prosperous city of Hamburg, Federal Republic of Germany, characterized by high unemployment, the decline of industries and stagnation of services provided an interesting contrast to the previous presentation. The positive local approach in the areas of new business development, improving the technological base, training and local labour market policy was outlined. A lack of financial resources, arising, in particular, from high welfare payments borne by the city, and inflexible national labour policy re-

gulations were identified as factors which limit local economic actions. The need for greater cooperation amongst political actors at various levels and public-private sector partnerships in developing and funding local initiatives was emphasized.

The case of Galway/Connemara Gaeltacht, Ireland — an underdeveloped rural area poor in natural resources with a tradition of outmigration — provided an example of local development which was largely externally-induced rather than endogenous. Údarás na Gaeltachta was established by the State as a local development agency with a clear wider social and cultural role — in particular, the preservation of the national language. While the successes of the agency in developing an industrial base and building on existing resources were recognized, local development initiatives have emerged recently in reaction to this externally-induced development process. Resource constraints to actions, the failure to exploit fully indigenous initiatives, the need to strengthen partnerships of economic actors and political powers and encourage greater private sector involvement in local development were key issues addressed. The decentralization of policy and redeployment of resources were identified as the two main requirements.

Clearly, therefore, despite a diversity of conditions, problems and strategies in the areas discussed, poor cooperation, resource constraints, lack of autonomy arising from centralized control, and the failure to exploit fully indigenous resources emerge as common factors which are seen to limit the effectiveness of local actions.

Developing responses, setting priorities and achieving objectives

The question of how problems are viewed from both the local and national perspective in the urban and rural context, and the appropriate mix of policies and implementation instruments were considered in the third session. Issues explored included:

- (i) whether local areas should concentrate on short-term adjustment or aim to achieve long-term structural change;
- (ii) whether strategies should focus on job creation directly, or indirectly through the stimulation of economic activity;
- (iii) the relative contribution of informal actions and formal programmes.

Perspectives of the urban and industrialized areas were presented in the form of case studies from the pilot areas of Ravenna, Italy and Genk, Belgium.

In the case of Ravenna, it was stated that while the ingredients for successful development appear to be present, positive tangible results have not ensued — a fact that was explained, partly, by the absence of linkages between both actors in the local area and actors at various supra-local levels. In terms of policy responses, in addition to providing finance, it was felt that the Community can act as a catalyst for local development through the creation of expert networks and the provision of wide-ranging technical assistance. The LEDA programme was seen as a manifestation of this wider EC dimension to local development. Greater cooperation amongst local actors, vocational and business training, technology development and the revitalization of structures were identified as priorities for action to enhance local development.

In the case of Genk, the positive outcome of cooperation between various economic and political actors in responding to the unemployment problem was outlined. Actions at municipality level — in the areas of infrastructure and training — aimed to stimulate job creation were seen to be particularly effective. In terms of factors seen to be conducive to achieving objectives, the four-tier action involving cooperation between the municipality, region, national government and the EC — was identified as the key factor in the success of the strategy.

Mr Hansen (Ministry of Labour, Denmark), commenting on the national perspective, considered the roles and rela-

tionship between local and central government, and long- and short-term policies. He highlighted the considerable autonomy granted by central government to local authorities for the organization of employment activities in Denmark. It was emphasized that autonomy is granted to local authorities within a framework set at central government level. He added that while the Danish government views job-creation schemes as the only viable short-term solution to the employment crisis, in the longer term, full employment can only be achieved through macroeconomic policies which create jobs in the private sector. Correctly-oriented training schemes which ensure the supply of skilled labour are seen as a bridge between long- and short-term aims and are identified as a priority. Local authorities are regarded as more effective at the short-term level while national and EC cooperation is seen to increase opportunities, in a global sense, for the exploitation of available resources.

Mr Brooks (OECD, Paris), commenting on the presentations from the urban areas, focused on policy design and objectives. He pointed to the interface between micro- and macro-level policies and emphasized the importance of striking the appropriate balance between short- and long-term policies. He stressed that the two are not in conflict or indeed separable. The necessity for a flexible approach whereby solutions which have worked well elsewhere are not merely transposed and applied in different circumstances was highlighted. The importance of incentives, in terms of tangible gains, to encourage private-sector involvement in local initiatives was also emphasized. While actions at national and international level were seen to be important in creating the environment within which problems may be resolved, the local level was regarded as the appropriate level at which solutions may be put into practice effectively.

With regard to the rural and peripheral areas, local perspectives were presented from Sitia, Crete, Greece and the Shannon region, Ireland. In the case of Sitia, the under-developed nature of

the economy and its infrastructure and the problems of remoteness from decision-making centres were stressed. Infrastructural development was identified as a priority and a necessary prerequisite for wider economic development. In terms of the focus of policy responses, the importance of central government support, particularly in terms of financial resources, was recognized. However, it was felt that development policy should not be imposed from above. The contribution and role of the EC in assisting local community actions were recognized, in particular, through the provision of additional financial resources under the Integrated Mediterranean programme for Crete.

The experience of the Shannon region — an area characterized by a strong dualism with traditional activities in agriculture and industry coexisting with a recently developed modern industrial sector — contrasted with that of Sitia. The successes of policy responses in addressing the infrastructural development, technology development and training needs of the area were outlined. It was emphasized that the development process in the Shannon region has been planned on a long-term basis with strategies operating and integrated at various levels — local, national and EC. The LEDA programme was seen to be instrumental in bringing local public and private actors together and represented an attempt to improve inter-sectoral integration.

Comment following the presentations focused on the importance of good infrastructure and trained, skilled human resources, particularly in the context of rural areas, to help them overcome problems of remoteness and to compete successfully on international markets. While the creation of structures as vehicles of local development are regarded as helpful, partnerships and the involvement and commitment of local people are vital for local receptiveness to development activities.

Overall, therefore, infrastructural development, technology development and training emerge as common priorities for action in the areas discussed.

The local level is seen to be the appropriate level at which micro-level, short-term adjustments ought to be elaborated and instituted. This, in turn, is seen to require a certain degree of autonomy and appropriate implementation instruments at local level.

Activation and mobilization — Local actors and agencies

The fourth session was concerned with the roles of different actors and agencies in initiating and implementing employment actions. The questions of formal and informal responsibility were also explored. Presentations were made from the pilot areas of Barcelona, Spain and Storstrøm, Denmark.

The presentation on Barcelona highlighted the highly centralized government control of employment and industrial policy and the informal manner in which local government, deeply concerned with the high unemployment in the city, adopted a 'social interventionist policy' in an endeavour to alleviate the situation. The Municipality did not act in isolation, however, but developed links with central government institutions. In the case of Storstrøm the EC as well as the national dimension to local actions was emphasized. In Storstrøm county, the County Council sees its role as a catalyst at local level stimulating increased cooperation, mediating interventions and tapping support and resources at higher levels. The point that Storstrøm County was a prime example of an area where rigidity of the industrial and institutional structure, in particular the old trade-union and government structures, had acted as an impediment to progress was also made. Change in the static political structure was seen as a priority.

On the question of institutional change and the role of local development agencies, the latter were seen as a pivotal point between macro- and micro-level actions. They were also seen to have an important function in the formation of linkages between central and local initiatives and a key role in managing tensions between national, regional and local level actors. Mr Ver-

hoef (NMB Bank, the Netherlands) questioned whether local employment initiatives could help localities attain their development potential and face the challenges of 1992. The view was put forward that the vast majority of local development actors were passive while the quality of the active 'operators' was also questioned. With regard to the quality of agencies, it was felt that the latter should respect four key concepts, namely professionalism, commercial realism, adaptability and viability. Given these conditions, the future of local development lay with local initiatives.

Links between national and local authorities

The fifth session was concerned with links between national and local authorities. It focused on the relationship between local action and supra-local programmes, the design of decentralized programmes, the organization of assistance and support, and the dissemination and transfer of experience and know-how. The experience of the various countries and the variety of structures operating in centralized, federal and decentralized States provided useful insights into these issues.

Mr Perry (Director of the Inner Cities Initiative, United Kingdom, drawing on the experience of the Inner City Task Forces, highlighted the role of central government in the UK as the instigator of policy and the extent to which central government philosophy can influence the pattern of local development. Mr Groebner (Ministry of Labour, Federal Republic of Germany) explained that while Germany operates a single (Federal) labour market policy, the implementation of policy is adapted to regional needs with structures in place for consultation between national *Länder* and municipal actors in Labour policy issues. Mrs Pommier (Liaison Committee of 'Comités des bassins d'emploi') described how central government in France has used the instrument of 'Employment Basin Committees' to establish linkages between the highly centralized State and public and private local actors. Mr Tasiopoulos (EETAA, Greece)

outlined the role of the decentralized Hellenic Agency for Local Development and Local Government — a joint venture between the State and local government; support from central government and cooperation between local and central government were essential for successful decentralization and local development.

Professor Coombes (NIHE Limerick, Ireland) considered that, in order to understand the dynamics of the development process, local economic initiatives must be placed in the context of the institutional structure of the State, specifically with reference to the degree to which government is centralized. The positive and negative features of the centralized and localized approaches were considered. In conclusion, it was felt that the most suitable structures and methods probably will be 'those designed to reconcile both kinds of pressures and to provide a workable and acceptable balance'. Overall, the session highlighted both the wide variety of possible structures and conditions which must be considered in identifying 'good practice' and assessing transferability.

Community support

The final session was concerned with Community support or the assistance which the EC can offer to local employment development. It considered the different forms of financial and technical/methodological support and the contribution which better local development know-how can make to improving the efficiency of such support.

Mr Vignon (Head of the Central Advisory Group of the Commission of the EC) described structural Fund aid as 'an activity tool'. He spoke of the implications of the recent reform of the structural Funds focusing on increasing economic and social cohesion in Europe, the increased reliance upon the local input and the predominance of integrated programmes in the future. Overall, a dynamic, interactive relationship between local, regional, national, international and supra-national levels in the promotion and implementation of programmes

in envisaged. The new approach clearly aims to achieve a smoother circulation of know-how between rich and poor regions of Europe with a view to the development of the latter and to the wider benefit of the Community as a whole.

In considering local perceptions of the EC, it was suggested by Professor Garonna (University of Padua, Italy) that the Community is seen primarily as a source of finance for policies which would be implemented by the national authorities in any event. The EC should move away from the role of finance circulator and adopt that of development instigator playing a catalytic role in activating and sustaining local initiatives. The greatest success of the LEDA programme was identified as the fact that it has shed light on the role which the EC can play in the local development process.

The importance of relating the effectiveness of EC intervention to the degree of efficiency with which local actors use resources was emphasized by Mr Johnstone (The Planning Exchange, Glasgow, UK). At local level, access to information and the ability to design and present proposals for funding were regarded as important factors influencing efficiency. At EC level, the institution of new mechanisms for channelling resources, local flexibility in large-scale programmes and continuity of financial resources were identified as factors which would need to be addressed if the efficiency of actions was not to be impaired. Mr Vignon, in response, highlighted how recent reforms would do much to address these issues.

There was a good deal of comment and consensus on the need to exploit resources efficiently rather than continually multiply them. The need for training, the circulation of know-how and the usefulness of understanding the dynamics of local development were emphasized.

The conference concluded with a presentation by Mr Martinos (LRDP, London and LEDA Programme Manager) on the contribution of the LEDA programme to the process of local de-

velopment. LEDA was seen to represent the 'software' approach to complement the 'hardware' of financial assistance offered by the Community in other domains. Areas of know-how currently being appraised which are regarded as particularly important in the context of 1992 were identified as research into linkages between the local and international economy while the fostering of specific tools to make better use of existing resources is regarded as a significant technique of the programme. Mr Martinos emphasized that local areas must be in a position to define strategic objectives for the local economy and to target the local economy on areas of the wider economy with high potential for development. It was felt that an understanding of the conditions which generate innovation was fundamental to the operation of 'a critical mass' of projects such as programmes to improve infrastructure, promote entrepreneurial attitudes and improve business skills. Support for spontaneous activities, the generation of synergy at local level which, in turn, facilitates the sustenance of a user-led system operating successfully within the wider European context are regarded as indispensable elements of local development — the promotion of local action within a global context being the essence of the programme.

Concluding remarks

While many issues which are significant and worthy of further exploration were raised at the conference, a number of key points clearly emerged from the meeting. In the first instance, there was general consensus on the need to identify strengths and exploit fully local potential. Secondly, greater autonomy to permit and encourage actions at local level which are responsive to the needs of local communities are desirable. The effectiveness of such local actions, particularly in the long-term, tends to be enhanced if they are coupled with a strong framework for action at national and Community levels. The interface between, and indeed unity of, micro- and macro-level and short- and long-term responses were highlighted. The need

for both flexibility in responses and the integration of local actions was emphasized. Thirdly, the value and necessity of developing public-private sector partnerships and cooperative patterns of behaviour were stressed. Fourthly, the positive contribution and usefulness of the 'software' approach, represented in the LEDA programme, was recognized as a key complement to the 'hardware' approach in the form of financial assistance offered by the Community under its structural Funds.

In conclusion, economic and employment development through local action is in the spirit of the European Community. The framework and agenda for action, as presented at the Conference, recognize the need for flexibility in developing actions which are to reflect, and respond to, the needs of a heterogeneous Community. The Conference recognized the desirability of maintaining local diversity while simultaneously encouraging unity of action at a higher level. It reflected the aspiration to promote

balanced development between regions, groups and communities within the wider Community and to further the integrative process leading to a united and prosperous Europe.

Copies of the full conference report are available upon request from:

DG V/A/1
Commission of the European Communities
200 rue de la Loi
B-1049 Brussels.

New technology and social change

Overview of recent events in the Community countries¹

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Introduction

A few new R&D programmes were launched in the spring and early summer of 1988. One of these was the new programme of R&D on information technology in the United Kingdom, which, after an evaluation and some debate, replaces the previous Alvey programme. Overall, most countries continue their support to high-tech industry, paying more attention to sectors, such as small and medium-sized enterprises, which have so far received a lower share of government support than their importance in all economies would have justified. Another common preoccupation is to make existing or new programmes more effective either by focusing on crucial technologies or by applying general incentives to innovation to a wider cross section of industries. This is reflected in the number of government-commissioned or independent reports of assessment of government R&D policies produced in several countries, as well as in comparative analyses which draw from the experience of other industrialized countries to point out and suggest corrections to shortcomings in national policy. Another field of government policy which continues to attract attention is data protection, as countries where the matter has been hitherto unregulated are introducing legislation, often after long debates. Legislation on this issue provides a framework but cannot solve all problems which continuously arise, as shown by a number of judicial cases which bring to light differences of understanding as to what is legitimate and what constitutes a crime in this area.

While collective bargaining on new technologies has not made much headway in this period — the focus of negotiation in most countries being at present on wage issues and working time — both sides of industry are continuing to put forward proposals for a pattern of consultation on the introduction of new technologies. It is interesting to observe that employers' associations, rather reluctant so far to take up a comprehensive

position on the subject matter, are in certain countries now putting forward proposals for detailed consultation and negotiation procedures on new technologies. Trade unions, for their part, while insisting on the importance of information and consultation, are also adopting a more creative approach towards information technology: an example is provided by Danish trade unions, which on the one hand set up a centre to prove, among other things, that it is possible to create high-quality jobs while using new technology, and on the other hand decided to enter the electronic media sector, being conscious of the importance that electronic media have in shaping workers' opinions.

On other issues, which a number of unions have consistently opposed in the past, such as distant work or redundancies linked to technological restructuring, some national unions have in recent instances put forward alternative proposals, such as a regulation of telework or new investment in more advanced production lines to replace obsolete ones.

As regards studies on new technologies, a large number of surveys and reports have as usual been published on market trends for computers and robots and on the problems and benefits of introducing information technology in firms. Robots continue to be produced largely by small enterprises, although periods of slack market tend to generate a process of concentration; on the demand side, a greater variety of utilizers, including small and medium-sized enterprises, are emerging, besides the traditional major utilizer, i.e. the automobile industry. Computers of all sizes continue to enjoy favourable market trends everywhere; certain market forecasts seem to indicate that specific market

¹ Prepared by the Commission on the basis of information provided by the EPOS network of correspondents on new information technologies, which comprises the following experts: G. Valenduc (B), J. Reese (D), N. Bjørn-Andersen (DK), J. I. Palacio Morena (E), N. Azoulay (F), M. Nikolinakos (GR), M. E. J. O'Kelly and J. F. Dinneen (IRL), P. Piacentini and B. Poti (I), J. Kintzele (L), D. Van der Werf (NL), L. Tadeu Almeida (P), T. Brady (UK). Coordinator for the Commission: A. S. Piergrossi.

segments will grow more than others, notably large mainframes and workstations, personal computers and portable PCs.

Few studies on employment were completed in this period, whereas a relatively large number of studies addressed the issue of work organization, both in sectors that have already attracted a great amount of attention — manufacturing automation — and in sectors that have not been extensively studied so far, such as insurance. These studies confirm that quite different patterns of work organization may be found in firms having introduced similar equipment and processes, and that automation does not necessarily lead to less fragmented tasks and thus to higher quality jobs. Besides this finding, however, the studies on insurance carried out in different countries identify a common 'historical pattern', whereby different forms of work organization are predominant in different periods, the latter being in turn characterized by different economic priorities and market conditions. These conclusions can be considered a step forward from the statement that there is no technological determinism, in the attempt to identify the economic, social and cultural factors that, besides technology, influence the choice of a particular type of work organization.

tional level; the evaluation of information systems used in the public sector; the collection of all data and information necessary for planning the diffusion of informatics in industry, research and education.

In the *United Kingdom*, the government's new national programme of R&D on information technology was officially launched in July 1988. The programme has three main thrusts: solid State devices, including silicon chips and computer-aided design of complex circuits; system architecture, involving areas such as vision and speech recognition and the design of the next generation of computers; systems engineering, including software engineering, artificial intelligence and knowledge-based systems, and the interaction between humans and computers. Each of the three areas will be run by a committee drawn from the Department of Trade and Industry (DTI) and the Science and Engineering Research Council (SERC) with authority to approve individual project funding of up to UKL 400 000. Although there will be a joint management structure, the two bodies will remain in control of their own financing, the DTI funding industrial parts and the SERC academic parts of research projects.¹

As regards industrial policy, the government's policy for the information technology sector came under attack from the all-party House of Commons Trade and Industry Committee, which is conducting an investigation into the UK information technology sector. In defending government policy, the Trade and Industry Secretary Lord Young claimed that the future was bright and that the Committee was painting an unduly black picture when pointing to the large trade deficit in IT products. According to Lord Young, the use to which IT was put by UK industry was more important than the trade balance and he rejected the suggestion that the government should support the UK industry via public purchasing policies saying that value for money should be the aim of public purchasing, not industrial policy.²

A number of changes in the institutional framework of research and tech-

nology policy will occur in *Belgium* as a consequence of the changes to the Constitution voted by Parliament in July/August 1988 which redistributed the respective competence of the central State and the Regions.³ The responsibility for research and development policy is decentralized to the Regions, with the exception of international scientific cooperation, defence and telecommunications. The National Fund for Scientific Research, as well as ongoing programmes of inter-university technological cooperation, will not be affected by the reform and their management and redistribution will be decided by further legislation. As regards funding, the budget law for 1989 increased funds for R&D and the government re-stated the objective of raising public research funds to 1% of GDP. For their part, both Regions decided to increase by almost 20% the share of their budgets devoted to new technologies.

The *Spanish Plan* for Scientific Research and Technological Development, recently approved by Parliament,⁴ has a total funding of PTA 262 223 million over four years (1988-91), of which 30% is allocated to programmes directly related to information technologies. Among the projects included in the Plan, the following can be mentioned: the IRIS project aimed at creating a system of interconnection for computers of different sizes and potential; the programme of advanced automation and robotics which is an expansion of previous programmes; the photonics programme for the development of basic and applied research into all the technologies related to photon beams, since this is believed to be an essential element in the future development of information technologies and one of the weak points of Spanish research; the microelectronics programme which, due to the horizontal nature of these technologies, is considered one of the crucial programmes for

I — Government policies

1. R&D and industrial policies

The *Greek Government Council* on Informatics approved the first three-year plan for the development of informatics. The targets of the plan are the following: the planning and coordination of development and use of informatics at na-

¹ *Independent*, 4 July 1988; *Financial Times*, 5 July 1988.

² *Financial Times*, 16 June 1988.

³ Law of 8 August 1988 published in the *Moniteur belge*, 13 August 1988.

⁴ See *Social Europe* No 3/1988.

Spanish industry; the programme on information and communications technology, aimed at increasing precompetitive research in companies, as opposed to now predominant basic research in public centres, in a sector characterized by a telecommunications industry having a relatively high technological level and a still embryonic general computer industry dominated by multinationals having an almost exclusively commercial vocation.¹

The *German* Government does not intend to continue the research programme of the 'humanization of the workplace' (Humanisierung des Arbeitslebens), whose funds were severely cut in the 1988 budget.² It intends to replace it by a new research programme called 'Arbeit und Technik' (work and technology). This programme will focus on the protection of health at the workplace and on the design of technologies which take into account human needs. It will support technological solutions which respond both to technological constraints and to human needs. As a consequence, the projects organized by the labour unions and employers' associations under the previous programme will probably no longer be supported.³

A new research programme on mechanical engineering was initiated by the Federal Ministry of Research and Technology in July 1988. It will run until 1992. The programme aims at designing CIM (computer integrated manufacturing) solutions, particularly for small and medium-sized enterprises. The broader objective is to improve the competitiveness of German firms on the international market.

An analysis of *German* technology policy from 1967 to 1987 has been published in the journal *Computerwoche*. The article distinguishes three stages: in the first period, from 1967 to 1979, technology policy was aimed at the support of enterprises and applications. As an example, Siemens and Nixdorf computers were developed in that period with public support. The second stage, from 1980 to 1983, focused on the promotion of specific technologies like, for instance, voice recognition and pattern re-

cognition. In the third stage, from 1984 onwards, the Federal Ministry of Research and Technology mainly supported precompetitive research, focusing on a few key technologies, such as parallel processing, artificial intelligence and reliable software. Moreover, joint research and development facilitating the exchange of know-how between scientific institutions and industry have been favoured.⁴

In *Italy*, the 1988 budget includes the refinancing of the Applied Research Fund and the provision that a share of this Fund can be used to finance training for researchers and technicians, under the age of 29, who participate in the research projects; it also provides for the promotion of the cooperation and the establishment of consortia among universities and other public and private research institutions.

Meanwhile, the report of the Court of Auditors, published in June 1988, contains a comprehensive analysis of present industrial legislation. As regards the 1982 Law for the support of technological innovation, the report points out that its funds have been distributed quite unequally. Until the end of 1987, only 18% of the funds went to small and medium-sized firms; regionally, southern firms received only 14.4% of the total. Other pieces of legislation are more favourable to small firms: specifically, the 1987 Law granting financial support for the purchase of advanced industrial equipment, which applies to firms having less than 300 employees, is shown to be having good results, thanks to its simplified procedures.

In *France*, while the budgetary allocation for the Ministry of Industry for 1989 remains unchanged in comparison with the previous year, research and innovation are going to receive a greater share of the Ministry's budget, at the expense of other areas of intervention (shipbuilding and steel). Priority has been granted to large-scale technological development projects jointly initiated by different firms, and to innovation in small and medium-sized enterprises. As regards the latter, the increase in credits is going to be shared between the Re-

gional support and advice fund (FRAC) and the programme of aid to automation for SMEs.⁵ More credits to SMEs have also been announced by Anvar (the Agency for the valorization of research); these credits are aimed at the recruitment of 250 researchers by small enterprises. Anvar will finance 50% of wage costs and of the cost of equipment and training related to the new researchers during their first year in employment. The measure is experimental and aimed at breaking the reluctance to employ researchers that many SMEs have manifested so far; it will be assessed at the end of 1988.⁶

A recent report by the *French* Ministry of Industry compares public support to industry in France and in the other industrial countries and points out a number of weaknesses in the French policy of aid to industry. In quantitative terms, the amount of aids to industry in France is at an average level among the countries examined, much lower than in USA and Italy. As regards the support to civilian industrial research, France comes fourth, after USA, the Federal Republic of Germany and the United Kingdom. Moreover, aid policy is less clearly orientated and less well distributed than in other countries, according to the report. In the other countries examined, State aids are either clearly and widely spread throughout the industrial sector, or concentrated on innovation and restructuring, with the aim of speeding up industrial transformation. By contrast, in France three quarters of State aid benefits declining sectors, namely steel, shipbuilding and coal. In 1987 only 18% of the total was allocated to the electronics and aerospace industries. Aids are concentrated on certain sectors and firms, leaving the remaining part of the industrial sector untouched. A noticeable exception is public support for research and development, which is avail-

¹ CICYT, Plan nacional de investigación científica y desarrollo tecnológico, Madrid 1988.

² See *Social Europe* No 3/1988.

³ *Frankfurter Rundschau*, 10 June 1988.

⁴ *Computerwoche*, 22 April 1988.

⁵ *Le Monde*, 9 August 1988; *L'usine nouvelle*, 25 August 1988.

⁶ *Courrier de l'Anvar* No 63, June/July 1988.

able to all firms, but it represents only 10% of total State expenditure for industry. Overall, French policy appears to have been mostly aimed at smoothing the effects of industrial changes, rather than anticipating them. The report suggests that this policy should be modified, drawing from the examples of the other countries.¹

A comparative study of government policies towards high-tech industry was produced also in the *United Kingdom* by Ken Guy of the Science Policy Research Unit at Sussex University. The report sets out the contrasting strategies of government in five industrialized countries — the US, Japan, the Federal Republic of Germany, France and the UK. It shows that all leading industrialized countries, including those led by governments not inclined towards intervention in industry, have felt the need to support electronics. However, the main shift of this support has altered in three main ways:

- (i) direct support for individual companies (the traditional 'national champion' approach, channelling funds into a few chosen high-technology recipients) has largely been superseded by more general purpose finance for R&D, aimed at a wider cross-section of industry and often requiring collaborative research on a precompetitive basis;
- (ii) rejecting 'hands-on' control of high-tech industries (such as procurement policies) in favour of a 'hands-off' (such as R&D incentives) and regulatory approach (such as the liberalization of telecommunications markets);
- (iii) stimulation of demand and improvements in industrial infrastructure as opposed to supply-side support for large companies.²

The greatest project of R&D promotion in *the Netherlands*, namely the Information Stimulation Plan INSP, launched in 1984 for a period of five years, has been assessed by a special commission chaired by Professor Zegveld. The programme had an important budget and was designed to speed up the application of information technology; the budget was mostly spent to provide

R&D subsidies to private business, while about one quarter was used for education and training. The main criticisms of the commission regard an insufficient cohesion in the programme and an insufficiently consistent management. An example quoted in the report concerns the funds earmarked for introducing computers in education, which remain idle because the necessary know-how to use them is lacking. Overall, however, the commission concludes that the programme helped in pushing industry in the right direction: a number of interesting results have been recorded and IT-awareness in several sectors has increased, resulting in activities that would not have been carried out otherwise. The commission recommends a continuation of IT stimulation policies and greater cohesion to be implemented by central strategic choices allowing for coordinated decentralized management.³ The commission assessed also the NIVO-project (New information technology in further education), which is aimed at equipping about 1 750 institutes of further education with computer classrooms. The project was found wanting in its organization since, once the classrooms are equipped, the teachers do not have the knowledge and know-how needed for using computers in teaching. Moreover, the funding of the project was found to be insufficient, insofar as private companies were expected to complement public funds. This private participation did not materialize as expected, besides some large computer firms which were among the initial sponsors. Since NIVO is approaching completion, a new programme is envisaged. The new programme will be fully funded by the government.⁴

Likewise in *the Netherlands* a new Economic Research Institute on Innovation and Technology was opened in Maastricht in June 1988. The Institute is called Merit and its aim is to draw together researchers of all nationalities interested in the economic implications of technological change. Its programme combines aspects of theoretical, empirical and policy orientated research. Initially, five broad areas of research have

been selected, namely: economic theory and technological change, technical change and employment, technical change and international competitiveness, the management of innovation and technology assessment.

At the other side of Europe, in the Azores, *Portugal*, an Institute of Technological Innovation — Inova — has been created, with the aim of modernizing manufacturing and services industries through the introduction of new technologies and the creation of model laboratories. It is a non-profit institution, whose members are the Azores Regional Government, the University of Azores, the National Laboratory of Engineering and Industrial Technology and the Azores Chamber of Trade and Industry.

Likewise in *Portugal*, the Pedip (Specific programme for the development of Portuguese industry) is expected to be operational in November 1988. The programme, financed by the EEC, covers four main areas: industrial infrastructure, including technological infrastructure, vocational training, financing of productive investment and measures to improve productivity and industrial quality. Finally, the Portuguese Government has decided to privatize a share of Post and Telecommunications. A holding company will be created, controlling four autonomous enterprises. Two hypotheses are being considered: the first is to keep the holding company as a public enterprise, opening to private shareholders 49% of the capital of the controlled firms; this hypothesis is questioned by prospective private investors. The second hypothesis is to make the holding a stock company with the State as majority (51%) shareholder.

In *Luxembourg*, the first comprehensive measure for the organization of technological research and development, i.e. the framework Law of 9 March 1987, saw its first implementation. To re-

¹ *Le Monde*, 30 August 1988; *Les échos*, 16 August 1988.

² *Government policies in competing countries*, NEDO, 1988.

³ Report of the Commissie Evaluatie Informatica Stimuleringsplan.

⁴ AG, 6 July 1988.



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call briefly the legislative framework of Luxembourg on the subject matter, the first guidelines for a policy of technological innovation were decided by the government in 1981. This policy is to be seen in the framework of the broader policy of industrial diversification, pursued by the government since the 1950s in order to reduce the dependency of the country on the steel sector. The objectives of the technological policy were defined as follows: to increase the number of innovative firms, particularly among small and medium-sized enterprises; to increase propensity to innovate by helping firms to make better use of their resources and to increase their capacity to innovate; to improve the technological, economic and institu-

tional environment and to reduce barriers to innovation. The measures adopted to achieve these objectives were budgetary measures to finance feasibility studies and the development of prototypes, particularly in favour of SMEs; loans to innovation; fiscal measures and the setting up of 'LUX-Innovation', a service centre to promote and assist innovation. The R&D policy initiated in 1982 has been less successful than expected, insofar as the applications for support to innovation have been less than the budgetary allocation. A Parliamentary Committee set up in 1987 pointed out that the financial means devoted to innovation by firms was much lower than in other countries; moreover, Luxembourg does not have a

university and thus lacks a favourable environment for research. As a result of this experience, the 1987 Law on Research and Development¹ aims at organizing technological research and development in the public sector and favouring the transfer of technology and scientific and technical cooperation between firms and the public sector. It provides for the establishment of public research institutes, creating an interministerial coordination committee for research and development, having among its tasks the distribution of training and

¹ Law of 9 March 1987, published in the *Journal officiel du grand duché de Luxembourg*, 18 March 1987.

research grants. As regards the first implementations of the Law, priority has been given to applied research, technological development and technology transfer; basic research is more or less excluded and social research is rather marginal. Two public research centres have been set up so far and four more are awaiting approval. Research grants have met with considerable success, while it is too early to assess the effectiveness of the policy of technology transfer and the response of the enterprises.

2. Labour legislation

In *Spain*, the remaining aspects of the system of labour relations inherited from the Franco regime are being gradually dismantled. In February 1988 a decree of the Ministry of Labour revoked a number of Labour Ordinances, including those applying to large industrial sectors such as chemicals and the iron and steel industry. Through the system of Labour Ordinances the Ministry of Labour used to lay down minimum working conditions for each sector or branch of production; these could be complemented by collective agreements. The Ministry of Labour has now revoked the Ordinances on the ground that the two sides of industry should be given autonomy for bargaining, as a fundamental principle of the new institutional framework. Moreover, the content of many Labour Ordinances has become obsolete. For example, job categories and job descriptions had been defined at a time when the introduction of new technologies and new systems of organizing and assessing work were not considered. However, since these subjects are usually not dealt with in collective bargaining, once the Ordinance is revoked the matter remains unregulated. In the metal industry, the employers' organization Confemetal and the union UGT signed an agreement at the beginning of 1988 which, while asking for the sectoral Ordinance to be revoked, provided for a new classification of professional

groups. This is based on functional areas (e.g. production, maintenance and technical service; administration, computer science and organization), replacing the old occupational categories, as well as on different factors affecting the jobs (autonomy, responsibility, know-how, initiative, size of the company, etc.). Although the parties are satisfied with the improvements introduced by the agreement, they are aware of the difficulties in implementing it at the level of individual firms. These difficulties are increased by the refusal of the Comisiones Obreras, the other majority union in the sector, to sign the agreement. The Comisiones Obreras feel that the agreement is of limited effectiveness, does not regulate all the issues included in the Ordinance and consequently believe that the Ordinance should not have been revoked.¹

3. Data protection

In *Spain*, the problems arising from the lack of legislation on data protection² are being addressed by two legislative proposals. The first is a draft of a Bill on Statistics prepared by the government to replace the 1945 law presently in force. As regards data protection, the Bill establishes the general principle that data referring to individuals are protected by statistical secret, no matter where the information was obtained. This means that the diffusion of individualized data, or data which could reveal individual situations because of the way they are presented, is prohibited. The protection principle applies to everybody, including public administration, which will not be allowed to use personal data collected for statistical ends for purposes other than statistics. The Bill is expected to end administrative practices that went against the right to personal privacy.³ The second proposal, presented by the parliamentary group Izquierda Unida (United Left), is for an 'Organic law for the Protection of rights and liberties in relation to the use of information technologies and tele-

communications'. The proposed Bill contains a general principle of no obligation to provide certain types of information considered to be sensitive; the obligation to use data for the purpose for which it was obtained; the guarantee of the accuracy and safety of data; the prohibition of passing on data to third parties; the requirement of previous consent from the people involved before obtaining certain types of data. The initiative, coming from an opposition group, may unblock the current situation, in which lack of agreement between different ministries prevented the government from preparing a Bill, as provided for by the Constitution.⁴

Also in *Greece*, where no data protection legislation had previously existed, the Ministry of Justice submitted to Parliament a bill for the protection of information concerning individuals in electronic files. A previous bill submitted to Parliament four years ago had been subsequently withdrawn because of the criticism it received. The new bill classifies information in four groups, namely general, personal, strictly personal and confidential. It raised some criticisms from the opposition parties, on the ground that it compares badly with laws and practices of Western European countries.

A country where data protection legislation has been in force for almost a decade is *Luxembourg*. A Law of March 1979 regulating the utilization of personal data in computerized data bases requires prior authorization from the Ministry responsible for all data banks, which are recorded in a national register. The law is considered one of the strictest in Europe; it aims at protecting individuals against any misuse of data permitting the identification of a person. The law applies to all users, including the State; exception is made only for data bases made accessible to the pub-

¹ *Primer convenio general del metal*, Fundación Friedrich-Ebert-Fitel, Madrid, 1988; E. Lillo, 'La Derogación de las Ordenanzas Laborales', *Gaceta Sindical* No 61, April 1988.

² See *Social Europe* No 3/1988.

³ *Cinco Días*, 7 May 1988.

⁴ *El País*, 17 June 1988.

lic by force of a law. A Commission is in charge of verification, as regards not only misuse but also the declared purpose for setting up a data base, i.e. whether or not data collection is justified.

The French 'Commission nationale Informatique et Libertés' (National Commission on Informatics and Civil Liberties) has published the report on its activities in 1987. Its 1987 activities had three main areas of concern: the first is health and medical research, and particularly research on AIDS, where the main guarantees to be provided are the agreement of the individuals concerned to participate in this research and the confidentiality of data. The second area is the problem of cross-identification of individuals through telematics: in this respect, the Commission gave its agreement to some experiments with computerization of police files. Finally, the Commission examined some areas of application where computerization is being introduced in a rather uncoordinated manner, particularly the management of schools and municipalities, where the establishment of norms should make the whole system more coordinated and manageable.¹

In the *Federal Republic of Germany*, pending discussions about the amendment of the Federal Privacy Act,² the issues of privacy and citizens' rights are sometimes raised in court cases. A recent judgment of the judicial court of administration in Oldenburg states that the police is bound, upon demand, to inform a citizen of the personal data concerning him stored in a police computer. The police had refused to inform a citizen claiming that the interests of public secrecy rank higher than the interests of an individual who may possibly be wishing to find out the screening methods of the police.³

An interesting decision on 'computer crime' was taken in April 1988 in the *United Kingdom*, where the House of Lords ruled that two computer 'hackers' who broke into British Telecom's Prestel computer information service were not guilty of forgery. The two hackers made unauthorized alterations to data and

charged account holders without their knowledge when they broke into the Prestel computers in 1984. In 1986 they were found guilty of offences under the Forgery and Counterfeiting Act of 1981. The following year they successfully overturned that ruling in the Court of Appeal and the latest decision followed the prosecution's appeal to the Law Lords. According to the Law Lords' ruling, the 'conduct amounted to dishonestly gaining access to the relevant Prestel data bank by a trick' and this does not amount to a criminal offence.

II — The attitudes of the two sides of industry towards new technologies

1. Employers

The technical services of the *Spanish Employers' Confederation* CEOE produced two papers which address the issue of new technologies and their consequences for employment. The first paper, written by R. Luego, states the need to incorporate new technologies and modernize the production system, in order to avoid the risk of losing markets and jobs. As regards employment, both quantitative and qualitative mismatches arise between supply and demand. Some activities disappear and new professional profiles are required for the same jobs, so that training and recycling of the workforce need to be strengthened. The article concludes by stressing the importance of the participation of employers' organizations in defining a national vocational training programme, in order to guarantee the links between training and company re-

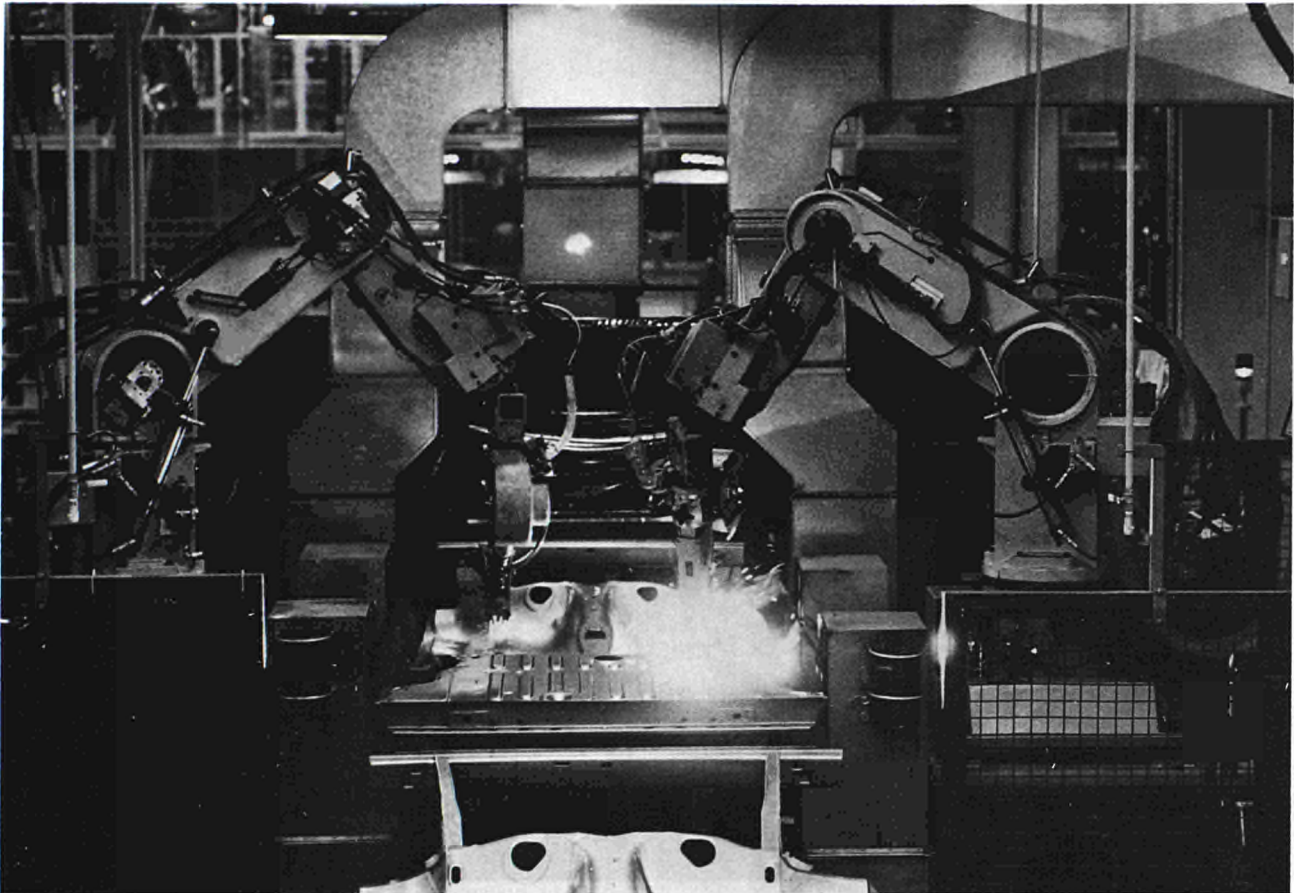
quirements. The second paper, by E. de la Lama, is on 'New technologies and their consequences for employment'. It comes to the conclusion that the overall effect on employment depends on how much the workforce is reduced per unit of output and whether demand elasticities to price and income are greater or smaller. On the social implications of the incorporation of new technologies, the paper considers three areas of concern, which coincide with those discussed by employers and trade unions at European level, namely training, information and consultation, adaptability and flexibility. The paper reviews how these issues have been dealt with in collective bargaining in Spain. Both the 1981 Inter-confederal Framework Agreement and the 1986 Economic and Social Agreement, when discussing the requisites for increased productivity, make reference to training and adaptation of the workforce, preliminary information of the employees, the need to avoid discrimination between workers and to respect minimum working conditions, the importance of vocational training and geographical and functional mobility.

In June 1988, *French* employers' confederation CNPF submitted to the trade unions a draft agreement on technological change, as part of the negotiation procedure for a framework agreement, to orientate bargaining at branch and enterprise level. The text proposed by the CNPF distinguishes between large scale projects for the introduction of new technologies and ordinary projects. For the former, negotiations should take place at branch level covering work organization, the role of middle management, information and consultation of the workers concerned and of their representatives and, if the need arises, a plan for the adaptation of employees to new technologies. For ordinary projects, appropriate solutions would be found at firm level, with no need for preliminary negotiation at branch level. The text stresses the im-

¹ 'Rapport d'activité de la CNIL', *Documentation française*, 1988.

² See *Social Europe* No 3/1988.

³ *Frankfurter Rundschau*, 9 June 1988.



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portance of training as a measure to anticipate changes in jobs.¹ This draft agreement was first discussed by the trade unions in July 1988. In general, it was judged not acceptable in its present form, as it is not sufficiently clear or precise and does not put forward concrete proposals. For most unions, nevertheless, the text could be improved through further discussion and amendments, while CGT expressed a more critical view, since the proposed text does not contain provisions concerning wages, qualifications and working conditions. Criticisms and amendments will be discussed at further meetings.²

Likewise in *France*, a report containing a number of proposals for a social policy at firm level was published in July 1988 by 'Entreprise et Progrès', the employers' association created in 1970 with the aim of designing a social policy for firms. For the association, the companies should have a social policy as they have marketing, production and financial policies. The social policy proposed by the report covers the following aspects: a wage policy which, while linking a part of the wage to individual performance, does not depart too sharply from the previous system of wage determination; initial and continuous training, to be considered, even from an account-

ing point of view, as investment and to be offered by the firms as a means to make people more involved in the life of the firm; a redesigning of the role of middle management; information and consultation of the employees on the changes in working conditions brought about by new technologies; an employment policy particularly attentive to the problems of the young and of the over 50s, developing mixed work and training

¹ 'Liaisons sociales', *Bref Social* No 10241, 20 June 1988.

² *Les échos*, 8 July 1988; *La vie ouvrière*, 27 June 1988.



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schemes for the former and gradual retirement schemes for the latter.¹

In *Denmark*, employers put forward their positions on the issue of distant work at a conference organized by the Technological Council in the spring of 1988. The Head of the secretariat of the Economic Council stated that the best solution for the companies would be remote working by self-employed workers. The managing director of the Danish Employers' Association (DA) put forward a different position, stating that remote work should not necessarily be organized out of the framework of collective agreements. What matters for the

companies is to find agreements allowing maximum flexibility in tasks, workplace and working hours. Information technology provides the possibility to carry out considerable parts of several jobs independently of the workplace. All in all, there was some agreement among participants that employees should be enabled to work partly at home and partly at the company, since working entirely as remote workers deprives people of social contacts with negative effects in the long term.²

As regards joint statements by the two sides of industry, two decisions taken in *Belgium* in June 1988 by the

'Conseil Economique et Social de la Région Wallonne' (Economic and Social Council of the Wallonia Region) can be mentioned. The first opinion concerns the organization of technology assessment at regional level. The Council gave its positive opinion on the establishment of a regional centre for technology assessment, with the objectives of monitoring technological development, ana-

¹ *Le Monde*, 5 July 1988; *Les échos*, 5 July and 9 August 1988; *Liaisons sociales*, 16 August 1988; *L'usine nouvelle*, 21 July 1988.

² Holge, 'Distancearbejde — fleksibelt arbejde', *Arbejdsgiveren* No 8, 1988.

lysing the social impact of innovation, drawing up scenarios of regional prospects and identifying the areas where additional research and information at regional level are required. The Council stressed the need to assess not only 'new technology', but also the process of modernization of the whole productive system. It suggested that the technology assessment centre should be created within the Council itself, since it already organizes the discussion between the two sides of industry on research policy. The second decision concerns the establishment of permanent 'strategic consultation' with the regional government on R&D and industrial policy. 'Strategic consultation' means a process of research, analysis, exchange of information and negotiation between social partners and public authorities, in order to define the broad lines of development of specific sectors. The end result of this process of consultation should be a number of recommendations to be addressed to the government and public authorities and to the social partners in the sector. Among the sectors to be considered, several are new technology sectors, namely telecommunications, aerospace, new systems of public transport and electronics for professional use.

2. Trade unions

The chairman of the *Dutch* trade union FNV quoted the results of an unpublished study by the Institute of Applied Sociology of the University of Nijmegen to reaffirm that successful introduction of automation in industry is largely influenced by information and consultation of workers' representatives in works councils. Success in his opinion depends on the extent to which management, experts, users and works council are unanimous in their assessment of the operation.¹ Another matter of concern for FNV is telework. In a meeting of its service branch Dienstbond FNV, an estimate of about 500 people doing telework was presented, as well as the forecast of a tenfold increase in the number of teleworkers in the next 10 years. Un-

solved organizational problems have so far impeded the more widespread introduction of telework, but this situation is expected to change. It has become clear to the union that telework cannot be stopped; its objective is then to claim proper working conditions, employment contracts and remuneration for teleworkers, equal to those applying to their colleagues working in offices.²

The Federation of *Danish* Trade Unions (LO) is analysing the possibility of establishing a 'knowledge centre', intended to make LO a leader in the use of information technology. Among its purposes, the centre should create interconnections between the computer systems used by different trade unions, collect and make accessible to trade union members the large amount of information presently dispersed among the different unions, and prove that it is possible to create high-quality jobs for people using new technologies if the skills and needs of individuals are taken into account.³

Another field in which *Danish* trade unions are increasingly interested is that of electronic media. From the onset of the liberalization of TV and radio broadcasting in Denmark, the trade unions have participated in the establishment of local radio and TV stations. To support the involvement of the labour movement in the electronic media, the LO has created three organizations, which include two investment companies and an organization working with information and advertising for electronic media companies. The reason for this growing involvement of the trade unions in the electronic media is the awareness of the importance of the media in shaping ideas and political awareness. As the public relations officer of LO stated, trade union members spend almost as much time in front of the media as they do on the job. Therefore LO wants to be engaged in broadcasting high-quality TV and radio programmes having an approach which reflects the attitudes of the labour movement and discussing topics not dealt with by the other media. This activity of the unions is seen as a way of ensuring a free democratic dialogue and a guarantee against the establishment

of monopolies in the crucial area of opinion makers.⁴

Other initiatives are being taken in the training field. Given that workers in the media sector are split between several different unions, the negotiation of several collective agreements with the public broadcasting company TV-2 clearly revealed the demarcation problems existing in the sector.⁵ The *Danish* Metal Workers Federation, one of the unions which signed separate agreements, set up a training programme to develop a new job profile — the media technician — and to prepare its members for the future demands of the media market. The media technician is expected to be able to handle the tasks which today are split between members of several unions.⁶

On another occupational issue, the *Danish* IT Professionals' Trade Union Prosa expressed its concern about the proposed 7.5% decrease in the number of hours of computer vocational training. According to Prosa, the measure, demanded by the Minister for Education, will contribute to make Denmark an underdeveloped country in the computer area. If cuts have to be implemented, the union proposes that they should concern enrolment, since EDP-assistants are already facing unemployment problems.⁷

The major *Italian* tyre manufacturer, Pirelli, presented a restructuring programme, which includes drastic cuts in employment levels, the closing down of low-value-added production lines and work intensification measures to increase productivity. In three years the company plans to shed 2 400 jobs in the tyre sector and a smaller number in the cable sector. The reductions of the workforce should be implemented

¹ AG, 29 June 1988.

² AG, 22 June 1988.

³ LO-Bladet No 26/1988.

⁴ LO-Bladet Nos 17 and 28, 1988; *Det Fri Aktuelt*, 29 and 30 July 1988.

⁵ See *Social Europe* No 3/1988.

⁶ *Politiken*, 22 July 1988; *Metal*, No 11/12, 1988.

⁷ *Berlingske Tidende*, 1 July 1988.

through the Wage Compensation Fund, early retirement and voluntary quitting. The unions refuse this plan; they acknowledge that low technology production lines cannot be maintained, but are pressing the company to undertake to replace these production lines with new and more advanced ones. This should be implemented particularly in the southern plants, where the company's plans would imply redundancies for half of the present workforce. The unions demand a clear investment policy for the next three years, rather than simply a restructuring policy.

Internal differences affected trade unions both in Portugal and in the United Kingdom. In *Portugal*, they concerned the union UGT and its wing TSD — Social Democratic Workers — and originated in the support expressed by some members of TSD for the government's bill to introduce changes in labour legislation and liberalize dismissals. The Law was suspended by the Constitutional Court¹ but the UGT members who, in contrast with the union's position, voted for the bill in Parliament, and who opposed the March 1988 general strike, were dismissed.

In the *United Kingdom*, the Electrical, Electronic, Telecommunications and Plumbing Union (EETPU) was expelled from the Trade Union Congress in September 1988. The disagreement originated in the 1986-87 Wapping dispute, when the EETPU replaced typographers and printing workers in the new high-tech News International plant.² After a long debate, the EETPU was eventually expelled following its refusal to accept TUC censure for its role in the Wapping dispute and the TUC demands to withdraw from single union agreements, which the EETPU had been signing in recent times.

An issue that is starting to be widely discussed by both sides of industry is the 1992 single European market. Trade unions in the UK, which have shown little interest in this issue so far, are now preparing a consistent approach to the subject matter. A draft report to the Trade Union Congress has recommended that each UK trade union

should appoint a full-time officer responsible for European matters in the light of the unification of the market. The report also recommends the establishment of a TUC information bank on the single market designed to add a European dimension to UK trade union activity. The report claims that the creation of a single market and the accompanying harmonization of legislation opens up opportunities to improve training provisions and women's rights in UK workplaces. However, several member unions remain sceptical or openly hostile to the single market. One having a favourable attitude is STE, the union of telecommunications managers, which promotes the idea of unions organizing across the European labour market that would be created in 1992.³

3. Collective agreements and labour disputes

The *French* Ministry of Social Affairs published a review of collective bargaining in 1987, coming to the conclusion that negotiations at all levels (national, branch and enterprise) had reached positive outcomes. More agreements or amendments to existing agreements had been signed than in 1986, concerning some 74% of wage earners subject to collective bargaining. Most agreements concerned wage issues, the second important issue being reorganization of working time. By contrast, few agreements concerned new technologies: only six technology agreements were signed, of which two at branch level (out of a total of 36 branch agreements), one at local level and three at enterprise level (out of a total of 6 484).⁴

In *Italy* a number of collective agreements being negotiated at firm level introduce a new system of wage determination, which links a part of the wage to the profitability of the company; this change raises sharp discussions in the unions. At sectoral level, the agreement for the printing and publishing industry, signed in February 1988, introduced

provisions concerning the use and management of new technology in the sector. The agreement determines the conditions for raising the skills and the qualifications of the workers in the process of technological innovation. Other provisions concern working time and the possibility of applying more flexible working schedules in order to improve working conditions.

In the *United Kingdom*, British Telecom and the National Communications Union have reached an agreement on job flexibility among the company's engineers. The strike by engineering workers last year had ended in a deal in which both sides agreed to conclude negotiations on engineering technical grades. The negotiations yielded results in August 1988. Under the deal, engineers will be able to combine installation and maintenance functions — a move expected to increase the productivity of the 70% of engineers who are concerned by the deal. Because of the rising demand for telecommunications, the deal is not expected to lead to any reduction in the numbers of engineers employed.⁵

Likewise in the *United Kingdom*, proposals by the MSF (Manufacturing Science Finance) union to establish joint company/trade union training committees responsible for overseeing training courses in firms in sectors suffering from particular skill shortages have solicited favourable responses from a number of companies. Although no company has yet signed the draft agreement, the MSF says it has received more than 25 encouraging responses from large and medium-sized companies, mostly in engineering and high-technology sectors. Under the terms of the proposed agreement, the company would publish details of its annual training costs in return for the MSF encour-

¹ See *Social Europe* No 3/1988.

² See earlier issues of *Social Europe*.

³ *Financial Times*, 11 July 1988 and 1 August 1988.

⁴ *L'Usine nouvelle*, 7 July 1988.

⁵ *Financial Times*, 18 August 1988.

aging its members to participate in assessing training and development needs.¹

In the summer of 1988 the *Danish IT Professionals' Trade Union* (Prosa) negotiated a collective agreement that the union hopes will set a new standard. The agreement was signed with the Society for the Prevention of Cancer and concerns work with VDUs. The main provisions of the agreement are the following: no more than half a day can be spent in front of a VDU; there should be a 10-minute break every hour; pregnant employees can refuse to work with a VDU; employees can demand to be supplied with the equipment which meets the highest environmental standards.²

In *Luxembourg*, where industrial disputes are virtually non-existent, since labour disputes are usually settled by prior consultation and agreement between the two sides of industry, a dispute linked to the introduction of new technology brought to the surface rather different attitudes among the unions involved. In general terms, the unions have a favourable attitude towards the introduction of new technology and their main claim is for a reduction of working time in order to avoid job losses. The dispute in question concerned the firm Wire Plant, a subsidiary of the multinational group Goodyear. The firm planned a sizeable investment to modernize its production equipment and, in order to make full use of its new capacity, applied to the Ministry of Labour, in accordance with the law, for authorization to apply for a seven-day working week. It threatened to close down the plant if the authorization were refused, implying the loss of 400 jobs. Under pressure from the Christian union LCGB, which is strongly against Sunday working, the Ministry planned to amend the law by introducing the right of any one union to veto Sunday working. However, the Socialist union OGBL, more concerned about the possible loss of 400 jobs, adopted a more flexible attitude towards Sunday working, asking to negotiate the conditions (namely pay and more free time in lieu). Faced with the inflexible position of the firm, the Ministry eventually gave authorization for Sunday working.³

III — Studies and research on the social effects of new technologies

1. Diffusion of information technology

The *Spanish* Ministry of Industry and Energy revealed the main findings of a study on the total number of computers in Spain. At the beginning of 1988, there were 81 738 computer systems installed, excluding personal computers and peripheral equipment. Small systems are predominant, which reflects the relatively small size of Spanish companies; they are rather new, since a third of the total stock was acquired in 1987. The rate of growth has been impressive: comparing the present data with previous surveys, the average annual growth in the number of computers installed in the 1980s has been 164%. However, growth has slowed down over the last two years, to an average rate of only 32.8%.⁴

Another *Spanish* study, carried out by the Autonomous Community of Madrid, provides a detailed overview of the introduction of new technologies in industry in Madrid. First, with regard to research activity, the study points out that, only 12% of the companies engage in R&D, a figure which rises with the size of the firm; this seems to indicate that there is a minimum size to be reached before R&D becomes a systematic part of the activities of industrial enterprises. By sector, energy, office machinery and computers, precision instruments and optics, and electrical machinery are the sectors with the highest proportion of companies engaged in research. However, the sectors with little R&D are those which predominate in the region. The number of innovative companies is much greater than that of companies doing research: 37% of companies having introduced product innovations and 72% of companies using process innovations spend nothing on R&D. As re-

gards the effects of innovation, innovative companies claim that they have become more competitive. For sectors such as computers, electrical machinery and precision instruments, the increase in competitiveness is estimated at 29%. The greatest effects on competitiveness were brought about by product innovation, followed by process innovation, organization and management. Contrary to what is often stated, large companies in the survey emerged as being more innovative than small firms. Moreover, the motives for introducing innovation are different, insofar as the main reason among small and medium-sized firms is increasing efficiency, while large firms put emphasis on quality and productivity. On the other hand, the reasons for not introducing innovation are most often cost and lack of finance: this applies to small firms, but also to the electronics sector.⁵

More details on the electronics sector in the Madrid area emerge from other studies. Three aspects are particularly interesting: one is the role of technicians in setting up new firms. 87% of the small and medium-sized firms in the sector were set up by individuals and 74% of these new employers had previously worked in large firms in the same sector. Their common background is characterized by high technical qualifications and previous experience in a large electronics firm. The second aspect is the extent of subcontracting: there is a network of workshops and auxiliary firms mostly established in the period of high growth of demand in the 1960s and the newly created electronics firms rely extensively on these subcontractors. This pattern enables SMEs to devote capital, time and effort to specific activities, such as R&D and manufacturing, and in turn provides an incentive for

¹ *Financial Times*, 13 July 1988.

² *Berlingske Tidende*, 8 August 1988.

³ Bever P., 'Semaine de sept jours chez Goodyear: une véritable guerre intersyndicale', *Républicain Lorrain*, 12 February 1988.

⁴ *Cinco Días*, 25 June 1988.

⁵ Sanz, L., (ed.), *Innovación e incorporación de nuevas tecnologías en la industria madrileña*, Comunidad de Madrid, Consejería de Economía, Madrid, 1988.

the growth of the subcontracting network. Finally, two crucial factors for the creation of small and medium-sized electronics firms appear to be market opportunities and finance. The continuously increasing demand has multiplied market opportunities for small firms, while the availability of some sources of financing, especially aimed at R&D, has eased one of the greatest obstacles to the growth of SMEs.¹

The Italian Association of machine tools and robots manufacturing firms (Ucimu) published a survey on the market for robots in 1987 and their estimates for 1988. The production of robots, at constant prices, increased by 18.5% in 1987 and a further increase of 25.4% is expected in 1988. A slightly lower growth is expected for exports, while imports account for 16.4% of the internal market. There are 62 firms producing robots, having in total 2 300 employees. Most firms are small. However, larger firms are increasing their share in total turnover. This was particularly noticeable in 1987 when a decline in the demand for exports created problems for smaller firms with a lower degree of technological specialization and a weak commercial structure. As regards the internal market, stand-alone robots account for 38.4% of sales, while systems have the greatest share (61.6%). Small firms (with less than 20 employees) mostly sell stand-alone robots. The major user is the car industry (60% of the total market). The machine tools sector is also becoming an important user of robots: its demand increased by 87% in 1986 and by 109% in 1987.

In the Netherlands the use of robots is widespread in small and medium-sized enterprises, though the total number of robots in use is rather limited for a country of its size. One of the reasons is that the greatest user of robots, i.e. the car industry, is of limited importance in the Dutch economy. The only plant with a significant production of cars, Volvo in Helmond, has about 150 robots. Another 400 robots are in use in other firms (but data for some large companies are not available). Producers of robots are looking for new markets, besides the traditional user sectors. A pro-

mising market in the country seems to be product packaging for shipment.²

Several surveys of the computers market were published in the *United Kingdom*. Their findings are not always consistent with each other. A report from Butler Cox Foundation claims that minicomputers will disappear from use in medium-sized and large organizations within five years. Instead there will just be mainframes and interlinked workstations. The report is based on interviews with 44 organizations in nine countries and the replies to a survey sent to Foundation members, and covers suppliers and users in Europe, South-East Asia and the US.³ A report by Wharton Information Systems claims that sales of personal computers in the UK nearly doubled in the first quarter of 1988 compared to the same period in 1987. Judging by these figures, total sales for 1988 will amount to some 540 000.⁴ Another company, Context, is less optimistic, claiming a 22.4% increase in volume over the figures for the first quarter of 1987 and an estimated growth in value for 1988 of 37% over last year. Small portable computers accounted for 5.3% of the total personal computer market, as against 0.9% in 1987.⁵

In Greece, the annual survey published by Strategic International for the year 1987 shows a very rapid growth of the market for informatics products. Total sales of the sector increased by 55% in comparison with 1986. Sales of computers increased by 72% and of software by 48%. The highest growth was recorded in microcomputers (+205%).

A not-too-optimistic view of the diffusion of information technology in Denmark has been expressed by C. Barnholdt in a recent issue of *TIT*, the newsletter of the Council on Technology Assessment of the Danish Parliament. The author argues that the diffusion of information technology in Danish companies will not be as fast as is often claimed. This is due to a number of reasons, some of which are related to the technology itself, others to the companies' adaptation difficulties. Among the former, technology is too complicated to understand and use and new revolu-

tions are constantly occurring within the IT revolution. Moreover, the technology is too expensive for small companies. Among the second set of problems, it is argued that the speed of technological development is too fast for companies to keep up and that technology demands company strategies that most companies do not have. The expectations about the 'informatics age' to be reached in the 1990s may hold true from the point of view of technology, but organizations, the educational system and the human factor may take longer to adapt.⁶ In a specific sector, namely banking, the Danish Technology Council has financed a project to forecast the future diffusion of self-service technology. The study is based on the Delphi methodology of likely developments. According to the experts, the most likely prospect is a high-technology scenario with extended self service. Employees' working conditions and consumer attitudes towards self-service technology have also been examined.⁷

A study of statistical indicators concerning the information-technology sector was carried out in Belgium by two institutes of the Universities of Leuven (IN-CAP) and Louvain-la Neuve (IRES). It concerns the informatics industry and services as well as telecommunications. It analyses the shortcomings of the Belgian statistical apparatus in this field and consequently the limited quality and reliability of data transmitted by Belgium to international organizations. The study proposes a set of consistent statistical

¹ CTIC/CAM, *Relaciones interindustriales entre un grupo de PYMES tecnológicamente cualificadas de la Comunidad de Madrid*, Madrid, 1988; CEH/CAM, *La industria electrónica en la Comunidad de Madrid*, Madrid, 1986.

² *NRC-Handelsblad*, 16 August 1988.

³ *The future of the personal workstation*, Butler Cox Foundation, 1988.

⁴ *The British office systems survey*, Wharton Information Systems, 1988.

⁵ *Financial Times*, 12 May 1988.

⁶ Article originally published in *Fremtidsorientering*, the newsletter of the Institut for Fremtidsforskning, No 1/1988.

⁷ The working papers of the project are published by the Institute of Informatics and Management Accounting of the Copenhagen Business School.

indicators, covering economic variables and also social variables such as employment and productivity.¹

2. Employment

In *Belgium*, a study of the economics department of the University of Liège analyses the macroeconomic models which consider the links between technological innovation, productivity and employment in manufacturing industries. The study starts by analysing the Belgian labour market and concludes that unemployment is mainly of a Keynesian type (excess supply of labour as well as of goods and services). As regards technological unemployment, it concludes that negative effects on employment in the short run are likely to be compensated for in the longer run. In the specific sectors, the highest growth of technical progress is found in metalworking, chemicals, textiles and mechanical engineering. Medium-sized firms with between 50 and 200 employees are those which, as a consequence of technical progress, have recorded the highest growth in productivity and the smallest job losses. Finally, the study looks at the issue of public support for new technology in the private sector. It distinguishes open (to external competition) and protected sectors and concludes that the State should subsidize the incorporation of new technology in the former and tax it in the latter.²

A *Dutch* study carried out at the University of Leiden at the request of the union federation FNV analysed the situation of women workers in three workshops producing printed circuits in small batches, telephones and disks respectively and using advanced production processes. The number of women working in manufacturing is relatively low in the Netherlands. Moreover, the study pointed out that they have a rather low status in the firms. As a matter of fact, in all three workshops analysed, women are mostly employed in the lowest functions; their tasks are simple and standardized, such as machine loading

and packaging, while more complex and better paid jobs are held by men. As regards job security, a large number of women were found to have flexible employment contracts, i. e. the least secure ones. Finally, a significant number of these jobs are held by migrant women.³

3. Qualifications and work organization

A number of reports published in the *United Kingdom* survey skill requirements and training needs. The report with the broadest, economy-wide scope, produced by the National Economic Development Council (NEDO), reiterates the problem posed in the UK by the inadequate supply of graduates and the poor use of those who exist. It also points to the limited importance attached by UK industry to training compared with other leading industrial nations, and the inability of the UK to plan for new skill requirements.⁴ However, skill shortages among engineers and scientists are becoming less acute, according to a report by Income Data Services into pay, recruitment, training and skills. The report suggests that the shortfalls in numbers are far less severe than in the 1970s and that most present shortages are specific to particular groups, companies and locations. The shortages most often mentioned are of electronic and electrical engineers, manufacturing systems engineers and designers, with skills specific to particular industries. The problems have been worst in the South-East where high house prices act as a great disincentive for people outside the area.⁵ Finally, two surveys on new technology have been carried out by the Amalgamated Engineering Union (AEU). One, concentrating on the implications of advanced manufacturing technology for supervisors, suggests that supervisors should be given special new training in order to learn the technical and broad management skills required to make the best use of new technology and the new patterns of work associated with it.⁶ This tends to confirm one of the findings of

the other report in which workers were generally extremely critical of their supervisor's skills. 71% of the respondents (AEU members and shop stewards) thought that their supervisors did not have the necessary skills to handle new technology. Some 46% said the introduction of new advanced manufacturing had increased the skills they needed but a further 37% thought the skill content of their job had decreased. Only 26% of those using computer controlled machines were able to programme them; only 13% had been given training specifically linked to new technology, although about 36% had received some on-the-job training in the last five years.⁷

In *France*, the 'Centre de formation des formateurs' (trainers' training centre) published, in March 1988, a survey of the impact of the introduction of new technologies in the financial sector, which collects and summarizes studies and research results published on the subject matter. Two stages in the process of computerization of banks and insurance companies are distinguished, each having different economic aims and different effects on work organization. The first stage, covering approximately the 1960s and the first half of the 1970s, is characterized by an important growth of financial services, both in banks (growth in bank accounts and greater access to credit by individuals) and in insurance (growth in automobile insurance). Computerization was intro-

¹ Croot, R., Houard, J., De Bondi, R., Sleuwaegen, L., Claes, P., *Information, computer and telecommunications activities: Statistical indicators for Belgium*, Services de Programmation de la Politique Scientifique, Brussels, 1987-88.

² Fecher, F., Pestieau, P., *Productivité, progrès technique et emploi: une étude comparative de l'industrie manufacturière belge*, Services de Programmation de la Politique Scientifique, Brussels, 1987.

³ *Vrouwen, Industrie en Automatisering*, Industriebond FNV, Amsterdam, 1986.

⁴ *Comparative education and training strategies*, NEDO, 1988.

⁵ IDS Study 408, *Engineers' and scientists' pay*, Income Data Services, 1988.

⁶ *Advanced manufacturing technology: the challenge for supervision*, AEU, 1988.

⁷ *New technology survey report*, AEU, 1988.

duced to rationalize financial activities and office work, the dominant pattern being based on large, centralized, data-processing centres. From the point of view of work organization, this implied a Taylorization of jobs, with the establishment of standard work rules, a polarization between those feeding data into the computer and those dealing with non-standard tasks and, on the whole, a deskilling of jobs. Employment increased at rather high rates in this period, but internal promotion and career paths were broken down and middle-management posts were filled through external recruitment. Staff dissatisfaction became manifest in the form of greater absenteeism and turnover. The second stage, starting in 1975, is characterized by telematics and by greater integration of tasks. The main problems in this period are greater competition from non-banking institutions and the need to improve quality and speed of services. Information technology is used to build up integrated systems and networks, enabling staff to work in real time and to use data and information as support for decision making. The use of information technology as a management tool implies decentralization of power and more autonomy for the staff; the changeover from the previous rigid and hierarchical structure has not been easy since it implies the adoption of a new 'culture' and of new roles, particularly for middle management. From the point of view of work organization, each employee is expected to deal with all transactions and problems concerning a group of customers, so that jobs become multi-skilled and imply more responsibility. New skills are required in marketing, the development of new and more complex financial products and training. Since the level of education of French banking and insurance employees, though higher than in the rest of the economy, is relatively low compared with other countries, a substantial continuous training effort will be required.

A study on technology and work organization in insurance was carried out also in *Belgium*. First, it looks at the determinants of computerization and concludes that, besides the economic fac-

tors, the main determinants are management priorities, the quality of information technology professionals working in the firm and some 'ideological' factors such as the belief of managers in the importance of computerization. The participation of staff in the design and introduction of information technology is rather pragmatic and trade unions are mostly concerned with the maintenance of employment levels, rather than with work organization and job content. In the process of computerization, management may decide to keep a strict division of labour or to reorganize tasks. As in the study mentioned above, it is pointed out that the former choice was generally what occurred in the past, while the latter is the most frequent now. Contrary to expectations, workload does not decrease with computerization. Overall, information technology produces not only productivity gains and a reduction in production costs; it also leads to an improvement in marketing and distribution and to better communication with agents and brokers.¹

Two more *Belgian* studies on work organization focused on the metalworking/engineering sector. The first, carried out at the Institute of Sociology of the Université Libre de Bruxelles looked more specifically at the existence of a possible correlation between flexibility of equipment and flexibility of labour. It concluded that there is no necessary correlation between the two. As a matter of fact, in two engineering firms having both introduced computer-numerically-controlled machine tools, work organization developed along different paths. The changes in qualifications and the grading system, working time and the reorganization of the plants have been determined by the employment policies of the firms and their pattern of industrial relations rather than by technology itself.² The second study, carried out at the State University of Antwerp (RUCA), looked at the decision-making phase in the introduction of new technologies. On the basis of case studies in the metalworking sector, the authors put forward a model for interpreting the decision-making process and the process of actual introduction of flexible manu-

facturing systems. They show the interdependence of economic, technical and social factors, each set of factors having a different weight in the various phases of the process. While being in agreement with the results of the previous study in rejecting the hypothesis of technological determinism, they nevertheless identify a cause-effect relationship between the development of the decision-making process and the impact on work organization and working conditions.³

In a similar field, the impact of computer-aided manufacturing in the machine-tool industry has been the subject of a joint research project of TNO and the Institute for Working Conditions in Tilburg (*the Netherlands*). The study found a greater fragmentation of tasks to accompany the increased use of computers in manufacturing, implying more specialization and a poorer job content for the workers concerned. This is in contrast with what occurs in process industries, where the degree of fragmentation of tasks does not change. In both industries, however, middle-level technicians are being crowded out by cheaper lower-level technicians. The researchers recommend that the tendency to greater fragmentation should be reversed; they suggest that maintaining integrated functions, comprising preparation and execution as well as testing and changing of programmes, is preferable from the point of view of work quality. They also suggest more specialized vocational training for technicians.⁴

¹ Laurijs, S., Mok, A., *Evaluatie van de sociale en economische veranderingen die gepaard gaan met de invoering van nieuwe informatietechnologieën in de dienstsector*, Services de Programmation de la Politique Scientifique, Brussels, 1987.

² Alaluf, M., Stroobant, M., *Évaluation des changements socio-économiques liés à l'introduction de nouvelles technologies dans l'industrie (études de cas)*, Services de Programmation de la Politique Scientifique, Brussels, 1987.

³ Henderickx, F., Raeymaekers, A. M., *Evaluatie van de sociale en economische veranderingen die gepaard gaan met de invoering van nieuwe informatietechnologieën in de industrie (gevalstudies)*, Services de Programmation de la Politique Scientifique, Brussels, 1987.

⁴ *Technologie en Veranderingen in de productiestructuur*, Ministerie van Sociale Zaken en Werkgelegenheid, The Hague, 1988.

4. Working conditions, health and safety

In *Belgium*, a study by the Department of Industrial Psychology of the Université Libre de Bruxelles addresses the problem of software ergonomics in tertiary sector jobs. It is an experimental study, based on observations in the field in financial and utilities companies, and the authors are cautious in drawing general conclusions, since they found a

great number of heterogeneous subjective factors to interact with their measurement of ergonomics variables. In particular, they found that the criteria of adaptation of users and user-friendliness of software are more complex than it appears and very difficult to define in operational terms. Another aspect which the study highlights is the importance of experience and learning. It suggests that ergonomics should take into account the learning process and the ac-

quisition of know-how by the users. Finally, it suggests that software should be so designed as to let the operator choose the procedure which best suits the specific problem and his own way of perceiving the task to be performed.¹

¹ Karnas, G., Mstdagh, F., Van de Leemput, C., *Évaluation ergonomique de la relation homme-machine: ergonomie des logiciels dans le secteur tertiaire*, Services de Programmation de la Politique Scientifique, Brussels, 1987.

Equal treatment for men and women

Actions and guidelines

Positive action — Equal opportunities for women in employment

A guide, published by the Commission of the European Communities¹

What exactly is 'positive action'?

To persons unfamiliar with the term, the words 'positive action' as such are not self-explanatory.

The addition of the phrase 'in favour of women' might explain more: but, of course, this explanation might inspire another lot of witty questions. With a certain sexist feeling for humour one might regard it as a positive aspect of this issue that it brings somewhat more laughter in the world. Another question (or complaint?) might be whether there is not yet a guide on positive action in favour of men. Laughter and complaints seem to be close to one another in this case.

This brings us to the serious aspects of this subject: the interests of female and male workers and employers in the public and private sector (or in general, society) in equal opportunities in employment.

The facts on the employment of men and women are clear.² Though women are getting more and more training and experience, they have a far bigger risk of unemployment and are more often in low-paid jobs than men are.

Besides the unemployment problems which are the same for men and women, there are several problems concerning the employment of women. In the last decades it has become clear that legal provisions for equal treatment are not in themselves sufficient to remove existing inequalities affecting women in working life: there are a lot of obstacles resulting from traditional notions of a division of roles in society between men and women.

This means a waste of talents and money not only for the women concerned but also for all women and men in general: society is, after all, paying for the education and training of children, youths and adults as well as for the public and private sectors which do not use the many female labour resources available. And why could not both men and women benefit as positive action breaks down occupational segregation for both sexes and will create a more balanced work environment where men and women work together?

Positive action aims to complement legislation on equal treatment and includes any measure contributing to the elimination of inequalities in practice.

The setting-up of a positive action programme allows an organization to identify and eliminate any discrimination in its employment policies and practices, and to put right the effects of past discrimination.

The medium-term Community programme (1986-90)³ 'Equal opportunities for women' mentions among a lot of other actions that the Commission will encourage and support positive action in various sectors with a view to the desegregation of employment and a better use of human resources.

One of the ways to do so is the presentation of a guide designed to assist and inform everybody involved on

the often complex nature of positive action.

The recent publication of such a guide appears to reflect an increasing interest in the promotion of positive action, which has been shown in the framework of different EC activities, by both employers and trade unions, and Member States. Some examples: on 1 October 1987 the Commission organized a seminar on positive action in favour of women in industry for top managers, which was attended by nearly 100 persons.⁴ The European Institute of Public Administration organizes yearly, at the request and with the support of the Commission of the European Communities, a round table for a steering committee on 'Women in the higher public service'.⁵

The report on the implementation of the recommendation on positive actions in favour of women⁶ shows also an increasing interest for this subject in the Member States. Not only employers and governments are interested in this subject: some trade unions are promoting positive action in favour of women as well. With the support of the European Commission, the German Friedrich Ebert Stiftung recently organized a seminar on the potential significance of the

¹ Published in Spanish, Danish, German, Greek, English, French, Italian, Dutch, Portuguese; Office for Official Publications of the European Communities; ISBN 92-825-7400-8.

² COM(80) 135 final: Provisional conclusions on measures taken by the Member States in order to implement the resolution on actions to combat unemployment amongst women (84/C 161/02).

³ Supplement 3/86 — Bull. EC

⁴ Social Europe, No 2/88; Seminar: 'The industrial challenge, the new role of women, positive actions'.

⁵ European Institute of Public Administration, 'Women in the higher public service levels: a European overview', 1987; 'Women in the higher public service, structures and guidelines', 1988.

⁶ COM(88) 370 final; Report on the implementation of the Council Recommendation of 13 December 1984 on the promotion of positive action for women (84/635/EEC); 'Positive action for women, taken by the Member States and the Commission; to implement the Council Recommendation of 13 December 1984'; Social Europe No 3/88.

workers' representation for positive action in favour of women in industry.¹

The practice of positive action in favour of women

The publication of a guide would clearly not be necessary if one could explain in a few lines what activities positive action might involve.

Manuel Marín, Vice-President of the Commission of the European Communities and the Commissioner responsible for the publication of this guide, emphasizes in his foreword to the guide that flexibility is a key word in the setting up of a positive action programme: organizations should themselves probe to what extent certain measures are relevant and right for them, so as to arrive at a programme of action which is in harmony with the organization's character and compatible with its objectives.

Therefore the guide is addressed to all bodies interested in positive action and provides general rather than specifically technical information.

Nevertheless the guide also gives a lot of practical examples of positive action, carried out in different industries and organizations.

In general, a full positive action programme is likely to include:

- (a) a **commitment** stage, where the organization announces its commitment to positive action;
- (b) an **analysis** stage, in which relevant data and employment practices are collected and analysed so as to:
 - (i) get an insight into the relative position of women to men and of married to single people within the organization;
 - (ii) identify any barrier to women's or to married persons' progress within the organization;
- (c) an **action** stage, in which measures are worked out in detail for implementation;
- (d) a **monitoring** and **evaluation** stage, in which the way the pro-

gramme progresses is assessed and — if required — measures for adapting aspects of the programme are devised.

Stage 1: The commitment stage

Some suggestions from the guide:

- (i) when the decision concerning the organization's commitment to creating equal employment opportunities has been taken, the organization might publish this decision both internally (to all workers) and externally (in all advertising);
- (ii) a senior officer should assume responsibility for the programme and the resources allocated to it;
- (iii) depending on the organization's size, a group (for example, a joint initiative of management, employee representatives on the works council, trade union and women's representatives) could be established to coordinate and carry out analyses of the organization's workforce and employment practices, planning of the programme, and its subsequent implementation as well as monitoring of the programme.

Stage 2: The analysis stage

This might seem a rather 'dull' stage — but in practice it often turns out to be rather exciting, because in this framework 'statistical information' often gives a surprising result: the situation is not always as equal as one expected.

- (i) Gathering information: particularly relevant here is information on each employee's grade, job, salary, age, length of service in different grades and jobs, educational qualifications, training since recruitment, transfers/promotions as well as the turnover of male/female employees.

Of course it might not always be possible to produce detailed reports. In such cases it might be useful to assess 'only' the distribution and payment of male and female employees.

- (ii) The information collected should highlight where the men and women are situated in the workforce and in which parts of the organization women do, or do not, progress.

The next step is to think about the reasons for success or failure or the predominant occupation of specific jobs by men and women.

- (iii) It has been repeatedly found that employment policies and practices (concerning, for example, recruitment, promotion, training, working conditions) which may appear to be neutral in fact are excluding women. A review of personnel policies and practices might involve seemingly 'invisible' barriers to equal opportunities that may exist within the organization being recognized as such.

- (iv) This kind of analysis enables the organization to assess its current situation with respect to the employment of women, and thus will enable it to pinpoint any areas in need of adjustment and improvement. These conclusions are best formulated in a set of recommendations which can then serve as the basis for the next stage: action.

Stage 3: Action

The guide gives a general description of different positive action measures that can be taken, for example, measures concerning:

- (i) job description and evaluation, which might help to 'recover' the differences of work performed traditionally by men and women;
- (ii) external recruitment (and job advertising, for example) campaigns (i. e. in educational institutions) to make clear that the organization has an equal employment opportunities policy — or if vacancies occur in areas where women are underrepresented one might place advertisements that invite women with the required quali-

¹ Friedrich Ebert Stiftung, Bonn; Die Bedeutung der Arbeitnehmervertretung für die betriebliche Frauenförderung (Länderberichte Bundesrepublik Deutschland, Frankreich, Niederlande).

fications to apply in particular; and why should such advertisements not be placed in women's magazines?

- (iii) selection procedures: age restrictions, job qualifications and specifications which are not inherent requirements of the job might discourage or exclude one sex from applying.

Some suggestions for interviewing

To brief interviewers (a manual on interview conduct based on the principles of equal opportunities might be helpful). Of particular importance in the context are, for example: no assumptions about women workers, avoid questions about marital status, childcare arrangements, patronizing phrases. Interview men and women in the same way with objective selection criteria. Include women on interviewing panels.

Job assignment and promotion

Even when their qualifications are equivalent to those of their male colleagues, it appears that women — more so than men — get a first job placement in so-called 'dead-end jobs', where their possibilities for advancement are slim. It is important to find ways of giving all employees the chance to progress according to their ability in the organization. Useful measures might be:

- (i) to give all employees access to competing for vacancies and ensure, where appropriate, that all vacancy information is circulated within the organization;
- (ii) to include women in informal advice of vacancies occurring;
- (iii) on a general level, to encourage transfer of women to jobs where women are underrepresented.

Training and development

Training is often a prerequisite for promotion and it is important, therefore, that employees of both sexes, including part-time workers, have access to training.

Some suggestions:

- (i) to introduce special training for women; for example, to strengthen their self-confidence, or to prepare them for job areas where women are underrepresented;
- (ii) to review and alter if necessary the duration, frequency, timetables and location of training programmes to allow employees with family responsibilities to take part.

Working conditions

One could consider *inter alia* the following measures: flexible working hours, special leave for education and training and for family reasons.

Working atmosphere

A good atmosphere in the workplace — including a climate in which women and men respect one another's human dignity is beneficial to employers and employees alike. Sexual or any other type of harassment (insensitive jokes, pictures, violence, etc.) must not be allowed to take place.

Career break/re-entry schemes, and support measures

A career break/re-entry scheme greatly facilitates employees to come back to employment following a career break, and it has benefits for the organization itself, in not totally wasting the experience of the employee as well as the investment made in her/his training for the job. The guide gives several possibilities concerning these schemes.

Other support measures would include childcare arrangements, the availability of shopping and transport facilities, etc.

Goals, targets and timetables

The basic principle 'the best person for the job' is compatible with the establishment of goals and timetables and may be implemented by the setting of indicative targets e.g. for women's re-

presentation at certain levels or in certain jobs or training schemes, etc. against which progress can be measured. Organizations are familiar with the setting of targets as a measurable system of progress in other areas of work.¹

Stage 4: Monitoring and evaluation

This stage involves the continuous process of ensuring that the programme being implemented makes progress and that interest in the programme is maintained by all the workforce.

The guide again gives some suggestions:

- (i) Do not expect instant results!
- (ii) Keep in touch with everyone, for example by publishing regular features on equal opportunity issues and take care that achievements are well-known to all the workforce.
- (iii) Feedback from the workforce (for example, by holding interviews) is also important. In addition regular meetings with the staff and senior management could be organized.

Effective monitoring and follow-up of the programme enables the organization in general to assess progress towards goals, to see where success is being achieved and identify the need to correct or adjust undesirable developments. It is important that the information on the progress of action undertaken is recorded so that adequate assessment of the effect and development of positive action in the organization can be made.

Exchange of experiences

Information on the way an organization carries out a positive action programme and the extent to which progress has been achieved can be of valuable assistance to other organizations

¹ Hörburger, Hortense. 'Quantitative targets in favour of women in the EC Member States' (Doc. V/61/88).

interested in or in the process of planning a programme.

For this reason, the Commission is trying to organize in every Member

State, with the help of industrial consultants, a network of industries/organizations which are interested in or implementing positive action. This process will be complemented by an exchange

of experiences and information at Community level.

Ingrid Christochowitz

The proposal for a Council Directive on the burden of proof and the law of the Member States of the European Community (Part II)

Contents

The first part of this article appeared in *Social Europe* No 3/88. It introduced the legal and political background to the burden of proof proposal¹ and discussed the definition of indirect discrimination set out in Article 5 of the Proposal and the case-law of the Court of Justice upon which it is based. It showed that Article 5 of the Proposal serves to codify existing Community law and bring greater clarity and legal certainty to national law.

This Article will discuss the background to the other provisions of the Proposal — the general provisions and provisions regarding implementation in Sections I and III, and the substantive provisions in Section II — the modification of the burden of proof set out in Article 3 and the procedures for obtaining and disseminating evidence covered by Article 4. The burden of proof will be the main object of discussion.

It may be noted at the outset that as a general rule the wording of the Proposal has been based as far as possible on existing legislation, particularly Directive 76/207/EEC, so as to ensure consistency with the law already in force covered by the Proposal. Article 9 is a standard provision.

Sections I and III — Technical provisions

Article 1 — Purpose

1. *The purpose of this Directive is to ensure that measures taken by Member States pursuant to the principle of equality between women and men to enable all persons who consider themselves wronged by failure to apply to them the principle of equality to pursue their claims by judicial process after possible recourse to other competent authorities are made more effective.*
2. *For the purposes of this Directive, the principle of equality is that enshrined in Article 119 of the Treaty and Council Directives 75/117/EEC, 76/207/EEC, 79/7/EEC, 86/378/EEC and 86/613/EEC.*

This Article states the purpose of the Directive. It forms part of the policy set out in the medium-term Community programme on equal opportunities for women (1986-90) aimed at achieving equal treatment by improving the application and effectiveness in practice of national legislation incorporating Community law.

The wording of paragraph 1 is closely based on Article 6 of Council Directive 76/207/EEC. Paragraph 2 sets out the existing Community provisions which embody the principle of equality — Article 119 and the equality directives. The legal basis of these directives is either Article 100 or Article 235 of the EEC Treaty. Given that they are all covered by the Proposal, the Commission used both Articles 100 and 235 as its legal basis.

Article 2 — Scope

1. *This Directive shall apply to:*

- (a) *all the Community measures concerning the principle of equality between women and men referred to in Article 1(2) above;*
- (b) *any such measure adopted in the future which does not expressly exclude its application;*

(c) *any civil or administrative procedure concerning the public or private sectors which provides for means of redress under national law in implementation of the above measures.*

2. *This Directive shall not apply to any criminal procedure, notwithstanding that such procedure may provide for means of redress under national law in implementation of the above measures.*

This Article states the scope of the Proposal — all existing and future Community and derived national law on equality and hence all types of national procedures for redress, other than criminal procedures.

Paragraph 1 sets out where the Proposal applies. Subparagraph (a) applies the Proposal to all the existing Community measures on equality and hence implicitly to all the national measures transposing those measures into national law. Whilst it would have been technically possible to exclude particular directives from the scope of the Proposal, it would have given rise to legal uncertainty and confusion to have a Proposal, based on Community law applicable to all directives, which none the less applied to only some of those directives.

Subparagraph (b) applies the Proposal to any future instruments² which do not expressly exclude its application. It is modelled on the approach taken in the Canadian Bill of Rights. To respect the concept of the sovereignty of Parlia-

¹ Proposal for a Council Directive on the burden of proof in the area of equal pay and equal treatment for women and men, OJ C 176 of 5. 7. 1988, p. 5.

² For example, the Proposal for a Council Directive completing the implementation of the principle of equal treatment for men and women in statutory and occupational social security schemes, COM(87) 494 final; amended Proposal for a Council Directive on parental leave and leave for family reasons, OJ C 333, 9. 12. 1983, p. 6 and OJ C 316, 27. 11. 1984, p. 7; amended Proposal for a Council Directive on voluntary part-time work, OJ C 62, 12. 3. 1982, p. 7 and OJ C 18, 22. 1. 1983, p. 5.

ment, Canada did not attempt to 'entrench' its Bill of Rights, but instead included a *non obstante* clause which both permits and requires the legislator to state in the future that any proposed legislative measure not intended to be covered by the Bill of Rights would have to be expressly excluded from its scope.¹ The Commission has taken the same approach, which respects the sovereignty of the Council as legislator, but which applies the Proposal automatically to all future equality Directives unless the Council specifically excludes that application. In effect, it 'shifts the burden' from the Commission to the Council and requires the latter to justify the exclusion of future equality legislation. Otherwise, each new measure would have to contain a clause explaining its relationship with the Proposal.

Subparagraph (c) supplements subparagraph (a) to make it clear that the Proposal applies at national level to any procedure under national law implementing the principle of equality which provides for means of redress. Following the case-law of the Court of Justice,² it applies the Proposal to both the public and private sectors. It should therefore cover procedures before recognized bodies which are not courts or tribunals, such as the arbitration court in Denmark and the equality officer in Ireland.

Paragraph 2 states that the Proposal does not apply to criminal procedures, which may be used in Member States such as Belgium and France to enforce national provisions on equality. In these countries, complainants may either bring a civil case or report the complaint to the State authority responsible, which will then decide whether itself to bring a prosecution. It was felt that a change in the burden of proof in criminal procedure would inevitably affect the standard of proof as well, and consequently make it too easy for individuals to suffer the imposition of criminal liability. Thus complainants in such countries would have a choice — whether to bring a civil case and benefit from a lightening of the burden, or to have a criminal case pursued by the State.

Article 6

Member States shall take care that the provisions adopted pursuant to this Directive, together with the provisions already in force, are brought to the attention of all relevant persons by all appropriate means, for example at their place of employment.

Article 6 is based on Article 8 of Directive 76/207/EEC. It aims to ensure that information on all the measures taken by the Member States to achieve the objectives of the Directive is made readily available to all persons directly concerned. It is vital that individuals should know about their right to equality and how it may be enforced. Article 6 would also be particularly useful for publicizing the definition of indirect discrimination.

Article 7

- Member States shall put into force the laws, regulations and administrative provisions necessary in order to comply with this Directive within three years of its notification and shall immediately inform the Commission thereof.*
- Member States shall abolish or amend any provisions contrary to the present Directive and shall take the measures necessary to ensure that similar provisions in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions are likewise abolished or amended.*

Paragraph 1 is based on Article 9(1), first indent, of Directive 76/207/EEC. It gives Member States three years to bring their national law into line with the provisions of the Directive. Paragraph 2 is based on paragraph 2(b) of Articles 3 and 5 of the same Directive, amended so as to apply to all measures concerning the principle of equality.

Article 8

- Within two years following expiry of the three-year period laid down in*

Article 7(1), Member States shall forward all necessary information to the Commission to enable it to draw up a report on the application of this Directive for submission to the Council and the European Parliament.

- Every three years thereafter, Member States shall transmit information to the Commission with respect to progress made in the application of this Directive and provisions already in force, trends in the use of the provisions contained therein and their evolution to enable the Commission to draw up a report for the Council and the European Parliament every three years.*

Article 8 lays down the obligations of the Commission and the Member States to report to the Council and the European Parliament and to enable them to evaluate the progress achieved in the application of the proposed Directive and to ensure regular review of Community law on equality.

The existing equality directives require information to be provided to the Commission on a 'one-off' basis only, as in paragraph 1. However, paragraph 2 goes further and obliges Member States for the first time to provide regular information to the Commission on all Community law on equality. It also recognizes the role of the European Parliament in this area, and will assist its involvement on a regular basis on developments in equality policy at national level.

Section II — Substantive provisions

Article 3 — The modification of the burden of proof

- Member States shall ensure that, where persons who consider themselves wronged by failure to apply to*

¹ Section 2, Act for the Recognition and Protection of Human Rights and Fundamental Freedoms 1960 (Can.), Chapter 44.

² Case 248/83 *Commission of the European Communities v Federal Republic of Germany*, decision of 21 May 1985, [1985] ECR 1459.

them the principle of equality establish at any stage of proceedings before a court or other competent authority, as the case may be, a presumption of discrimination, it shall be for the respondent to prove that there has been no contravention of the principle of equality. The complainant shall have the benefit of any doubt that remains.

2. A presumption of discrimination is established where a complainant shows a fact or a series of facts which would, if not rebutted, amount to direct or indirect discrimination.
3. This Directive shall be without prejudice to the right of Member States to impose the legal burden of proof upon the respondent.

Normally the legal burden of proving a case rests on the applicant. A partial, subsidiary obligation to adduce certain evidence (the 'evidential burden') may be imposed on the respondent in certain circumstances, or the full ('legal') burden may be passed to the respondent.

The placing of the burden of proof therefore involves a number of policy choices, which range along a continuum from:

Choice 1: The standard civil law rule — the burden on the complainant

The complainant must produce evidence which is sufficient to convince the tribunal on a 'balance of probabilities' (the standard of proof) that unlawful sex discrimination has in fact taken place. If the respondent provides an explanation which raises a doubt as to whether sex was in fact the reason for the employment decision, the case falls because the persuasive burden remains on the complainant.

In practice, this is the current situation in many Member States, and has proved to be ineffective. The expert network on the application of the equality directives reported in 1986 that 'there is no doubt about the urgency of this problem... illustrations... show that the

burden of proof creates a problem which prevents many applicants from establishing a legitimate claim'.¹

It should not be enough for an employer merely to show a more plausible alternative ground or to state that sex or marital status was not a motivating factor, and thereby shift the burden back to the complainant to show that sex was the more probable ground. The danger of allowing subjective evidence by the employer to rebut a credible case should be avoided; honest persons are often unaware of their own prejudices and motivations.

Choice 2: Modification — sharing the burden between the parties

The legal burden of persuasion remains with the complainant, but the evidential burden shifts to the employer once the tribunal is satisfied that a credible case of discrimination exists at a certain stage, e. g. where an unsuccessful applicant for a job has equal or superior qualifications to the successful candidate. This approach has been developed in the Federal Republic of Germany,² France,³ Ireland,⁴ the Netherlands, the UK⁵ and, outside the Community, in the USA,⁶ and it has been proposed in Spain.⁷ Once the complainant has established a presumption of discrimination in this way, the respondent is called on to prove that there was no discrimination.

A similar approach may be found in national legislation relating to unfair dismissal, where the burden of proving the presence of an admissible ground is usually placed upon the employer. In the Federal Republic of Germany, Italy and the Netherlands, this is a result of the public administrative procedures involved. National procedures in all other Member States apart from Denmark and Greece place the burden specifically on the employer.

The first part of this article showed how the concept of indirect discrimination developed by the case-law of the Court of Justice already necessarily implies a shifting of the evidential burden

from the complainant to the employer in discrimination cases. However national courts and tribunals have been dealing with unfamiliar concepts, particularly in the area of equal treatment and victimization, and have been unable to adequately balance the burden between the parties so as to make the legislation effective. In practice, they may even impose a heavier burden on applicants in this area than in the general area of civil law, due to the unconscious prejudice affecting all decisions in this area. The problem is therefore, to ensure that there is correct and widespread application of this 'equality approach' in practice in all the Member States.

Paragraph 1 — The modification of the burden

The wording of paragraph 1 is closely based on Article 6 of Council Directive 76/207/EEC. It sets out a procedure which seeks to ensure that when complainants submit to a court or other competent authority facts which they have available to them from which the existence of direct or indirect discrimination may be inferred, it shall be for the respondent to prove that there has not been any violation of the principle of equality.

The complainant is required to establish a rebuttable presumption of discrimination. At this point, the evidential burden shifts and the respondent is required to rebut the presumption by

¹ Von Prondzynski, F. 'Implementation of the Equality Directives', § 7.25 Document, Office for Official Publications of the European Communities, Luxembourg, 1987.

² Civil Code, Articles 611a, § 1, third sentence (equal treatment) and 612, § 3 (equal pay).

³ Act 83-635 of 13 July 1983, Labour Code Article L 140-8 (equal pay).

⁴ *University College Dublin v A female worker* (EEO S/1983).

⁵ *Oxford v DHSS* [1977] ICR 884; *Moberley v Commonwealth Hall* [1977] ICR 791; *Wallace v South Eastern Education and Library Board* [1980] IRLR 193; *Owen & Briggs v James* [1981] ICR 377; *Khanna v Ministry of Defence* [1981] ICR 653.

⁶ *McDonnell Douglas Corp. v Green* 411 US 792 at 802 (1973); *Texas v Burdine* 101 S. Ct. 1 089 at 1 094 (1981).

⁷ Proposed law on legal procedure.

showing that there has been no contravention of the principle of equality. This expression is again derived from Directive 76/207/EEC, and covers three possibilities open to the respondent: proof that the discrimination shown did not in fact take place, proof that it was lawful because of a legitimate, non-sex based reason, or proof that it was lawful because the principle of equality did not apply.

The legal burden of persuasion remains with the complainant, and the standard of proof remains the normal civil standard, that the complainant must convince the court that its explanation was the more probable.

Finally, paragraph 1 deals with the problem of inferences. Once a presumption of discrimination has been established, Member States are required to place the burden on the respondent of providing the ultimate evidence that there was no unlawful discrimination. This is done by giving the benefit of any doubt as to the proper interpretation of the facts to the complainant. This text is derived from French law, *supra* note 7.

Paragraph 2 — The presumption of discrimination

Paragraph 2 sets out to deal with the central difficulty of the modification of the burden approach — to define what type of facts must be shown by the complainant before the burden shifts. It does this in two ways. Firstly, it employs the concept of a rebuttable presumption: this is used because it is familiar to lawyers and judges in all systems. In civil law systems, it is better known as a *praesumptionis iuris tantum*; in common law systems, it arises when the complainant proves a *prima facie* case. Secondly, it states that such a presumption arises when sufficient facts are adduced from which it could, in the absence of a satisfactory explanation, be inferred that there has been direct or indirect discrimination.

In practice this would have the result that, firstly, the complainant would have to prove that she has been differently treated to a man on grounds of sex. For

example, a complainant could show that she has applied for a job (e.g. with a copy of her letter of application), that her application has been rejected (e.g. with a copy of a letter from the employer) and that a man was given the job (e.g. with a copy of a works newsletter).

Secondly, the complainant would have to go to show further elements which would be sufficient for a court or other competent authority to infer that there has been unlawful discrimination, thus giving rise to a presumption of discrimination on grounds of sex. Such elements may include suitability for the post (possession of the minimum essential set of qualifications required to do the job), sex-specific job advertisements, (a copy of a newspaper cutting), sex-discriminatory utterances by the employer or his representatives (testimony of fellow workers or possibly even by way of sworn affidavit by the complainant), and consideration of male applicants only (testimony of a Works Counsellor following consultation of the Works Council by the employer).

However, it is not necessary for a complainant to prove on a balance of probabilities that unlawful discrimination did take place, as this would require her to prove more than she can reasonably be expected to have in her possession, i.e. to show that she was equally well or better qualified than the successful male candidate. In effect, the evidential burden on the complainant has been lightened.

The Proposal only covers the case where the complainant is bringing a case against the respondent. It is not intended to take account of possible counter-claims etc. whereby the respondent and the complainant reverse roles, since the respondent, as counter-claimant, does not suffer the same problems as the original complainant.

With regard to the question of what evidence is required to discharge the evidential burden and rebut a presumption of discrimination, a respondent could adduce records, statements, recruitment and promotion statistics. It has been argued that changing the burden would lead to employers keep-

ing undesirable records of points designed exclusively to be used against complainants in future cases. However, the tribunals and specialist bodies working in this area are expert arbiters of evidence who could be expected to scrutinize such records carefully.

To the contrary, it is hoped that the proposed changes will positively encourage the keeping of records, statements, recruitment and promotion statistics, as such objective evidence will be the best means for respondents of discharging the evidential burden. The Commission has specifically recommended the voluntary gathering and using of information in its positive action guide.¹ Member States may go further, as in France,² and require employers to keep such records. This is an interesting possibility, and has been specifically recommended by the expert network in its 1986 Evaluation Report (§ 7.22).

Choice 3: Complete reversal of the burden — the respondent must disprove alleged discrimination

Once the complainant has shown different treatment has occurred, the legal burden passes to the respondent, who is obliged to prove positively and objectively that no discrimination had taken place. This applies across the board in Portugal³ and to victimization cases in Belgium and Ireland.⁴

Paragraph 3 — Complete reversal of the burden

For the avoidance of doubt, paragraph 3 specifically authorizes Member States to lay down a different system of proof which is more favourable to the complainant, in particular by passing the

¹ *Positive action — Equal Opportunities for Women in Employment — A Guide, Stage Two: Analysis*, p. 18, Office for Official Publications of the European Communities, Luxembourg, 1988.

² Law No 83-635 of 13 July 1983, Art. L 432-3-1.

³ Decree-Law 392/79 of 20 September 1979, Articles 9 and 11.

⁴ Anti-discrimination (Pay) act 1974, Section 9(2).

legal burden to the employer. This would allow Member States to continue their existing law, or to enact new, tougher legislation, should they deem it necessary. A similar approach was used with regard to Article 2(4) of the Equal Treatment Directive, which was inserted mainly to make it clear that any existing preferential schemes could continue without being affected by the Directive. In the event of a complete reversal, once the complainant has shown that different treatment has occurred, the first step illustrated above, the legal burden passes to the respondent, who is obliged to prove positively and objectively that no discrimination has taken place.

It may be noted in passing that there are other ways in which national systems are more favourable to the complainant and lighten the burden in practice. 'Inquisitorial' systems as in France and the Federal Republic of Germany (public sector), where the court itself is responsible for investigating the case, place less of a burden on the complainant to prove her case. Other systems insert a fact-finding body, such as the Equal Treatment Committee in the Netherlands, whose report can prove influential in subsequent litigation.

Complete reversal of the burden was recommended by one expert report as the most effective method of aiding litigants.¹ It has been felt necessary in other areas. In maternity protection cases, the initial burden of proof is placed upon the employer in Danish,² Italian³ and Irish⁴ law. Reversal of the burden has been chosen by Community law and the consequent implementing national legislation as the most effective way to protect consumers. Article 1 of the Product Liability Directive of 1985 places the legal burden on the respondent, the producer, to disprove liability for a defective product which has caused damage to a consumer.⁵

However, the Commission has chosen a compromise approach, to modify rather than to reverse the burden. This is for a number of reasons. Firstly, it has been argued that a full reversal of the burden might create diffi-

culties for employers, who might be unable in certain circumstances to meet the persuasive burden of proving that an employment decision or act had not been done on grounds of sex. The partial nature of the change in the burden proposed by the Commission only requires the respondent to rebut a presumption rather than bear the full, persuasive legal burden. As a result, an employer with an acceptable non-sex based reason for the challenged decision will have a good defence.

Secondly, there were also fears that complainants could allege discrimination without supporting evidence, which would encourage unnecessary 'frivolous or vexatious' litigation. However, the choice of a modification rather than a reversal of the burden provides a safeguard whereby only complainants with arguable cases are helped. If there is not enough evidence to establish a presumption of discrimination, the evidential burden simply does not pass, and a complainant with a weak case would be advised not to persist. Member States may go further, as Ireland and the UK, and lay down procedural safeguards to discourage weak, frivolous or vexatious cases. In the UK, costs can be awarded against complainants who persist with their cases despite a warning from an industrial tribunal at a preliminary hearing. Such procedures are lawful in so far as they do not have the effect of discouraging the other cases, which would be contrary to the right of recourse provided by the equality Directives.

Thirdly, the modification approach is already familiar in some Member States, having been laid down by statute in the Federal Republic and developed by case-law in that country and Ireland, the Netherlands and the UK. It would be relatively simple for such Member States to conform to the Proposal.

Lastly, and perhaps most importantly, the Commission considered that the modification approach would be adequate to achieve its objectives. This approach was recommended by its expert network⁶ and has also been recommended at national level by agencies such as the Equal Opportunities Com-

mission in Manchester and the Ligestilingsrådet (Equal Status Council) in Denmark.

Article 4 — Procedures

Member States shall introduce into their national legal systems such measures as are necessary to ensure that:

- (a) *courts, tribunals and other competent authorities may order any measure necessary to ensure the effective examination of any complaint of discrimination;*
- (b) *the parties to the dispute be provided with all relevant information in the possession of either party or reasonably obtainable by either party which is necessary for them to present their case and disclosure of which would not substantially damage the interests of the other party for reasons other than the litigation concerned.*

This Article aims to guarantee two basic objectives, effective procedures for (a) considering complaints and (b) obtaining and providing information. Paragraph (a) requires that courts or other competent authorities should have all the powers they require to consider complaints effectively. For the most part, national authorities already possess such powers, though there is some evidence that they do not always use these powers or feel empowered to use

¹ Corcoran, Jennifer and Donnelly, Elaine, 'Report of a comparative analysis of the provisions for legal redress in the Member States of the European Economic Community in respect of Article 119 of the Treaty of Rome and the Equal Pay, Equal Treatment and Social Security Directives', V/564/84, Recommendation 7, p. 80.

² Section 16(4), Equal treatment for men and women with regard to employment and parental leave, etc., Act, 1 January 1988.

³ Article 2, Law No 1 204 of 30 December 1971.

⁴ Section 26, Maternity Protection of Employees Act of 26 March 1981.

⁵ Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products, OJ L 210, 7. 8. 1985, p. 29. Article 1.

⁶ Von Prondzynski, F. 'Final Consolidated Report 1987 — Network of Experts on the Implementation of the Equality Directives', § 2.7.3.

them.¹ In addition, Member States might wish to confer such powers on other bodies involved in the equality process, such as the Ligestillingsrådet in Denmark, which may require employers, employees or their organizations to provide it with information of importance to its work.²

In Member States such as the Federal Republic of Germany and the Netherlands, courts may only order disclosure of documents and evidence at the request of one party. Article 4 does not oblige these tribunals to require such evidence of their own volition, only that they should have the power to do so if requested.

Paragraph (b) requires that all the information which is necessary for the presentation of a case may be obtained from a party who possesses it or who may reasonably be required to obtain it, i.e. where obtaining such evidence would not cause that party an undue burden. The court or other competent authority should provide such information to a party who requests it, subject to an important discretion not to pass on sensitive information, disclosure of which would cause substantial damage

to the interests of the disclosing party for reasons other than the litigation concerned, e.g. confidential information, business secrets, etc.

The criteria of relevance, necessity and 'substantial damage' are designed to avoid two problems. On the one hand, a party should not be permitted to withhold information solely because, for example, it has been given in confidence. On the other hand, the other party should not be allowed to require tribunals to provide automatic access to information. Article 4 therefore focuses on the scrutiny role of the tribunal and its power to decide for itself, in the light of these criteria, whether it may safely and properly be communicated to the requesting party.

Conclusions

It will be seen from the above that the content of the proposed Directive is novel but not totally new. Changing the burden of proof already exists in Community and national law and practice on sex discrimination, employment protection, and other areas. The Proposal cod-

ifies this law and practice: once a complainant has shown facts which she has available to her from which the existence of direct or indirect discrimination may be inferred, the respondent is required to prove that this is not the case. With regard to procedures, it aims to guarantee that there should be effective procedures for examining complaints of discrimination and for making information available to the parties.

The Proposal embodies an evolution of the law which takes account of modern social trends and acknowledges that it is unreasonable to expect complainants to have access to all the necessary information to present their cases.

Christopher Docksey

¹ See *Gibney v Dublin Corporation* (EE 5/1986) with regard to the equality officer in Ireland, and 'Industrial tribunals' Justice, 1988, with regard to industrial tribunals in the UK.

² Section 18(2), Equal Treatment Act 1988.

Final Report on the application of Council Directive 79/7/EEC on the implementation of the principle of equal treatment for men and women in matters of social security

In 1984, the Commission presented a final interim report (COM(84) 793) on the application of Council Directive 79/7/EEC which also provided some guidance on the major problems of interpretation which its implementation was posing the Member States.

Considerable progress has been made since this time and the European Court has even ruled on particular cases on many occasions, notably by virtue of Article 177 of the Treaty of Rome. Examples of these Court judgments have been given in previous issues of *Social Europe*.

In its final report the Commission, whilst outlining the situation in 10 Member States,¹ draws its own conclusions in the light of Court judgments on the consequences of this Directive for internal legislation, outstanding problems and the attitude to be adopted for an effective and coherent application throughout the Community.

Problems of application

Despite the very real difficulties it is clear that progress has been made by the Member States in achieving equal treatment. A comparison of the present situation in matters of social security with that of just a few years ago leaves no doubt as to the situation. The timetable fixed by the Directive has played an important role in this process, compelling the Member States to eliminate discriminatory measures within specific deadlines — stretched to the absolute limit in certain cases. Such progress is all the more significant as it was made during a period of economic difficulty. However, it remains insufficient, in some Member States in particular, as regards the elimination of direct discrimination. As to indirect discrimination, the implications of the Directive are still far from having been precisely interpreted. There have even been cases of 'regressions' in this field.

Direct discrimination

According to Article 5 of the Directive, all Member States must take appropriate measures to ensure the abolition of any provisions which infringe on the principle of equal treatment. This principle implies, by the terms of Article 4, the absence of any discrimination based on sex, whether directly or indirectly. Leaving aside for the time being the case of indirect discrimination — which requires particular attention — there is a need to appreciate to what extent direct discrimination has in fact been abolished.

On the one hand, certain Member States, such as Denmark, the Federal Republic of Germany, France and Italy had already implemented, to a large extent, the programme for equal treatment in matters of social security. They only had to make limited changes to their legislation. On the other hand, although the number of measures taken is an indicator of evident progress and although the information gathered offers itself as a summary of the results achieved, it must nevertheless not be concluded that this inventory corresponds to what needs to be done. A de-

gree of prudence is therefore required in evaluating these results.

It is however, justified to state that, in the case of many countries, the application of the Directive and the abolition of discrimination has not always been in line with the deadline of 22 December 1984. Ireland and Luxembourg provide two examples of this. In Ireland the law was passed in July 1985, while the regulations for its execution did not follow until 1986. In Luxembourg, the bill was introduced before the stated deadline but was not voted through parliament until 15 December 1986. Certain measures have been taken in other countries but it appears that they do not fully cover all the regulations which should have been modified.

In all these cases the Commission feels that it needs to point out — with the exception of infringement procedures which could have been introduced against Member States — that, according to the jurisprudence of the Court of Justice and in particular its judgment of 4 December 1986 in Case 7/85 FNV,² the parties coming under the jurisdiction could oppose the application of legislation which is not adapted after the expiry of the deadline for the translation of a Directive. In other words, they may invoke the direct opposability of the Directive³ before the national courts. In other countries the Directive does not seem to have been applied in a totally satisfactory way. Disputes have arisen in this respect in the Netherlands and the United Kingdom concerning the exclusion of certain categories of people who, before the date of application of the Directive, were either unemployed (the Netherlands) or severely disabled (the United Kingdom). The Commission considers, in the light of the Court judgment of 4 December 1986, that as from the date the Directive came into force, the situation of all the victims of the risk

¹ The report on Spain and Portugal will be available shortly.

² Confirmed by its judgment of 24 March 1987 — Case 286/85, [1987] ECR 1453.

³ See notably Cases 148/78 (*Ratti*) and 8/81 (*Becker*).

considered should be reviewed to ensure equal treatment, without exception. Another dispute was raised in the United Kingdom concerning the application of the Directive to an invalid care allowance, granted not for the disabled person himself but for the person who looks after him. The Court ruled in its judgment of 24 June 1986 (Case 150/85 *Drake v Adjudication Officer*) for the application of the Directive.¹ It also seems that in Italy, despite a judgment by the Court of 14 July 1983 (Case 203/82) declaring a reduction in employers' health insurance contributions for the benefit of female staff as incompatible with Article 92 of the Treaty, these contributions have only been partly brought into line. Finally, it should also be pointed out that the interpretation given by the Commission on the extent of the 'occupational accidents and diseases' risk and its extension to include death of the insured and compensation for next of kin is disputed by certain Member States.

Another problem encountered is that of the existence of discriminatory situations for certain categories of people even after the Directive has been applied, due to the effects of a discriminatory national provision predating the entry into force (23 December 1984). The Commission feels that, as from the date of entry into force, such discrimination is forbidden for all categories of persons. The Court, in its Decision of 24 June 1987, confirmed that position (Case 384/85 *Borrie-Clarke*). The same problem was posed to the Court by the Dutch courts and the Court ruled the same day (Case 80/87 DIK) (Decision of 8 March 1988).

As regards these questions of interpretation, one can but repeat what was stated, in general terms, under the preceding point on the decisive role of the jurisprudence of the Court of Justice.

Indirect discrimination

The Directive does not define indirect discrimination. Article 4 does, however, require the absence of any discrimination based on sex, whether directly or indirectly, with reference, in particular, to marital or family status.

The Commission has tried to define this notion of indirect discrimination² and considered the matter at some length in its Interim Report, taking the jurisprudence of the Court of Justice³ as a basis. It considers that indirect discrimination is implied immediately a measure, apparently neutral, predominantly affects workers of one sex, without it being necessary to establish intended discrimination. On the other hand, it falls upon the author of the apparently discriminatory measure to provide evidence that the measure was prompted by objectively justified reasons, involving no desire to discriminate whatsoever.⁴

The replies of various governments to the Commission's questionnaire reveal that generally speaking there is no definition of the notion of indirect discrimination in matters of social security, neither in the national legal norms nor in jurisprudence. Furthermore, the governments do not indicate — except for the UK, which replied in the positive — whether or not they accept the Commission's interpretation.

The problem of indirect discrimination is encountered above all in connection with services linked to the status of 'head of household' (or 'head of family', 'breadwinner', etc.) and with regard to increases for a dependent spouse.

The Commission is of the opinion that the notion of 'head of household' leads almost inevitably to discrimination and that it should be abandoned. Implied indirect discrimination can, moreover, be invoked in this case with reference in particular to 'matrimonial or family status'. But such implications also exist in the case of certain increases in benefits reserved for workers with a dependent spouse. In fact, in both these cases, even if the measure is presented as neutral (the 'head of household' or the 'worker' in theory being able to be a man or a woman), it works to the advantage of men as, statistically, many more men are in a position to be able to establish the existence of a dependent spouse or their status as the head of household. There is therefore indeed a presumption of indirect discrimination in the absence of be-

ing able to establish objective reasons foreign to any idea of discrimination. The reasons given in defence of benefiting a worker with a dependent spouse are generally inspired by a desire to compensate the higher charges for a couple than a person living alone, in cases where there is only one breadwinner. However, the Commission believes that a distinction should be made between increases which apply to social security benefits guaranteeing their beneficiaries a minimum of resources and those which apply to contributions proportional to the last salary.

The Commission considers that — any exception to a general rule being a matter for strict interpretation — the increases in question may only be justified to the extent that they supplement social security benefits guaranteeing minimum resources for their beneficiary.⁵ On the other hand, increases applying to benefits proportional to the last salary do not appear legitimate with regard to the principle of equal treatment, to which an exception may only be made within the limits of what is strictly necessary. It should be noted in this respect that the salary itself — the loss of which is in part compensated by the benefit — does not always include the increase for the spouse, meaning that such an increase applied to an income which is a proportional replacement of the salary cannot be legally justified.

¹ The Commission had previously reached a similar conclusion.

² Interim Report, point 11 B1.

³ Interim Report, point 11 A.

⁴ See Court judgment in Case 96/80 *Jenkins v Kingsgate*. Reversal of the burden of proof when the presumption has been 'statistically' established — see in particular findings of the Public Prosecutor of 7. 10. 1986. in Case 30/85 (*Teuling-Worms*). Also the judgment by the Court in the same case and in Case 170/84 (*Bilka*) of 13. 5. 1986. The Court in future accepts that indirect discrimination exists in the absence of objective justification when it is shown that the effect of a measure is of greater import for one sex than the other, without having to examine the employer's intentions.

⁵ This argument was recently confirmed by the Court in its judgment of 11 June 1985 (Case 30/85 *Teuling-Worms*).

Increases in benefits for a dependent spouse, whether or not associated with the notion of 'head of household', exist in certain legislations. The Commission, however, has had to examine two complaints, based on the prohibiting of indirect discrimination, concerning these increases. One concerned Belgian unemployment insurance legislation, by the terms of which the 'head of household' received, after a certain period, an allowance in proportion to his last salary at a higher level than that of a worker who is not a head of household. Applying the above argument, the Commission has decided that the relevant Belgian legislation was indirectly discriminatory, but not the Dutch legislation. Infringement procedures are at present being pursued against the Kingdom of Belgium.

Conclusions

The Commission notes that progress, sometimes even significant progress, has been made since 1978, the date on which the Directive was adopted by the Member States.

Nevertheless, it is forced to conclude with regret that, despite this progress, the principle of equal treatment for men and women in matters of social security has not been totally applied.

For this reason, taking into account the observations made above, the Commission feels that it must take the following steps:

(a) It will continue to apply infringement procedures, based on Article 169 of the Treaty, either in response to complaints received or on its own initiative if it observes that a Member State has failed to respect its obligations. It recalls that a certain number

of proceedings have already been instigated. One of these was instigated even before the Directive was applied, in a case where the Commission felt that a new measure constituted a regression *vis-à-vis* the situation of equal treatment as it stood on the date for the adoption of the Directive. The Commission feels that the restrictive nature of the objective sought by a Directive implies that, during the period of translation, the Member State should refrain from any measure likely to render it more difficult to achieve the desired result.¹ Other proceedings have been instigated since the date of application, notably against Member States who failed to respect deadlines.

(b) The Commission will take particular care to ensure the elimination of any discrimination based indirectly on sex, through reference, in particular, to matrimonial or family status. It will instigate infringement procedures against Member States which maintain in or introduce to their legislation such discrimination. In this respect it refers to the interpretation which it has given to indirect discrimination² and in particular the resultant prohibition, for the Member States, of using the notion of 'head of household' in their legislation (or any equivalent notion) and the obligation to limit increases for a dependent spouse to benefits guaranteeing their beneficiaries a minimum of resources.² On the other hand it invites Member States to ensure that their legislation does not effectively exclude certain people (especially women) who are engaged in part-time employment from an entitlement to social security. In this respect it refers to its proposal for a Directive on part-time work.

(c) Noting that information concerning obligations and rights stemming from the Directive is still insufficient, the Commission will encourage and support, as it announced in its new programme for equal opportunities for women, initiatives taken by and in the Member States to train, increase awareness, inform and advise the sectors of the public concerned, in particular the legal profession. It is also ready, on the other hand, to reply to any enquiry which it may receive from a Member State regarding the scope of the obligations of the Directive.

(d) The Commission points out that Council Directive 79/7/EEC is no more than the first stage in the application of the principle of equal treatment in the matter of social security. It is pleased that a second stage has already been entered into by the adoption of Council Directive 86/378/EEC which extends this principle to professional systems. The Commission expects to see the Member States adopting, in the shortest possible time, a new proposal for a Directive supplementing the two previous Directives with a view to overcoming any remaining weaknesses and completing the programme for equal treatment in matters of social security.

¹ The ideas of the Commission on 'regressions' were fully supported by Mr Mancini, Public Prosecutor: findings of 7.10. 1986 in the *Teuling-Worms* case, as mentioned above.

² Confirmed by the Court (judgment in *Teuling-Worms* case of 11 June 1987).

Equal treatment for men and women

Analyses, debates, studies

The institutional conditions necessary for the equal treatment of men and women in the EC

Seminar organized by the Ministry of Youth, Family, Women and Health of the Federal Republic of Germany with the support of the Commission of the European Communities, 15 and 16 June 1988, Hanover

It is well known that for a number of years the European Community has been promoting equal opportunities for women, and that both the European Commission and the Member States have taken measures in pursuance of this aim.¹

The programmes on this issue include a lot of activities. Promoting equal opportunities involves education and training; employment; social protection and social security; taxes; sharing of family and occupational responsibilities; increasing awareness; changing attitudes; new legislation, and improved application of existing provisions concerning equal treatment, etc. The discussions on these issues are an on-going process.

But another question is which kind of machineries might be necessary to give effect to all these actions. Which kind of structures are useful in this respect? This question is complicated because all activities concerning equal opportunities of women touch upon policy areas which are already covered by a lot of institutions.

For example, it is difficult to tell how many institutions are occupied with social security, training, education and employment policies (on a global basis) all over the Community, not to mention all the bodies and persons who are engaged in the implementation of strictly equal treatment legislation.

In other words, a very important question concerning equal opportunities bodies might be their relationship with other institutions. A bad relationship might increase the risk of bad policies. But how should the institutional conditions be organized in order to get the best results in terms of equal opportunities out of them?

It follows from the above that one can say that there are enough fundamental questions on this subject, which are of great importance for the achievement of equal opportunities, to discuss them in a seminar.

Indeed the German Minister for Youth, Family, Women and Health, Ms Rita Süßmuth, organized a European Seminar on this subject in Hanover on 15 and 16 June 1988. The Commission of the European Communities was happy to support this initiative: it is clear that this issue is of importance for the equal opportunities policies in all Member States and for the Community as a whole. Neither the Commission, nor any Member State — in fact none of the participants at the seminar — adopted the opinion that every Member State should have the same equal opportunities machineries. It is quite clear that the structures of equal opportunities machineries are, for example, related to the national structures of governments, deliberations and consultations of the social partners,

etc., which vary a lot in each Member State.

One of the first observations to be made at the seminar, therefore, was the fact that the equal opportunities machineries differ from Member State to Member State — so there was an interesting basis for exchanges of information and discussions.

The seminar

The seminar was prepared by the German Institut Frau und Gesellschaft (Institute — Woman and Society), which prepared in advance a small brochure, representing a summarized inventory of the different equal opportunity policy structures in the Member States.² About 80 persons participated: they came from all Member States and represented the Ministries charged with the coordination of governmental equal opportunities policies; independent equal opportunities bodies or agencies such as the British EOC; the European Trade Union Conference (ETUC) and the Union of Industrial and Employers' Confederations of Europe (Unice); the European Parliament; the Council of Europe and the United Nations. In fact, every EEC Member State has one or even more official agencies, charged with the promotion of equal opportunities for women. Most of the agencies date from the 1970s — some from the 1980s.

It is interesting to note that there have been different changes concerning the political frameworks and responsibilities of these bodies in the last few years. For example, a Secretary of State

¹ *Inter alia* by means of the New Community action programme on the promotion of equal opportunities for women 1982-85 (Supplement 1/82 — Bull. EC) and the medium-term Community programme 1986-90, on 'Equal opportunities for women' (Supplement 3/86 — Bull. EC)

² The intention is that this brochure will be completed and published because a broader public might be interested. Address: Institut Frau und Gesellschaft, Goethestraße 29 — 3000 Hanover I — Tel. 511/32 69 11—14 (Waltraud Cornelissen, Ulla Bosse, Anne Plunimann).

responsible for equality matters was appointed in Belgium some years ago; in France there have been on-going changes with changes in governments (Ministry, Delegation, Secretary of State); in the Netherlands there have been different Secretaries of State, mainly responsible for equal opportunities for women for some years, but this responsibility is now in the hands of the Minister for Social Affairs and Employment; the Federal Republic of Germany obtained, with Rita Süssmuth, a Minister *inter alia* responsible for the equal opportunities of women; while the Spanish Instituto de la Mujer has been funded and has obtained a reasonable budget which has enabled it to develop a lot of activities, etc.

The programme for the seminar included speeches and discussions on the following items:

- (i) the advantages and disadvantages of equal opportunities institutions inside the government and the advantages and disadvantages of such institutions outside the government;
- (ii) the integration of equal opportunities questions/policies in general policies;
- (iii) the working methods of equal opportunities institutions at regional and local levels;
- (iv) the relations of such institutions with the social partners and women's associations;
- (v) European Community institutions on equal opportunities.

National institutions

Strictly and exclusively governmental equal opportunities institutions can be found in the Federal Republic of Germany and in France; while in the UK many responsibilities concerning the promotion of equal opportunities are in the hands of the Equal Opportunities Commission. In Ireland the Employment Equality Agency is somewhat more centred on employment questions, although a Ministry of State for Women's Affairs,

with a wider responsibility for all equality issues, existed in the Irish Government during the period 1982-87.

A few other Member States have both governmental and more or less independent advisory structures concerning equal opportunities, for example, the Netherlands. In a number of Member States the social partners and/or the women's associations are more or less directly involved in the development of equal opportunities policies (Belgium, Denmark especially linked to employment matters).

Some Member States have different governmental and/or non-governmental bodies charged with matters of equal opportunity and equal treatment (Greece, Portugal, Italy). The participants at the seminar could not simply conclude that one or another structure was 'the best'.

Governmental structures vary too much between the Member States to make easy comparisons and evaluations and, of course, the value which the government attaches to equal opportunities policies is very important. This is not only a question of budget, but also a question of political power. For example, does the equal opportunities policy provide that all 'general' policies which are sometimes of great importance for the opportunities of women (such as income-taxes) may be commented upon by the equal opportunities institution? If so, do such comments carry the same influence in the development of such mainstream policies?

However, in general it might be concluded that a link with other institutions which play a role in the policies related to equal opportunities (ministries, social partners, women's associations) are an important condition for the effectiveness of institutions promoting equal opportunities between men and women. It is clear that the seminar gave some participants new ideas on the involvement of other institutions as well as on the organizational and competency problems of 'all involving' structures.

Regional and local equal opportunities bodies

A rather new, but increasingly growing development concerns the equal opportunities bodies on a regional level.

In the Federal Republic of Germany the number of these *Gleichstellungsstellen* has increased by hundreds in the last few years, and — as some of the speakers at the seminar made clear — they do a lot of work although the circumstances are not always favourable right from the establishment.

A British speaker expressed her feelings that the involvement of British local authorities in equal opportunities for women seemed to decrease; the main reasons for this development might be the decreasing budgets and the fact that women seem to be less aggressive and tend to exercise less pressure than other groups which do not have equal opportunities among their priority interests.

However, in other Member States the institutionalized influence of women on local/regional policies, in particular in the area of equal opportunities, seems to increase and, for example, in the Netherlands regular contacts between the different local institutions have been organized in cooperation with the Confederation of Dutch Communities.

The activities of these local or regional equal opportunity bodies are varied: childcare facilities might be an important issue; education, training and employment matters are further issues, as indeed are health care and other social matters.

Another interesting question concerns, of course, the contacts between those local/regional institutions and the national institutions. Everybody agreed that contacts are of importance, though the political background of these institutions might be different.

EEC equal opportunities bodies

Because the Community developed, right from the outset of its establishment (Article 119, EEC Treaty), policies on the

equal treatment of men and women, which were subsequently extended in the last decades to Community action programmes on equal opportunities,¹ the European Commission has had a lot of involvement in this issue.

The EC service for action concerning employment and equality for women, which is located in the Directorate-General for Employment, Social Affairs and Education, prepares and implements policies concerning equal opportunities for women and men in the framework of the action programme. It also coordinates activities with the other bodies concerned; one of these other bodies is the Women's Information Office which publishes *inter alia* 'Women of Europe'.

The Commission has created an advisory body composed of national equal opportunities bodies: the Advisory Committee on Equal Opportunities for Women. This Committee advises the Commission of the European Communities on equal opportunities. Its members represent the national equal opportunities bodies, which might be governmental or non-governmental.

The Council of Ministers of course decides about Community actions, legal or otherwise.

The European Parliament has for a number of years had a special Committee on Women's Rights which is very active and communicates regularly with the Commission on this subject.

One could conclude that a wide range of bodies in the EC are involved in the preparation and implementation of an equal opportunities policy. Thanks to the German Ministry of Youth, Family, Women and Health, representatives of these bodies have had the opportunity to have a very interesting exchange of information during this seminar on the institutional conditions necessary for equal treatment in the European Community.

Ingrid Christochowitz

¹ New Community action programme on the promotion of equal opportunities for women 1982-85; Supplement 1/82 — Bull. EC. Medium-term Community programme 1986-90, 'Equal opportunities for women'; Supplement 3/86 — Bull. EC.

Childcare and equality of opportunity

The European Commission has for some time recognized the importance of childcare in any strategy for achieving equal opportunities. It has sought progress on two fronts — employment adaptations, with a draft Directive on parental leave and leave for family reasons; and childcare facilities. As part of its second equal opportunities action programme, the Commission committed itself 'to propose recommendations for action in the field of (childcare) facilities', and established a Childcare Network. The Network consists of an expert from each Member State and a coordinator. It had its first meeting at the end of 1986, and its initial task has been to study the childcare situation in the Community, especially as it affects women's employment opportunities; and make recommendations to the Commission about policies to improve the situation. This stage has now finished, with completion of national reports, and a consolidated report — *Childcare and equality of opportunity* — prepared by the coordinator and submitted to the Commission in April 1988.

In doing this work, it has been difficult to draw boundaries. For instance, the Network is clear that childcare services can benefit all parents and children, and that reconciling employment and family responsibilities is an issue for parents with adolescent, as well as younger, children. The Network, however, has had to concentrate on employed parents and children up to the age of 10. Within these limitations, the national and consolidated reports cover a wide range of issues:

(a) Employment and unemployment among mothers and fathers

- (i) Using a special analysis of the 1985 Labour Force Survey, the Report shows there are wide variations between Member States in maternal employment rates. Employment among women with children under five, for example, is highest in Denmark (over 70%), followed by France and Belgium (50%). It is lowest (under 30%) in Ireland, the Netherlands and the UK. Most employed mothers work over 30 hours a week, except in the UK and the Netherlands where most work under 20 hours a week.
- (ii) Most fathers work over 40 hours a week. In the UK, nearly a third of employed fathers work over 50 hours, the highest level in Europe.
- (iii) Parenthood continues to have a major, long-term and adverse effect on the employment of women but not men.

(b) The contribution of fathers to childcare

'The national reports tell a consistent story across Europe — fathers may have increased their involvement in domestic work in recent years, but this increase has not been large and still leaves women doing most of the work ... (as a result) the conditions under which men and women supply their labour to the labour market are not equal'.

(c) Diversity among children, parents and families

There is increasing diversity in the circumstances and needs of families with children, and policies should recognize, value and respond to this diversity. Four groups of families receive particular attention in the report — single parents, ethnic minority families, families with a disabled child and rural families.

(d) Employment policies

- (i) All countries, except the UK, have a general statutory maternity leave, though in most countries the period of post-natal leave is under 12 weeks. Six countries have some system of parental leave, though it is usually unpaid or paid at a low level, and take-up is almost entirely by women. No country offers entitlements that match those in Sweden, the most advanced country in this respect.
- (ii) There is no information on the extent of employment entitlements made by employers.

(e) Childcare policies

- (i) Three countries — France, Luxembourg and the Netherlands — offer some tax relief on parents' childcare costs.
- (ii) There are wide variations in the quantity of publicly-funded childcare services for children of all ages. Highest levels are in Denmark, France, Belgium and Italy; lowest levels in Ireland, the Netherlands and the UK. Denmark spends proportionately six times as much on services for children under five as does the UK.
- (iii) In no country does the supply of publicly-funded services meet need or demand. Provision is particularly inadequate for children under three and for out-of-school hours care for children at school.
- (iv) Inadequate attention has been paid, and inadequate resources invested, in defining, monitoring and improving quality.
- (v) There is a great incoherence and inconsistency between services, especially for children of different ages. Major areas of inconsistency include quantity of provision; the hours services are available; cost to parents; the orientation and purpose of services; and the pay, conditions and training of childcare workers.



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(vi) In several countries, there has been a movement to publicly-funded services for under-threes being considered a general service for all employed parents, and not just for low income or disadvantaged families. In several countries, too, these services have increasingly adopted an educational or pedagogic approach to their work with children.

(f) How children are cared for while their parents are at work

There is very inadequate information in this area. Such evidence as there is

suggests that the main form of care for children under three is by relatives, and that only in Denmark are a majority of children in this age-group cared for in publicly funded services.

(g) Workers in childcare services

Over three million people do paid childcare work in the Community — and nearly all are women. Overall, 'pay and conditions for childcare workers are barely adequate and, at worst, which applies to many workers, very poor'. There is a clear hierarchy among workers. The

worst pay and conditions and the lowest levels of training and status are among workers with children under three — and within this group, those who care for children in their own home or the child's home come off worst of all.

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In preparing the national reports, national representatives were asked to



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consult with organizations concerned with childcare and equal opportunities, to seek their views about current problems and proposals and priorities for change. The consolidated report summarizes the main points from these consultations, and the recommendations made by each national representative.

The Network argues, in the consolidated report, that the issue of childcare is so central to achieving equality, and that current provision and policies are so diverse and often so inadequate, that forceful action is required. It makes a number of recommendations. With the completion of national reports, and the submission of the consolidated report, the focus of the Network's activities now changes. National representatives are developing action projects in their own countries, while it is also hoped to initiate several cross-national pieces of work, including seminars and conferences. One possibility is a conference on the needs and rights of children, since the Network was agreed that this issue needs attention at a national and European level.

Although our work is changing direction, the Network's objective remains 'a Europe where the work and responsibility involved in childcare is properly valued and more equally distributed; where parents can reconcile family responsibilities and employment (or indeed any other area of public activity) in a way that is satisfying and does not involve disadvantage and inequality; and where children get the benefit of a range of positive and enhancing experiences — at home, in childcare services and in society at large'.

Lone-parent families in the European Community

Progress report of a research project funded by the Commission of the European Communities

In the medium-term Community programme 1986-90 'Equal opportunities for women' it is pointed out that a study will be made of courses of action to meet the specific needs of certain categories,¹ with a view to establishing Community guidelines.

This study has been prepared by Ms Jo Roll from the Family Policy Studies Centre in London, for the Commission.

The article reflects some developments, problems and differences between the Member States concerning this subject.

In many EC countries the number of lone-parent families has risen sharply in recent years. They have therefore become objects of attention within individual countries and this is reflected in the attention which is now being given to them at EC level.

However, EC interest in lone-parent families also has more specific origins. Back in 1979 and 1980, many of the national reports on poverty — prepared as part of the first EC anti-poverty programme — identified lone-parent families as one of the groups ranking high on the list of those threatened by poverty.

As a result, the EC Commission requested a special report on lone-parent families and poverty which was published in 1982 under the title, 'One-parent families and poverty in the EEC' and which is popularly known as the Friis Report (V/2541/1/82 EN).

Although the Friis Report managed to describe some common trends and estimated that about 10% of all families with children in the EC were lone-parent families, much of the data, which related to the mid, or even early, 1970s, is now out of date and, as the report pointed out, much of it was not comparable between countries. It therefore concluded that: 'investigation and research aimed at assembling further information about one-parent families in the EC must be regarded as an urgent task'.

One point which is clear from the most cursory examination of the international data on lone-parent families is that most of them are women — at a minimum about three quarters and in some countries about nine out of ten are women.

The European Parliament's Committee on Women's Rights has therefore also shown an interest in the situation of these families. In 1986, for example, it drew up a report (by Mrs Cinciari Rodano, A 2-230/35) which, among other things, confirmed the Friis findings about the lack of comparable statistics and the need for more information but also attributed much of the economic hardship of women and children in

these families to problems which could be solved through a policy guaranteeing all women equal opportunities.

Soon after the European Parliament passed a Resolution (OJ C 227, Vol. 29, 8 September 1986) which noted the report's findings and, in relation to studies and statistical surveys, called on the Commission to:

- (i) carry out a statistical survey at European level in order to produce a common definition of the one-parent family and standard criteria;
- (ii) draw up a comparative survey of different policies in Member States and to present, where possible, proposals for harmonization;
- (iii) arrive, on the basis of a common definition, at a view of the one-parent family from all aspects as a family unit and to put an end to existing forms of discrimination.

The EC Commission has now asked the Family Policy Studies Centre in London to update the facts about, and policies towards, lone-parent families which are contained in the Friis Report. This time, however, the aim is also to examine the findings within the framework of the EC programme on equal opportunities for women. Reports in response to our questionnaire have been received from national experts and are being processed. It is just too soon to summarize the final conclusions but some interesting findings are already emerging.

Not only the definition but also the term used for the families under study have been at issue. In some cases the arguments have been emotive and judgmental. Should they be called 'incomplete families' or 'families in transition' in order to highlight the distinction between them and the ideal of the two-parent family? In some cases (according to the Spanish report, for example) it has even been suggested that the term 'family' should not be used at all. However, it seems that the more emotive arguments are, in most countries, receding from pu-

¹ Supplement 3/86 — Bull. EC.



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blic debate, and many 'experts' are moving towards the use of the name 'lone-parent family' instead of the previously popular 'one-parent family'. This would reflect the composition of the group which, increasingly, and in most countries, is predominantly made up of divorced and separated families, where there are still two parents who are alive even if they are no longer living together.

The difficulties of counting the number of lone-parent families according to a common definition have been well and truly confirmed in the national reports of our study. The report from Belgium provides a very good example of the extent to which different definitions can alter the figures.

According to the Belgian census, lone-parent families make up 14.7% of all families with children. However, this definition includes:

- (a) 'all children' regardless of their age;
- (b) lone parents who are living with a partner 'as husband and wife' even though they are not legally married; and
- (c) those who live in the household of others.

Without at this stage passing judgment on which should be the correct definition, it is worth noting that the proportion falls to 12.3% if a definition excluding (b) and (c) is used, and falls still further to 6.3% if only 'financially depend-

ent children under 25' are included and the number is taken as a proportion of all households with dependent children from a different source.

In many countries the rise in the number of lone-parent families in recent years has been related to changes in the divorce laws. In some countries, e.g. the UK, divorce in some form has been possible for centuries but has been significantly liberalized in the last 10 or 20 years. In other countries, divorce has only very recently become possible at all, e.g. 1981 in Spain and 1970 in Italy. In Ireland divorce is still not possible.

Awareness of the issue, both in terms of statistics and in terms of poli-

cies to deal with the resulting situation, therefore varies a great deal. Other, but often related, factors also come into play, such as the ease with which women with children can find employment. In Spain, for example, married women were not allowed to take jobs without their husband's consent until 1970.

However, even in Denmark, where the proportion of lone parents has been high for many years, where childcare facilities are relatively plentiful and em-

ployment of women with children (including lone mothers) is very common — so much so that lone parents, on average, have a higher standard of living than single-earner couples with children — there is still concern about a small group of lone parents who cannot find employment and seem to be trapped into a demoralized and low-income situation.

It therefore seems that, in spite of variety, there are some common problems to which common solutions may

be possible. This is not to say that lone parenthood is of itself 'a problem'. Indeed, many people have chosen the situation in preference to another. And, although the findings of our study seem to confirm those of the Friis Report that many lone parents are at a financial disadvantage compared with couples with children, they also indicate that some types of lone parent are more disadvantaged than others and that many of their disadvantages are not specific to lone parents.

Free movement — Social protection and living conditions

Actions and guidelines

Twenty years of freedom of movement for workers within the Community

Introduction

On 8 November 1988 it will be just 20 years since the entry into force of the provisions of Council Regulation (EEC) 1612/68 of 15 October 1968 on freedom of movement for workers within the Community.¹

It is also 20 years since the implementation of Council Decision 68/359/EEC of 15 October 1968,² by the terms of which Articles 48 and 49 of the Treaty were also applied to French departments overseas.

As to Council Directive 68/360/EEC³ of the same date on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families, this entered into force, through its notification, on 16 October 1968, the Member States having nine months as from this date to translate the provisions into their national law.

Less than two years later, on 29 June 1970, the Commission was in turn to adopt Regulation (EEC) 1251/70⁴ on the right of workers to remain in the territory of a Member State after having been employed in that State; this Regulation entered into force on 20 July 1970.

This marked the completion of the legislative activities of the Community in the field of the freedom of movement of workers, so far as legislative work can ever really be considered as complete in the light of the ever-changing socio-economic nature of society.

Be that as it may, apart from a few additional initiatives in the 1970s, notably the adoption of Council Regulation (EEC) 312/76 of 9 February 1976⁵ extending equal treatment regarding trade-union rights to access to administrative or managerial posts within a trade-union organization and Directive 77/486/EEC concerning the education of the children of migrant workers, the objectives of Article 48 of

the Treaty had been achieved at the legal level.

This body of provisions of Community law, which also includes provisions concerning the coordination of special measures in the matter of the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health, already adopted in 1964 by the Council and extended in 1972 to the beneficiaries of the aforementioned Regulation concerning the right of residence, giving rise respectively to Directives 64/221/EEC⁶ and 72/194/EEC,⁷ fixes the scope of the exercise of one of the fundamental rights which the Treaty grants to nationals of Member States and marks the culmination of a process for the 'freedom of movement of labour' to use the common expression of 30 years ago, but which is used less in the current economic climate, the accent today being rather on individual rights granted to Community workers rather than the mass movement of these workers. It is due to the essentially operational character of the provisions in question that the organization and cooperation between the national employment services and the implementation of machinery likely to achieve a balance between supply and demand in the employment market will not be considered in this article.

Three fields of action can in fact be distinguished within a system of freedom of movement such as that envisaged by the authors of the Treaty, i. e.

- (i) all the fields where equal treatment should be the rule, i. e. where it is forbidden to discriminate between workers on the basis of nationality;
- (ii) the abolition of provisions, procedures and regulatory and administrative practices which are incompatible with freedom

of movement and which would render such equal treatment inapplicable;

- (iii) cooperation between national employment services as freedom of movement constitutes a new factor for employment market policies, the Community dimension of which is destined to assume increasing importance.

Finally, we will not consider the transitional measures adopted at the time of additions to the EC in 1973 and 1981, nor those in force until 1993, (1995 in the case of the Grand Duchy of Luxembourg) owing to the entry of Spain and Portugal, nor again the implications of the completion of the internal market.

¹ OJ L 257, 19. 10. 1968.

² OJ L 142, 30. 6. 1970.

³ OJ L 257, 19. 10. 1968.

⁴ OJ L 142, 30. 6. 1970.

⁵ OJ L 39, 14. 2. 1976.

⁶ OJ L 56, 4. 4. 1964.

⁷ OJ L 121, 26. 5. 1972.

Historical context and content of freedom of movement within the Community

In order to understand the major concern of the authors of the Treaty of Rome in this field, that is, to abolish barriers to freedom of access to employment and the exercise of such employment, without causing upheavals on the employment markets, it is worthwhile remembering the historical and legal contexts of the period.

In the aftermath of the Second World War, leaving aside considerations of a purely political nature, the need to rebuild Europe and set the national economies back on their feet resulted in various initiatives designed to remove the barriers erected between the wars.

On the one hand, we saw the birth of the Benelux Regional Union, and in 1948 the European Organization for Economic Cooperation, which in 1960 was to become the Organization for Economic Cooperation and Development (OECD); while at the same time the Scandinavian countries established closer links in the framework of the Northern Union and, in 1952, the first truly Community supra-national was born with the signing of the ECSC Treaty.

All these initiatives included measures in the field of liberalizing freedom of movement for the labour force and the Benelux, Northern and ECSC Treaties all made provisions for setting up a system for freedom of movement.

Also, the action of the OECD had made it possible to significantly reduce, in favour of nationals of the member countries of this organization, restrictions on the employment of foreign labour, this being the subject of national legislation.

Having assigned to the European Economic Community the task of promoting, notably by setting up a common

market, 'a harmonious development of economic activities, a continuous and balanced expansion, an increasing stability and closer relations between the States belonging to it' the authors had instilled three basic freedoms at the very root of this Community, i. e.

- (i) the free movement of persons, including freedom of access to economic activities whether as a self-employed person or as an employee;
- (ii) the free movement of goods;
- (iii) the free movement of capital.

On the basis of the partial achievements as indicated above, and considering that the free movement of workers amounted to little more than a policy of *laissez-faire, laissez-aller* which in a time of crisis, such as experienced during the 1930s, leads to a closing off of labour markets such as is incompatible with a common market on a European scale, they passed provisions whose implementation was designed to progressively lead to the introduction of the present system of freedom of movement.

They were very clear: 'Freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment' (Article 48(2)).

In other terms, they specified that it includes the right:

- (i) to accept offers of employment actually made;
- (ii) to move freely within the territory of the Member States for this purpose;
- (iii) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
- (iv) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in implementing regulations to be drawn up by the Commission.

An exception to the free movement of workers was made in the case of one category of workers, namely public-service workers.

Furthermore, restrictions on exercising these rights could only be applied for reasons of public policy, public security and public health.

This brief recap of the provisions of the Treaty makes it possible to stress the dual dimension of freedom of movement within the Community as envisaged by the authors of the Treaty. It is understandable that in a treaty establishing an economic community economic considerations were of prime importance, namely, to allow the most rational distribution of labour as a production factor at the economic level.

Yet, the obligation to treat these workers on an equal footing with nationals necessarily introduces a social dimension; this social dimension is also apparent to the extent that, owing to the freedom of movement, the workers concerned, for whom there are insufficient job opportunities in their region of origin, are not prevented from going to work in a region of their choice within the Community.

Finally, while the Treaty of Rome remains silent on this subject, the Community institutions, and first and foremost the Commission in close cooperation with the European Parliament, were concerned right from the very start, when the measures were adopted for implementing the principles of the Treaty, with the family life of the worker. It is not in fact possible to claim that a worker enjoys equal treatment if he cannot live with his family under one roof in just the same way as a national worker. In this way an important human dimension was added to the notion of the free movement of workers.

The implementation of the provisions of the Treaty

In three successive stages, from November 1961 to November 1968, i.e. over a seven-year period, while the Treaty in principle envisaged a transitional period of 12 years, the Community achieved the fundamental objectives as set down in the Treaty.

As it would be rather tiresome to list in detail all the provisions adapted for each of these stages, we will restrict ourselves to a summary of the principal provisions, raising certain problems on which opinions differed widely right from the start and sometimes until as late as 1968.

An initial stage, from 1961 to 1964, consisted of consolidating the partial progress made before the birth of the Community itself and to which reference was made above; the philosophy at the basis of these initial measures was as follows: to progressively remove systems affording priority to national workers. In other words, the national authorities were authorized to subject the hiring of workers from other Member States to the situation on their employment market; a number of exceptions had, however, already been introduced, particularly in the case of nominative offers of employment. The periods required for obtaining work permits were also reduced and became binding. These provisions were accompanied by other provisions bringing a clear improvement and extension of the principle of equal treatment.

The reversal of the situation regarding the application of national priority, it becoming the exception rather than the rule, governed the measures adopted for the second stage, (1964-68), also paving the way for the final stage. As from the second stage the right of all workers from the Member States to exercise the activity of their choice within the Community was confirmed, the na-

tional authorities having the right, however, provided they respected certain procedures, to suspend this right in a particular region or for a particular activity in cases of a surplus of labour or if the balance on the employment market was at risk. Furthermore, States which wanted to exercise this right had to justify the measure. Considering the prevailing economic climate which was characterized by a labour shortage, it is hardly surprising that the Member States made only limited use of this dispensation. It is worth remembering that Germany didn't even use it during the recession which it experienced in 1967.

It is in such a context that we also witnessed the rapid completion of the customs union. This brings us to the third stage, that is, the entry into force of the provisions which apply today.

The system as it applies today

An initial observation must be made. Although it may be claimed that the legislative work which shaped free movement within the Community as we know it had been virtually completed 20 years ago, one should be aware of the important impact on its actual application of the jurisprudence of the Court of Justice of the European Communities, mainly as regards the prejudicial interpretation of the provisions of Article 48 of the Treaty, directly applicable since the end of the transitional period, and derived law. This jurisprudence has expressed, since the very first Decisions, the constant concern of the Court to give the notion of free movement as complete a content as possible as a basic subjective right.

The brief review of the provisions will first of all relate to equal treatment and subsequently provisions concerning freedom of movement.

Equal treatment

All Community workers have the right, on the territory of a Member State, to take up gainful employment and to exercise it in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action. This implies

- (i) the abolition of priority for the employment of nationals;
- (ii) the right to be employed without prior intervention and authorization from the employment services, unless the national worker is subject to such a procedure. But when the provisions of this measure are designed for the sole or principal purpose of preventing non-national workers from taking up available employment it may not be applied to workers of other Member States;
- (iii) the same priority for employment *vis-à-vis* non-Community workers as enjoyed by nationals;
- (iv) the non-application of national provisions governing the employment of foreign workers and the abolition of work permits;
- (v) the assistance of the employment services in seeking employment;¹
- (vi) the enjoyment of the benefits of collective agreements and the same conditions of work and employment, in particular as regards wages, redundancy, measures for professional reintegration and re-employment in case of unemployment;
- (viii) the enjoyment of the same social and tax benefits, even if these benefits are not linked to employment or if the beneficiary is a member of the worker's family, living with him in accordance with the Community provisions. In effect, the Court of Justice has repeatedly declared that the result of the objective of equal treatment sought by the provisions concerning the free movement of work-

¹ See below the paragraph devoted to notions of 'offers of employment actually made' and 'workers (nationals) of Member States'.

ers is that the notion of social benefit includes 'all the benefits which, whether linked to an employment contract or not, are generally granted to national workers, due mainly to their objective status as workers or the simple fact of residing in the national territory, and the extension of which to include nationals of other Member States consequently appears as likely to facilitate their mobility within the Community'.

The few examples given below and based on this jurisprudence illustrate the real import of this principle; social benefits are taken to include the right to social assistance, the right of the worker's ascendants to a guaranteed income for elderly people, the granting of free State loans for demographic reasons at the time of a birth, and a grant to study at a university, where there is a relationship between the worker's previous activity and the studies undertaken.

- (a) Access to professional schools and readaptation or re-education centres;
- (b) the exercise of the same trade-union rights, particularly as regards membership, access to administrative and managerial posts within a trade-union organization, the right to vote and, as regards workers' representation within the company, to be elected. The exercise of this right does not include participation in the management of bodies governed by public law or the exercise of a position governed by public law;
- (c) access to housing and ownership in the same way as nationals, together with the benefits provided for in this field by the national legislations.

This equal treatment would include a serious weakness if the Community provisions had not taken into account the situation as regards the workers' families. That is why the right of a family to live together under one roof was also introduced for the benefit of descendants aged under 21 or dependent, and also dependent ascendants provided the worker has normal housing. In order to

avoid this final condition resulting in arbitrary refusals of permission for a family to live together under one roof, it was specified that the application of this provision may not lead to discrimination; in other words, if the worker's housing does not correspond to the standards determined for the national worker, he must enjoy the same assistance as a national worker is entitled to in order to be properly housed.

Finally, granting the right for a family to live together under one roof in turn raises the question of the education of the children. They too must be admitted to general education, apprenticeships and vocational training in the same way as children of national workers. It should be noted in this respect that by virtue of the jurisprudence of the Court equal treatment in this field covers study grants and that university studies which lead to a professional activity are included in the notion of vocational training.

Freedom of movement

The exercise of the rights listed above would have gone largely unheeded if the national authorities had maintained their discretionary power to restrict or subject to unilaterally determined restrictive and costly procedures the movement, access to the territory and residence of the Community workers. The Member States therefore applied Community provisions and adopted the appropriate measures in such a way as to

- (i) recognize the right of their own nationals to leave the national territory on presentation of an identity card or a valid passport;
- (ii) allow nationals of other Member States to enter their territory in order to take up employment or as members of a worker's family, on presentation of one of the above documents;
- (iii) recognize their right of residence: for this purpose they issue them with an 'EEC national residence permit' once they have ascertained that the object of their presence is to carry out gain-

ful employment or form part of a family group. For this purpose the authorities must accept the presentation of a declaration of hiring or a certificate of employment from the employer and, as regards members of the family, a document establishing the family relationship and, if applicable, their dependency upon the worker.

The right of residence is therefore conferred directly by the Community provisions and not, as is the case for foreigners in general, by a discretionary decision of the authorities in the host country; these authorities restrict themselves to confirming that the person concerned is exercising this right in accordance with the Community provisions by issuing a residence permit which is of an exclusively declaratory value. The result is that failure to respect the administrative formalities in this respect cannot lead to expulsion from the territory or an infringement of liberty, but to penalties in proportion to the seriousness of the fault.

The residence permit must include a statement that it is issued in application of the Community provisions and that the holder is entitled to take up gainful employment according to the same conditions as a national worker. Furthermore, the need to complete the administrative formalities for the issue of such a permit may not present an obstacle to the signing of employment contracts. It is valid for the territory as a whole and for a period of five years, unless it relates to a job which is not expected to last for more than a year. Furthermore, the card is automatically renewable and its validity is not affected by temporary inability to work or involuntary unemployment.

Reservations for public policy, public security and public health

The only grounds for refusing the entry and residence of a Community worker which may be invoked by the national authorities are public policy, public security and public health.

However, while here it is a question of notions which are generally inter-

preted and applied in accordance with the sovereignty of the Member States alone, their application must, in the framework of the freedom of movement of workers, be appreciated with regard to the total body of EC law; in other words, the discretionary assessment by the national authorities and the application of the measures concerned are restricted by EC law.

In this way a restrictive list limits the application of the public health reservation to the time of entry to the territory and the Community worker may not, after having entered the country, be expelled for reasons of public health.

As to reasons of public policy leading to refused entry and residence or expulsion from the territory, these may not be invoked for economic reasons and must be based exclusively on the personal behaviour of the individual concerned; furthermore, the fact of having been convicted of a criminal offence may not automatically lead to such measures.

In the light of the jurisprudence of the Court, these limits to the discretionary power of the national authorities mean in particular that, although in the field of measures concerning the residence of foreigners, equal treatment is not of the same importance and is not as far-reaching as in the field of living conditions, the measures in question may not be taken for reasons other than those which are contrary to the maintenance of public policy.

As a consequence, public policy measures could not be taken, for example, in order to infringe upon the exercise of social rights guaranteed by the Community provisions or of recognized fundamental rights. Furthermore, a decision to expel a person from the territory may not be taken as a means of dissuading other foreigners, that is, with a view to 'general prevention'.

Furthermore, a measure for expulsion from the territory or any other restriction on the freedom of movement of persons for reasons of public policy is only justified in so far as the behaviour of the individual concerned leads one to

suppose 'apart from trouble to the social order such as is presented by any breaking of the law, the existence of a real threat of sufficient gravity to affect a fundamental interest of the society' and, taking into account that the fact of having been convicted of criminal offences may not automatically provide grounds for taking such measures, 'the existence of criminal offences may only be taken into account insofar as the circumstances which gave rise to these offences reveal personal behaviour constituting a "present" threat to public policy'.

This does not, however, exclude the possibility that, in exceptional circumstances, past behaviour will be taken into account as constituting a present threat, particularly if this past behaviour suggests the existence of the tendency on the part of the individual to maintain such behaviour in the future. Furthermore, the fact alone of past behaviour may constitute the conditions for a present threat to public order.

Finally, measures of this kind may not be taken against a Community worker owing to his behaviour unless, in cases when a citizen of the State in question is involved, the national authorities take repressive measures or other real and effective measures designed to combat this behaviour or unless the assessment of such behaviour as anti-social is clearly evident from the legislation of the State in question and the measures taken to combat it, this implying that the measures taken do not necessarily have to be of a penal nature.

Of course, in the framework of these limitations based on jurisprudence, the national authorities reserve their right to assess the situation at hand and may take measures against nationals of other Member States which they could not take against their own nationals (e.g. refused entry to the national territory).

Right of residence

Neither freedom of movement nor equal treatment compared with national workers may be considered as com-

plete if the Community worker is obliged to leave the country where he was employed when he definitively ceases gainful employment. Provisions have therefore been made to ensure that, provided certain conditions regarding duration of employment and residence are satisfied, he and his family are entitled to reside permanently in the country concerned

- (a) on reaching retirement age; or
- (b) owing to a permanent inability to work.

Furthermore, the members of his family are entitled to reside permanently in the country following the death of the worker, even if the death occurs in the course of his professional life; in which case the worker must, however, have been permanently resident in the country for at least two years, unless death is due to an occupational accident or disease.

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* * *

In addition to the conditions explained in the preceding paragraphs it is also worthwhile stopping to consider the origin of certain fundamental provisions in force today and to draw attention either to developments in the interpretation of certain notions over the last 20 years or to the sometimes fundamental divergences which have had to be brought into line in order to achieve a consensus within the Council, as although the adoption of provisions concerning freedom of movement required only a simple majority before the entry into force of the Single Act, all the instruments have always been passed with a unanimous vote.

In doing so we will limit our frame of reference to the following principles:

- (i) priority of employment for the Community labour force;
- (ii) offers of employment actually made and workers from the Member States;
- (iii) exception for employment in public service;

- (iv) the exercise of trade-union rights and eligibility for election to bodies of workers' representation.

Priority of employment for Community workers

Priority of employment for Community workers is a subject which fuelled debate right from the time of the very first measures on freedom of movement (1961). While the Commission was initially in favour of a clause inspired by the rule of the most-favoured nation to be applied in favour of the Community labour force, the categoric refusal of the Member States on this subject led it to suggest the application of the principle of priority for the employment of Community workers compared with workers from third countries. Here, too, it encountered strong opposition from employers and certain Member States which feared that they were dependent in their hiring and employment policies on the Italian labour force (the sole major source of Community labour among the six Member States). The opposition was so strong that two sessions of the Council were needed to reach a consensus. One Member State considered in fact that this question went beyond the domain of freedom of movement as such and that the Member States and employers should be able to choose the labour force which was most appropriate, even if it came from outside the Community. The Commission did not believe this was the correct approach as all the Member States at the time applied the rule of 'national priority' and believed that the employer did not have to be free to choose between Community labour and extra-Community labour when, on the basis of national regulations, he could only use non-national labour, whether Community or extra-Community, with the approval of the national authorities, that is, if the national labour market was not able to provide the appropriate labour. For the Commission it was a question of extending this principle to workers from the other Member States.

While a compromise solution was found in the sense that the Member

States undertook to 'endeavour' to give priority to the labour force from the Member States when filling employment vacancies, the drawing up of the provisions for the second stage (1964) allowed the matter to be finally settled. All the Member States accepted the thesis of the Commission which we find in the preamble to Council Regulation (EEC) 1612/68 of 1968, that is 'that the principle of non-discrimination between workers from the Community implies that all the nationals of the Member States are granted the same priority for employment as the nationals of the State in question'. The application of this principle was to take practical form in the implementation of information procedures common to the employment services of the various Member States relating to outstanding vacancies and applications for employment. These procedures entered into force by means of a Commission Decision of 1972, rendering operational the Sedoc system — European system for the international clearing of vacancies and applications for employment.

'Offers of employment actually made' and the 'workers of the Member States'

Any careful reader of Articles 48 and 49 of the Treaty and the provisions taken with a view to their application will have noticed the absence of a definition of these notions which appear in the Treaty and that the provisions which apply at present use two terms, i.e. 'nationals of Member States' and 'worker who is a national of a Member State'.

As regards the notion of offers of employment actually made, the Commission has been opposed right from the start to any explicit definition, considering that it was a notion which would evolve with the progressive opening up of access to employment. On the other hand, certain Member States were in favour of a limiting definition to the effect that offers of employment actually made should concern 'any employment where a vacancy has actually been recorded by the employment services'. Without explicitly adopting this definition

but taking into account the progressivity to be respected in the process of liberalization so as not to perturb employment markets, the provisions adopted in 1961 implicitly espoused this approach in the fact that the worker had to be issued with a work permit from the employment service if the job vacancy had not been able to be filled within a precise period of three weeks. In 1964 this procedure was abolished except for offers in sectors where there was a recognized surplus and the provisions which have applied since 1968, in recognizing the right of every national of a Member State to take up gainful employment in the territory of another Member State, in accordance with the provisions governing the employment of nationals of that State laid down by regulations or administrative actions, eliminate the obligatory intervention of the employment services (unless it is imposed on nationals and even in such a case it would be necessary to examine whether such a procedure would not serve mainly to dissuade nationals of other Member States from taking up jobs offered, in which case it would amount to concealed discrimination incompatible with EC law).

Employment actually offered should therefore be considered as any employment vacancy existing on the labour market of a Member State of which one is aware either by virtue of the employment services, the media or individual prospection or search, etc.

Closely related to this notion is the question as to who are 'the workers of Member States' to which the Treaty refers. From the application provisions it clearly appears that this notion does not cover non-Community workers, except in cases where they enjoy free access to employment in the Member State or residence as members of the family living under one roof with the Community worker.

But at what point should a national of a Member State be considered as a worker in the territory of another Member State? Immediately after he declares that he is 'seeking work' or after signing an employment contract? As regards residence, the situation is quite clear;

the right of residence is acquired and the residence permit is issued on presentation 'of a declaration from the employer or a certificate of employment'. Furthermore, in a declaration attached to the minutes of the session of the Council, the Council states that nationals of a Member State who travel to another Member State to seek employment have a period of three months in which to do so after which time their residence may be terminated if they have not found work. Furthermore, they may be asked to leave the territory if during this period they become dependent upon public funds (social assistance).

Similarly, reference should be made to the jurisprudence of the Court in the matter of equal treatment. Nationals of other Member States who move to another country in search of employment do not enjoy equality of treatment as regards social and fiscal benefits in the territory of the Member States. In other words, equal treatment in this area is only of benefit to a worker and members of his family living with him.

On the other hand, as a 'person seeking work' the nationals of Member States benefit from the assistance of the employment services in seeking employment in the same way as citizens of the country concerned.

The notion of 'worker from a Member State' must be considered as a notion stemming from EC law and not national regulations if the interpretation and application of the Community provisions are to be uniform throughout the Community territory. The Court's jurisprudence demonstrates that this notion must be interpreted in an extensive manner and defined in accordance with objective criteria which determine the work relationship and that a worker must also be taken to include the national of a Member State who undertakes gainful employment in another Member State for which he receives an income which is below the minimum income in force in the Member State, such a worker consequently also benefiting from Community provisions and the right of residence; in this respect it is irrelevant whether his income is supple-

mented by other resources, including assistance from public funds, as long as he exercises real and effective gainful employment, even on a part-time basis. Furthermore, the reasons for which the interested party exercises this activity are also irrelevant provided it is an activity which is actually exercised.

Finally, even in the sector of employment in the public service which, as we will see below, may under certain conditions constitute an exception to the freedom of movement of workers, the Community understanding of the notion of worker may be of relevance. If, for example, it is established that a trainee teacher in the public service is, throughout the training period, in a situation characterized by the performance of services for a remuneration under the management and supervision of the educational establishment to which he is attached, he must be considered as a worker under EC law, regardless of the legal nature of the relationship of employment (private or public, contractual or statutory). Furthermore, the training period cannot be considered as a job in the public service to which the provisions for freedom of movement do not apply.

The exception of employment in the public service

This reference to the trainee teacher brings us to the question of the scope of the exception which the Treaty of Rome explicitly provided to the freedom of movement of workers, that is, its non-application to jobs in the public service.

It was not until more than 10 years after the initial application of the provisions of Regulation (EEC) 1612/68 that the Court of Justice was called upon to rule on the scope of this exception. It had already indicated that, notwithstanding this exception, the fact that a worker from a Member State is employed in the public service of another Member State implies that, independently of his status, the person concerned can benefit from equal treatment with his colleagues who are nationals of the Member State in question.

Called upon to rule on the conditions of nationality required of candidates for a certain number of jobs in the public service, the Court decided that, in a similar way to notions of public policy and public security, the notion of employment in the administration could not be left entirely to the discretion of the Member States and that EC law imposes certain limits.

As the right to freedom of movement is a fundamental right to be exercised as fully as possible, any restriction on this right must be interpreted in a limitative way and must not have a consequence which would exceed the objective with a view to which the exception was provided. Also, to avoid the exception being extended to jobs which, while coming under the control of the State or other bodies governed by public law, do not present any competition to tasks exercised by the public service as such, so that a considerable number of jobs would be exempt from the application of the Treaty, and to avoid inequalities between Member States being created as a consequence of the organization of the State, the Court adopted the following criteria in order to limit the exception. The application of the freedom of movement does not cover jobs 'which involve the participation, whether direct or indirect, in exercising public power and jobs which are designed to safeguard the general interests of the State or other public bodies'.

Supported by this interpretation, the Commission has decided to ensure that it is applied pragmatically and systematically. Rather than proposing restrictive legislative instruments it intends to act in those sectors where the jobs only scarcely or exceptionally comply with the criteria accepted by the Court; in an initial stage its action will affect four sectors, that is:

- (i) the operational services of public health;
- (ii) teaching in public institutions (teaching in private institutions being, by their very definition, outside the scope of the exception);
- (iii) scientific research for civil purposes in public establishments;

(iv) bodies responsible for managing and a commercial service such as public transport, communications and energy distribution.

The Commission intends to conduct its action in close cooperation with the Member States. It hopes that the results of this pragmatic approach will make it possible to subsequently broaden the application of the exception and base it on concrete and precise rules.

The exercise of trade-union rights

Although the principle of equal treatment as regards trade-union rights was established back in 1961, it was not until 1976 that this equality was largely achieved.

It was in fact only in 1964 that the Community provisions introduced the right of the Community worker to be elected to bodies of workers' representation within a company on condition that he had been employed by the same company for at least three years.¹

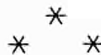
In 1968, this condition was abolished and eligibility at this level was acquired according to the same conditions as those which applied to nationals.

There remained the matter of involvement in the administering and management of a trade union, occupying a position governed by public law and participation in the management of a public body.

It was not until 1976 that some of these rights were granted; in effect, a regulation modifying Article 8 of Regulation (EEC) 1612/68 extended equal treatment to access to posts in the administration and management of a trade-union organization.

On the other hand, occupying a post governed by public law and participation in the management of a public body can still be reserved for nationals of the Member State concerned. Although this situation is part of the line of conduct laid down by the Court of Justice with regard to access to jobs in the public sector, one must nevertheless conclude

that this option on the part of the Member States to exclude workers from other Member States from jobs in the public service is a serious handicap for the Community worker who wants to play a active role in his trade-union organization and threatens to become an anachronism if, in the framework of a people's Europe, the proposals of the Commission concerning the right to vote and eligibility to stand in municipal elections were to be ratified by the Council.



This analysis of the system of freedom of movement for workers as it has existed for the last 20 years shows that, although it is to the advantage of the worker and serves to abolish a number of legal inequalities, it is nevertheless true that its application has revealed its imperfections which have, to a large extent, been remedied by the jurisprudence of the Court. Which is not to say that certain weaknesses do not still exist.

The Commission has therefore decided to revise certain provisions, not only in order to make up for these weaknesses, but also to adapt the system to the wealth of jurisprudence of the Court and to take into account both the socio-economic changes of the last two decades and hoped for developments on the completion of the single market and the realization of a citizen's Europe.

This revision will focus on

- (a) extending the right of a family to live together under one roof in order to include more members of the family;
- (b) extending equal treatment to other fields and a wider and innovative interpretation of its application in the framework of the large market of European employment;
- (c) granting the right of permanent residence to the very large number of workers who are at present employed in a precarious or intermittent manner;

(d) improving the right of residence for workers who are involuntarily unemployed.

Another field for action is the mutual recognition of professional qualifications. Even the very best legal system for freedom of movement will remain largely ineffective for any worker who cannot use his qualification as it is not recognized in the country where he wants to work.

Several measures have already been taken and this obstacle has been eliminated in the case of exercising a professional activity in the framework of an employment contract in the liberal professions where such recognition has been obtained; these are mainly the medical and paramedical professions, and the profession of architect, to quote just the most important. A new important step was taken in this field in June 1988 when the Council passed at first reading the provisions designed to install an overall system for the recognition of diplomas and other certificates confirming higher educational studies of at least three years.

Furthermore, on the basis of a decision by the Council of 16 July 1985, the Commission is developing, in cooperation with the Member States and for a certain number of professional activities, a 'correlation of vocational training qualifications'. The result should be that any worker having achieved a recognized level of qualification will be issued with a 'card of European vocational training' establishing such a qualification.

Taking into account the work of Sisyphus which represents the establishment of the correspondence of qualifications for innumerable activities exercised in the framework of a work relationship, general rules for the recognition of qualifications obtained should be established on the basis of the afore-

¹ The eligibility of foreign workers was the subject of heterogeneous provisions in certain national legislations, while others did not recognize such rights.

mentioned provisions concerning the general recognition of certificates of higher education. Moreover, the fact that this approach was proposed by the

Commission with reference to the field of higher education was a reaction to the slowness with which the individual Directives were adopted in the case of

the liberal professions and the delay compared with the deadlines set.

Jacques Werquin

The scope of Article 48(4) of the EEC Treaty and the means of action by the Commission of the European Communities on the basis of the jurisprudence of the Court of Justice

Introduction

First part

1. Article 48 of the EEC Treaty and paragraph 4
2. The jurisprudence of the Court of Justice on the scope and limits of the exception established by Article 48(4) of the Treaty
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Conclusion

Introduction

The first part of this article will attempt to analyse the main thrust of the jurisprudence of the Court of Justice of the European Communities as regards the application of Article 48(4) concerning the conditions of access to employment in the public service of the Member States.

The arguments, functional and institutional — the first promoted by the Court of Justice, the second defended by the Member States — are also examined in juxtaposition.

The second part is devoted to the action decided by the Commission in December 1987 in order to give a correct application of both the provision in question and the jurisprudence of the Court of Justice.

First part

1. Article 48 of the EEC Treaty and paragraph 4

The first two paragraphs of Article 48 of the EEC Treaty establish the notion of freedom of movement for workers. A corollary of this freedom is the right of workers, nationals of a Member State, to take up offers of jobs on the territory of another Member State under the same conditions as enjoyed by nationals of the latter State. In so doing they should also enjoy the same conditions of work and employment, that is, the same legal and economic status.

Paragraphs 3 and 4 of Article 48 set the limits to the exercise of this freedom. Paragraph 3 determines the reservations or clauses (limitations for public policy, public safety, public health) which each Member State may, if necessary, invoke as a reason for limiting the exercise of this right.

Paragraph 4 provides for an exception to the rule of equal treatment regarding access to employment among Community workers. This exception recognizes the right of Member States to exclude jobs in the public service from the practical field of application of Article 48. In other words, Community workers who want to work in another Member State may be legitimately refused access to jobs in the public service of this State in cases where they are reserved by law to nationals.

2. The jurisprudence of the Court of Justice on the scope and limits of the exception established by Article 48(4) of the Treaty

2.1. Ruling in a prejudicial action in 1973 (judgment of 12 February 1974 in Case 152/73 — *G. M. Sotgiu v Deutsche Bundespost*¹), the Court of Justice commenced an initial analysis of the scope of the exception to equal treatment among

Community workers as regards access to employment, provided for by Article 48(4).

An initial principle established by the Court concerns the fact that this exception, as an exception to a fundamental liberty of the Treaty, should be the subject of a restrictive interpretation on the part of the Member States. The Member States may not invoke it as a means of arbitrarily limiting the exercise of freedom of movement on the part of Community workers. In other words, the application of this exception must not create obstacles to the exercise of a right conferred directly by the Treaty upon all Community nationals.

Furthermore, the Court has emphasized that the Member States may only reserve for nationals access to jobs pertaining to 'certain activities in the public service'. Here the Court draws an initial distinction between activities in the public service which may be subject to Article 48(4) and other activities which, while nonetheless being in the public service, are subject to the principle of equal treatment as regards access to employment, as the exception in question may not be legitimately invoked.

The coherence of the jurisprudential approach as regards the interpretation of Article 48(4), between this first judgment in 1973 and subsequent judgments from the 1980s should be noted in this respect. The first judgments in fact constitute the logical follow-up to the initial stance adopted in the *Sotgiu* case. In this case, the Court testified to the need to distinguish between activities in the public service covered by the exception and activities in the public service to which the exception may not be applied, without explaining the hermeneutic criteria upon which its assessment was founded.

It was only in subsequent cases, in particular the judgments of 17 December 1980 and 26 May 1982 (Case 149/79) that the Court clarified the criteria for the interpretation of Article 48(4) required in order to delimit the jobs subject to the exception in question.

Furthermore, in the *Sotgiu* judgment, the Court affirmed that the nature of the

corporate body employer or the legal nature of the work relationship with the public service is not in itself alone a criterion for establishing the legitimacy of applying the exception in question.

In other words, the fact that the employer is a corporate body in public law or that public law governed the conditions of work and employment does not mean that the job in question is subject to the exception to Article 48(4).

Finally, it is evident that, since 1974, the Court has already exercised its choice in favour of the functional argument in order to interpret and apply the exception in question in accordance with Community law.

2.2. The *Reyners*² judgment (prejudicial Case 2/74 — *Reyners v Belgian State*) concerns the interpretation of Article 55(1). The provisions of this Chapter shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority. The Court specified in this case that this exception must be limited to activities which 'constitute active and specific participation in the exercise of public authority'.

This judgment obviously constitutes an attempt to be more specific compared with the *Sotgiu* judgment. In the earlier case reference had only been made to 'certain activities in the public service' without specifying which or even the criteria for defining them. The *Reyners* judgment provides us with the initial elements for arriving at an interpretation of the exception to freedom of movement, even if it does relate to freedom to provide a service. Once again the element of 'participation in public authority' is present, this being synonymous with 'participation in the exercise of public power', terms which reappear in the judgment in Case 149/79, concerning jobs for salaried workers.

The functional criterion is here defined for the first time. The Court places

¹ Judgment of 12. 2. 1974 [1974] ECR 153.

² Judgment of 21. 12. 1973 [1974] ECR 631.

activities which imply participation, even occasionally, in the exercise of public authority/power outside the practical field of application of the principle of equal treatment between Community nationals who exercise the freedom of movement of persons.

2.3. Finally, the two judgments of 17 December 1980 and of 26 May 1982 in Case 149/79¹ (*Commission v Belgium*) definitively establish the use of the functional criterion for the interpretation of the provision of Article 48(4).

The limits to the exception must be applied exclusively on the basis of the nature of the tasks relating to each particular job in the public service.

In the judgment of 17 December 1980 the Court emphasizes that the Member States may apply the exception in question exclusively to jobs '... which include participation, whether direct or indirect, in the exercise of public power and to functions which serve to safeguard the general interests of the State or other public bodies', because only '... such jobs suppose on the part of their holders the existence of a special relationship of solidarity with regard to the State as well as a reciprocity of rights and obligations which are the basis of a relationship of nationality'.

Furthermore, these jobs are 'characteristic of specific activities of public service insofar as it is invested with the exercise of public power and responsibility for safeguarding the general interests of the State'.

Finally, it specifies that 'the delimitation of the notion of public service' in the sense of Article 48(4) cannot be left to the total discretion of the Member States. The unity, effectiveness and useful effect of the scope of the rules of freedom of movement may not be limited or infringed upon by unilateral interpretations on the part of Member States which could hinder the exercise of Community rights.

The confirmation of this interpretation appears in the judgment of 26 May 1982, which provides a definition of those jobs which come under the authority of Article 48(4) by virtue of the fact

that they have 'a relationship with specific activities of the public service insofar as it is invested with the exercise of public power and responsibility for safeguarding the general interests of the State, among which should be included interests pertaining to public bodies such as local government'.

The choice of the functional criterion for the application of the exception in question as against the institutional or organic criterion, which is defended by certain Member States, is therefore definitively made. However, the Member States may not exclude nationals of other Member States from certain jobs simply by invoking the public nature of such jobs. They must consider exclusively the nature of the tasks and of the related responsibilities.

2.4. In the judgments in Cases 307/84² (*Commission v France*), 66/85³ (*Lawrie-Blum v Land Baden-Württemberg*), 225/85⁴ (*Commission v Italy*), the Court provides us with specific applications of the criteria mentioned above. In Case 307/84 it stated that by reserving the appointment to and holding of permanent jobs as nurses in public hospitals to nationals, the French Republic was not respecting the obligations conferred upon it under Article 8 of the Treaty.

Quite clearly the tasks usually performed by nurses do not imply the exercise of public authority with regard to individual persons or the safeguard of the general interests of the State or other public bodies. The general care administered in a hospital is more a matter of operational services which are provided, without any distinction whatsoever, at the same time and under the same working conditions, by both private and public establishments. It is curious to say the least that access to jobs in private hospitals is subject to no conditions of nationality while such conditions are imposed in the case of the same jobs in public hospitals, the nature of the activities carried out by the staff not being taken into account.

In prejudicial Case 66/85 the subject of the dispute was more delicate, concerning access to the job of trainee teacher in German public schools.

These jobs are held by civil servants who, by the terms of the national legislation, may only be German nationals as defined in the organic law of the Federal Republic of Germany.

The German position is clear-cut. Teaching is organized by a body corporate governed by public law, teaching jobs depend upon this body and are normally exercised by State or *Länder* civil servants. A teacher who does not hold German nationality may not be appointed as a civil servant in German public teaching. On the other hand, a foreign teacher, including a national of another Member State, may be employed in public teaching organized by the Federal State or the *Länder* on the basis of an employment contract governed by private law. Consequently, a Community teacher would be subject to a legal and economic status at a lower level than that which is normally conferred upon German civil servants.

The Federal Republic of Germany defended its right to reserve teaching jobs in German State schools for its own nationals by invoking the public nature of the institution offering the courses as well as the system of public law which governs the exercise of certain teaching tasks. These tasks are exercised with regard to pupils or in the context of non-pedagogical activities in the school establishment (power to mark, power to exercise discipline, administrative activities, etc.)

In accepting the findings of the Advocate General who considered that the administrative activities were of only marginal importance compared with the real teaching duties, the Court rejected the arguments of the Member State. It confirmed that the exception to Article 48(4) must be the subject of a strict interpretation which can both safeguard the vital interests of the Member States

¹ Judgments of 17. 12. 1980 [1980], ECR 3881 and 26. 5. 1982 [1982] ECR 1845.

² Judgment of 3. 6. 1986 [1986] ECR, to be published.

³ Judgment of 3. 7. 1986 [1986] ECR, to be published.

⁴ Judgment of 16. 6. 1987 [1987] ECR, to be published.

and not present an obstacle to the exercise of the right of freedom of movement. Furthermore, the interpretation chosen does not in any way consider the system of public law which governs the teaching in question.

Finally, in Case 225/85, concerning the admission to the permanent staff at the Italian National Research Council of researchers from other Member States, who were already working at the said institution, the Court condemned the Italian Government for failing to honour its obligations under Article 48 of the Treaty. Following this result, the Italian Government passed a special law under which workers from other Member States have been appointed to the permanent staff of the aforementioned institution. This law goes against the rule reserving jobs in the public sector to Italian nationals which is founded on a provision of the organic law.

3. The main thrust of the Court's interpretation

3.1. The irrelevance of the qualification and nature of the legal relationship between the worker and the administration, as regards the applicability of Article 48 of the Treaty

The point of departure for the Court is that the notion of worker in the sense of Article 48 is of Community relevance and should therefore be defined at Community level. Consequently, such as notion cannot be left to the determination of the Member States alone who would be able to interpret it at will. This notion has an extensive application which denies any restrictive application on the part of the Member States. The judgment in Case 53/81 (*Levin*) removes any doubt on this point.

Consequently, the employment relationship concerned by Article 48 is in practice determined by the existence of two parties to a contract, one of whom carries out the tasks which the other

(who is responsible for their management) charges to him and who remunerates him on the basis of the quality, quantity and conditions of the service.

This Community notion, needing no ulterior qualification, can be applied to many kinds of work relationships, governed either by public or private law.

In this Community context, the quality of corporate bodies and the legal qualification of the service are elements which have no influence on the determination of the practical field of application of Article 48 of the Treaty.

This is the conclusion which must be drawn regardless of any legal argument, as if we return to the national qualifications which vary from one Member State to another we find ourselves in a universe dominated by confusion and legal uncertainty, without having a uniform criterion for interpretation at Community level.

3.2. The functional approach, proposed by the Commission, is adopted by the Court of Justice

3.2.1. The European Parliament emphasized, in its resolution of 17 January 1972, that Article 48(4) applies only to jobs which include the effective exercise of public authority.

In referring to this Parliamentary Resolution, the Commission accepted, in its observations submitted in the prejudicial cases (*Sotgiu v Deutsche Bundespost*), that the exception should only be applied to functions in the public service characterized by the direct or indirect exercise of an activity of sovereignty with regard to individuals or included in the decision-making process of the State to the extent that the agents of the State safeguard the national interests in matters of public security or secrets.

Advocate General Mayras adopted these arguments in affirming that the notion of public employment is a Community notion and consequently may only be determined by 'material criteria drawn from functions which are implied by a job held in the public service and

the activities actually carried out by the holder of such a job'.

In the *Reyners* case, the Commission observed that the exercise of public authority includes the implementation of the power of constraint as regards individuals.

Finally, in Case 149/79 the Commission affirmed that the exception is applicable only to public service jobs where the holders participate directly in the exercise of public authority or make use of prerogatives of public power with regard to individuals.

The Court of Justice has always followed the suggestions of the Commission in adopting its fundamental approach. From the *Sotgiu* judgment to the judgments against Belgium, the Court has built up its position founded upon the functional criterion for interpreting Article 48(4).

After having targeted 'certain activities' in the public service as likely to be placed outside the field of application of the exception in question in the *Sotgiu* judgment, it specifies, in Case 149/79, that it is necessary to assess and delimit concrete cases by evaluating the principal tasks of each job in order to ascertain whether or not it plays a part in fulfilling the specific or traditional activities of the public service when it is invested with the exercise of public power and responsibility regarding the safeguard of the interests of the State.

3.2.2. The functional criterion is essential to the application of Article 48 (4) of the Treaty

The choice of the functional criterion is necessary as it alone allows an application which both respects the demands of Community law and the vital interests of the Member States.

It allows the Member States to exclude nationals of other Member States from access to jobs in the public service which effectively imply the exercise of specific activities of the public service. This corresponds in effect to both the spirit and the aim of the provision as es-

established by the Community legislator in Article 48(4).

At the same time, this criterion does not allow Member States to go beyond an application of the exception in a way which could prevent or render impossible the exercise of the freedom of movement of nationals of the Member States.

It is owing to this criterion alone that the Member States are not free to expand at will the sector of jobs considered as being in the public service and thereby reserve them for nationals. There is nothing to prevent Member States from deciding from one day to the next to transfer a specific sector — industrial or commercial — from the private to the public domain and thereby subject it to the rules of public law. That would not mean, however, that jobs in this sector would be automatically reserved for nationals.

The present situation is made possible precisely because of the application of this functional criterion which permits the Member State to exclude nationals of other Member States from certain jobs in this sector because the exclusion is justified on the basis of the analysis of the tasks and responsibilities related to the jobs in question. On the other hand, they may not refuse nationals of the other Member States access to all the other jobs in this sector for which the criteria of the Court are not fulfilled.

It is consequently evident that the importance of this criterion lies both in the legal and political domain. As regards the legal question, this criterion makes it possible to guarantee the uniform application of Community law, to ensure the useful effect of Article 48 and also to avoid divergent interpretations of the exception in question on the part of the Member States. The political aspect lies in the fact that by adopting this approach by common accord, the Member States on the one hand, and the Commission on the other can find common ground on which to cooperate in applying the exception in accordance with the limits which it incorporates.

3.2.3. *The functional criterion and French doctrine*

The functional understanding of the notion of the public service in the sense of Community law is opposed by the doctrine which has concerned itself with Article 48(4) and particularly French doctrine, which is of the opinion that the approach of the Court of Justice cannot be translated into French law because it would be ignored by the French system of public law.

Both this system and those of the other Member States are founded exclusively on an institutional vision of public law. The public service would therefore appear to be constituted by a series of corporate bodies under public law governed by the same public rules, to which there may be no exception.

The unity and uniformity as well as the integrity of the institution and the constitutional, legal and regulatory provisions which govern it would not permit internal distinctions to be made between jobs open to the application of the rules of freedom of movement and other jobs closed to these same rules.

This doctrine also adds that the principles of the mobility of civil servants from one body to another within the public service as well as of providing a career — the inalienable right of any civil servant — run totally contrary to any possibility of the insertion of foreigners in these public institutions, even if they do come from the Community.

These positions are affirmed as a truth which, however, fails to stand up to a quite rigorous critique advanced by another part of the doctrine. According to this, the functional conception is also traditional. It makes it possible, in effect, to solve the problems posed by the exclusion of foreigners from jobs in the public service. Furthermore, French administrative jurisprudence has, on several occasions, used it.

In a decision, the Council of State judged that 'public functions ... are only accessible to foreigners if there is no obstacle presented by any legislative provision in force, any general provision

of French law, and any act undertaken by the authority possessing the regulatory authority within the limits of its competence and taking into account the inherent necessities and the mission of the services'.¹ As an example of the notion of mission of services to which foreigners may not have access, functions relating to diplomatic actions, national defence and functions of authority are cited.

For its part, the French constitutional Council, in its ruling No 86-224 of 23 January 1987,² conceives of the public service as a domain subjected to the administrative judge and constituted by the 'authorities exercising executive power, their agents, the territorial bodies of the Republic or the public bodies placed under their authority or under their control ... in the exercise of the prerogatives of public power'.

In his study on 'The notion of jobs in the public service (Article 48(4), EEC Treaty) and access of Community nationals to jobs in public service',³ Professor Louis Dubois recalls that this ruling did not apply to the question with which we are concerned and that the Council is referring above all to organic and formal criteria, based on the institutional conception of the public service. However, he stresses, 'the reference to the exercise of public power as an essential characteristic of the public service lends support to the position adopted by the Court of Justice of the European Communities'.

¹ Council of State: Decision of 20. 1. 1975, Election of representatives to the board of directors of the CES, François Mauriac at Louvres, D. 1976.72.

² Constitutional Council (Decision No 86—224 of 23 January 1987) (French administrative law review 1987.229, comments B. Genevois and L. Favoreu).

³ French administrative law review 3(6), November—December 1987, Administrative and Community Law, Study 'The notion of jobs in the public service (Article 48(4), EEC Treaty) and access of Community nationals to jobs in the public service' by Louis Dubois, Professor at the Université de droit, d'économie et des sciences d'Aix-Marseille.

3.3. Objections to the functional conception

One of the objections to the application of the jurisprudence of the Court is based on the supposed violation of the internal legal regulations of the Member States whose legislation has specifically excluded foreigners from the public institutional domain.

Furthermore, it is true that the Member States have widened their spheres of intervention in areas such as the social and economic sectors which were previously in the private domain.

However, the exclusion of non-nationals would remain well-founded as these interventions are considered as pertaining to the sphere of protecting the general interests of the States concerned.

For our purposes, such an objection does not take into account the fact that the Member States may not fail in honouring their Community obligations by invoking the traditional and exclusive public powers in 'a situation very different to that with a view to which these rules were laid down'.

The Court itself highlighted this very fact by emphasizing — in reason No 11 of the judgment of 17 December 1980 in Case 149/79 — that 'in various Member States, public power assumes responsibilities of an economic and social nature, or participates in activities which cannot be included as typical functions of the public service but which, owing to their nature, come within the field of application of the Treaty. Under these conditions, the fact of extending the exception provided for under Article 48(4), to jobs which, while pertaining to the State or other bodies governed by public law, certainly do not imply any competition with tasks pertaining to the public service as such, would serve to remove from the application of the principles of the Treaty a considerable number of jobs and to create inequalities between Member States, owing to the differences which characterize the organization of a State and of certain sectors of economic life'.

In other words, according to the Court, the nationality restriction is justified *vis-à-vis* jobs through which the public service exercises its traditional functions.

This restriction ceases to be justified when it is applied to jobs in the sphere of the economic activities of the State and other public bodies which, in the same State or in other States, are also exercised by corporate bodies governed by private law and where the employees are bound by private law employment agreements. Naturally, in this private sector, the nationality restriction may not be required by law or the collective agreement.

3.3.1. Other authors consider that the functional approach constitutes an archaic and anachronistic stance which is totally incompatible with the complex structure of a modern public service. They believe such an approach to be directed at a State as it was known centuries ago, reduced to its essential functions, such as defence, public order, fiscal and foreign affairs policy. On this point, there is no reason to contest the fact that the Court did in effect focus on the traditional functions of the State but it should also be stressed that the exercise of these functions is, notwithstanding mutations, essentially the same as in the past. On the other hand, nobody can deny that the tasks assumed by the modern State in the economic sector are totally different from the specific activities of the public service and were traditionally executed by corporate bodies governed by private law.

Finally, another objection concerns the imprecise nature of the criteria laid down by the Court as well as the risk of confusion which these criteria could provoke at the legal level.

In reply to this, one can state that certain Member States, and France in particular, have a functional classification of jobs in the public service in order to identify those jobs where the holders do not have the right to strike and to distinguish them from those jobs where the holders do have the right to strike. In this field, the functional classification has been accepted in full, notwithstanding

the imprecision or obscurity invoked.

A final comment is for those critics of the functional approach who regard the public function as a solid mass unchanging in time and space. This is a false picture of reality as certain Member States are in the process — apart from any requests by the Community — of implementing policies of deregulation which include the denationalization of certain economic or social sectors (for example, the public services) to date governed by public law.

Finally, the upheavals which certain Member States fear could result from the application of the jurisprudence of the Court of Justice could well be avoided by adopting national policies for the reform of the public service aimed, on the one hand, at satisfying national socio-political requirements and, on the other hand, at assuring the Community obligations incumbent upon Member States as regards equal treatment for access to employment for nationals of other Member States.

Second part

1. The means of Commission action in the matter of access to jobs in the public service

1.1. The institutional conception of the public service at the origin of the opposition of Member States to any Community initiative for the liberalization of jobs in the public service

The Member States, and in particular the Belgian and French Governments who found themselves on the defending side in two cases judged by the Court, object to the Community conception on grounds which are of an institutional nature and also on the basis of principles

of national public law. For the Member States the application of Article 48(4) may only be based on national notions of the public service. By virtue of this fact, the scope of the exception should be unilaterally determined by the national legislation.

The Member States base their position on the impossibility of ratifying the functional approach in an administrative structure which is firmly rooted in the institutional conception.

In their eyes the public service has characteristics of unity, homogeneity and continuity. In other words, the institution is always equal to itself and it would be impossible to seek out differences or particularities between one job and another.

The Court of Justice has rejected these arguments, on the basis of which the Member States would be able to reduce to nothing the notion of the Community employment market as each national market would be subject to rules of public law on the basis of an erratic intervention in the economy. Depending on the quality and intensity of this intervention the number of jobs subject to the rules of freedom of movement would vary from one Member State to another, creating different and, in some respects, aberrant situations.

1.2. The Commission action

The framework of the problems which the Commission must solve to achieve an effective application of Article 48(4) is complicated by the attitude of certain Member States which, notwithstanding the jurisprudence favourable to the Community stance, persist in displaying a lack of goodwill in applying the Court judgments.

In considering the serious social and political problems related to the application of Article 48(4), the Commission examined several options before developing a line of conduct which was finalized in December 1987.

It finally chose (see the Communication published in the OJ of 18 March 1988) an approach characterized by the

gradual nature of the actions, realism and particular attention to objective difficulties linked to translating the jurisprudence of the Court into national law and the complexity of the legal questions to be resolved at the level of relations between Community law and national laws.

The gradual approach has been associated with a prudent approach, leading to a selection of priority targets in order to render the action of the Commission as effective as possible while causing the least upset for the Member States.

Furthermore, this action has been linked to other Community policies in order to assure maximum coherence among the Member States. Hence the Science programme (mobility of European researchers), the Erasmus programme (mobility of students), as well as the Commission policy for the liberalization of transport and financial institutions. Finally, it is necessary to remember the importance of the adoption by the Council of Ministers of the Community of the Directive concerning a general system for the recognition of higher education qualifications awarded after vocational training of at least three years.

1.3. The scope of the Commission action

While pursuing the functional approach, the Commission has, however, adopted a 'mixed' stance by combining the functional criterion with the institutional criterion. Although in apparent contradiction to the jurisprudential argument, such an approach also has a basis in the jurisprudence of the European Court of Justice. It is enough to recall reason 11 of the judgment of the 17 December 1980 in Case 149/79 which draws a distinction between the specific activities of the public service and the new functions of the modern State, particularly in the economy.

It is quite clear that it is possible to follow the jurisprudence of the Court while making a distinction between activities managed by the traditional public

institutions and those which are managed by corporate bodies governed by public law which have been recently set up in order for their activities to replace those of corporate bodies governed by private law.

Consequently, the Commission considered that the exception established by Article 48(4), concerns notably 'functions specific to the State and assimilated bodies such as the armed forces, the police and other forces of order; the magistracy; the tax authorities and diplomatic service'. Furthermore, also considered as covered by this exception are jobs in the State Ministries, regional governments, territorial bodies and other assimilated bodies, the staff of central banks (civil servants and other officials) who exercise activities grouped around a legal public power of the State or other body corporate governed by public law such as the drawing up of legal deeds, the putting into effect of these deeds, the control of their application and the supervision of dependent bodies. Consequently, the action which the Commission intends to carry out does not concern these jobs (see OJ C 72, 18 March 1966 — Freedom of movement of workers and access to jobs in the public service of Member States — action by the Commission in the matter of the application of Article 48(4) of the Treaty, p. 2).

This choice by the Commission can be easily understood if one considers that in principle the jobs in the aforementioned sectors normally involve the direct or indirect exercise of public power and the safeguarding of the general interests of the State and other public bodies, even if occasionally.

1.4. The activities of the public service concerned by the action of the Commission

The Commission has selected four major public service sectors, in the broad sense of the term, on which it will concentrate its efforts to achieve the liberalization of the conditions for access to jobs.

Its choice has fallen upon jobs characterized by tasks and responsibilities which appear 'sufficiently removed from the specific activities of the public service as defined by the Court of Justice for them to be only exceptionally subject to the exception provided by Article 48(4) of the Treaty'.

The Commission has consequently focused its action on the following sectors:

- (i) bodies charged with managing a commercial service (for example, public transport, gas or electricity distribution, air or maritime navigation companies, posts and communications, radio-television broadcasting companies);
- (ii) the operational services of public health;
- (iii) teaching in public establishments;
- (iv) research for civil purposes in public establishments.

At the present time the Commission is preparing a report aimed at obtaining a thorough knowledge of those bodies operating in the aforementioned sectors

within each Member State, together with the legislation, regulations and statutes which govern them.

Conclusion

The Commission attaches great importance to cooperation with the national authorities. It hopes that this cooperation will be both active and effective in order to avoid Community policy in this area becoming a long series of disputes with each Member State.

Disputes could serve to further complicate a subject which is already difficult enough to handle.

Furthermore, the instigation by the Commission of procedures based on Article 169 of the Treaty do not necessarily constitute the expression of a desire to solve by legally applied force the difference of opinion which opposes the Commission and the Member States.

As the most informed doctrine has emphasized, such so-called infraction procedure *vis-à-vis* Member States must first of all be considered as a very useful means of allowing the parties to explain their position, to obtain information on the other's position and to arrive at an amicable settlement of their disputes by finding a satisfying compromise without going before the Court of Justice where the dispute would be formalized.

In any event, the Commission has already communicated to the Member States its position in the matter of the application of Article 48(4) as well as its intentions for the handling of this matter. Unfortunately the reaction from the majority of the Member States has not been forthcoming.

This silence should not, however, give rise to pessimism. On the contrary, the services of the Commission are ready to redouble their efforts at persuasion with regard to the Member States. They are determined to work to ensure that the action of the Commission proves a success.

Durante Rapacciuolo

Community action to combat poverty

Embarked upon in 1985, the second European programme to combat poverty will soon enter its fourth and final year of existence. While the time has not yet come to take stock, a number of conclusions may already be drawn and may help to define a new Community initiative in this field.

Introduction

Poverty is a major challenge for the social policies of the Member States of the European Community. It is also a challenge to the Community as a whole: the continuing economic crisis has rendered more visible situations of social exclusion and has helped to render insecure the living conditions of broad sections of the Community.

The latest estimates available show that there are in the Community some 44 million people with an income below half the average income per unit of consumption in their country. This figure is no more than tentative: the concept of poverty is not linked only to income — the word 'poor' itself may be a matter for discussion — and measuring it in statistical terms is subject to a variety of problems which are both political and methodological. However, the figure quoted is sufficient to underline the extent of a problem which has a structural character and whose persistence shows how far we still have to go before social cohesion and solidarity rest upon firmer foundations in Europe.

The Community takes indirect action against poverty through its general economic policy and the assistance provided by its structural Funds; it can also carry out emergency operations such as the free distribution of foodstuffs. Overall, however, it has neither powers nor resources to embark upon a large-scale policy specifically intended to combat poverty. Community action is thus on a modest scale, but it takes many forms: pursued in tandem with the initiatives launched in the Member States, its main aim is to stimulate collective thought about this problem and to support experiments in innovative forms of aid.

This intention to stimulate is evident in a variety of Community programmes, which in fact tackle the problem of poverty even though they may be devoted to specific problems, such as long-term unemployment and illiteracy. It is even more evident in the Council Decision on specific Community action to combat poverty, adopted at the end of 1984 and better known as the 'second European

programme to combat poverty': an action-research programme lasting four years (1985-89) and from which some substantial lessons may already be learned.

The second European programme to combat poverty

Between 1975 and 1980 the Community had already carried out an initial programme to combat poverty. Planned as an experiment, this programme had a research dimension, which took the form of international studies and international expert reports, and an action dimension, which took the form of some 50 pilot projects scattered throughout the then nine-member Community. The summary report drawn up at the close of that programme stressed the need for a new Community initiative and defined some of the principles which might widen its scope, in particular the advantages to be derived from supporting over several years local initiatives combining action and research, and the usefulness of a European coordination of these initiatives aimed at stepping up the exchange of experience between Member States.

The new Community action decided on in December 1984 derived in part from the painstaking work of preparation and persuasion, aimed at the national and Community authorities, by the administrative departments, the associations and the scientific experts who had been involved in the first programme. The guidelines adopted for this second programme thus derive broadly from the conclusions referred to above. Essentially, the second programme consists of a series of action-research operations carried out on the initiative of local projects and embodied in an overall framework by means of transnational organization.¹ Numbering 91 and scattered

¹ The programme also includes an international research project on the statistical measuring of poverty, which will make it possible to discuss the pertinence of various thresholds and to characterize the poor sections of the population in relation to these thresholds in seven Member States. This research is connected with the work being done by a working party set up by Eurostat.



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throughout the 12 Member States, the local projects are exploring innovative responses to poverty situations, basing themselves in particular on the participation of the persons concerned. An Organization and Dissemination Department specifically set up by the Commission is responsible for the coordination of the projects, the assessment of their operation and the publication of their findings.

The programme has a budget of ECU 29 million spread over four years.¹

This is a modest sum and the programme is far from setting itself the task of solving all the problems linked to the existence of poverty situations in Europe. Its purpose is experimental or rather exploratory: it is to help define the most appropriate approaches to these situations and thereby to enhance the policies pursued in the individual Member States and illustrate the specific spirit of Community aid. In the eyes of those responsible for it, the programme is of value partly because of its very existence, which bears witness to the le-

gitimacy of Community initiatives *vis-à-vis* poverty, and partly by its conclusions, which are concerned with identification of the causes of poverty and the means of dealing with it effectively.

¹ The decision of 19 December 1984 granted the programme a budget of ECU 25 million. This was raised to ECU 29 million by the Decision of 22 December 1986, to take account of the extension of the programme to Spain and Portugal.

Obviously, the local projects which make up the programme differ greatly as regards their size, cost and intentions. Adopted after a selection process carried out by national administrations, they reflect both specific national situations and the concerns of the Commission. Furthermore, they are very unequally divided between research and action operations, if only because the programme sometimes represented a simple opportunity for financing specific undertakings. The mechanism for organizing the programme thus has an even greater importance, for it attempts to fit local initiatives into a transnational framework and to promote collective thought on the questions and methods which have emerged from work in the field. Assessment of the projects is in the hands of an international team of researchers (one per Member State or group of Member States) and their coordination is in the hands of a team of practitioners, likewise international, each one being responsible for a transnational group of projects related to a common theme (integrated operations in rural or urban areas, operations specifically devoted to single-parent families, to migrants and refugees, to the long-term unemployed, to the elderly, to unemployed young people, and to marginal or homeless persons). A dissemination department is responsible for the regular publication of information sheets on the projects under way and the discussions made possible by thought about experiments in the field.¹

Half-way through the programme the Commission drew up an interim report setting out the progress made and the prospects for the future. Drafted on the basis of the work done by the Organization and Dissemination Department with the help of independent experts, the report helped to define the guidelines for the new programme which the Commission plans to carry out immediately after the present one: a more ambitious programme which would consist not only of experimentation on local micro-project scale, but which would make it possible to validate their conclusions on the basis of 'life-sized' prototype interventions on behalf of the economic and social in-

tegration of the most disadvantaged persons.

Some lessons learned from the second European programme

As we know, combating poverty takes time, especially when the operation in question is aimed at persons with a long history of exclusion or assistance. Since this is a four-year programme and since it sometimes involves projects which are something entirely new made possible by that programme, we cannot expect to see substantial results on all sides only half-way through the programme. However, many of the approaches explored in the second programme have shown themselves to be highly pertinent and give us cause to hope for significant effects. The prospects which have opened up concern both overall thinking about the fight against poverty and practical steps likely to be developed in the future.

Firstly, we have already pointed out that local projects were highly diversified and that they were scattered throughout the Community. Although they are obviously not statistically significant, they are representative in the sense that they tackle — and thus make it possible to list — the varying aspects of poverty situations in Europe today. By the same token, thought about these projects helps to identify the main processes, as a result of which poverty emerges or re-emerges. The endeavours of the assessment team have thus consisted in part of defining these processes, in particular exclusions from society linked with developments on the labour market and the spread of unemployment, the insecurities resulting from the erosion of the family and the mechanisms of mutual assistance, the vulnerabilities deriving from holes in the social security net or the perverse effects of certain institutional practices, the marginalization caused by the breakdown of local social structures. This is why there have been policy proposals on employment, the family and social protection, but also to the mobilization of local groups in relation to development policies.

Secondly, while these questions make up the general background to these projects, the projects are very definitely aimed at specific social change for those sections of the population which are in difficulties. The action taken is sometimes relatively banal as regards its content, for example, when it consists of the provision of services or vocational training: its usefulness derives then essentially from the fact that it is aimed as a matter of priority at persons in difficulty. Much more original are those experiments which encourage participation by and mobilization of the groups concerned, for example, by setting up cooperatives, subcontracting firms or self-help and mutual aid networks. By the same token, some projects systematically apply a policy of partnership with the local or regional authorities and with trade unions or other social bodies. Finally, there are projects devoted to a given area on a multidimensional basis in such a way as to prevent or eliminate marginalization of certain groups and to encourage integration policies simultaneously tackling the many dimensions of poverty, such as health, education, housing, employment, etc.

All these operations are carried out as close as is possible to the habitat of the persons in question and are concerned to obtain their active involvement, indeed one of the programme's priorities is to avoid public assistance or institutionalization, and the most promising projects are those which are based on the broadest possible mobilization of institutions and persons so as to set development endeavours in motion. As regards this point, the achievements and the lessons of the programme may undoubtedly be placed alongside those which may be observed in connection with other Community initiatives or some national social action policies. This is why the programme gives as much attention as possible to promoting the exchange and the dissemination of information between the various social

¹ The publications of the programme are available from ISG, Barbarossa Platz 2, Postfach 26 02 44, D-5000 Cologne 1.



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action groups in the individual Member States which act convergently. In so doing, the Community is providing a far from negligible stimulus for the improvement of social policies and is helping to intertwine the social and European dimensions.

Conclusion

In stressing that the Community is acting to stimulate rather than providing direct aid, we are pointing out both the

vital nature of its initiatives and their limitations. It is certain that a more explicit display of the priority given by the Community to the fight against poverty would help to step up this action even more significantly. It is to be hoped, in this connection, that there will be greater co-ordination of Community initiatives, structural Funds and specific programmes, which may complement each other and facilitate the duration of the operations embarked upon. The new programme which the Commission is

drafting at present aims at such an intensification. More ambitious as regards its resources and its content, this new programme could mobilize local, regional, national and Community groups and affirm a multidimensional and multi-lateral approach to the problem of poverty.

Jean-Paul Tricart

Free movement — Social protection and living conditions

Analyses, debates, studies

The financing of social protection within the Community: the debates at Toledo, Spain

1. The origin of the initiative

The Social Security and Social Actions Division of DG V regularly conducts a medium-term working programme, known as the 'European Social Budget', which covers a series of activities and analyses on the problems of social protection within the Community.

The financing of social protection has received particular attention over recent years, a fact which is reflected in the publication of several studies on this subject.¹

The basis of the seminar was the study by Julian Grand *et al.*, but it also provided the opportunity for the presentation of a range of contributions which will be published by the Commission in the near future.

The debates and conclusions of the seminar will assist the Commission's services in establishing priorities of analysis and action for the future in the specific area of social protection.

The contributions were presented by independent experts coming in the main from academic circles in the different Community countries. The lively debates included contributions from representatives of the employers' and trade-union confederations, Members of the European Parliament and senior civil servants from the national social security authorities, etc.

The local organization of the seminar was arranged by the Spanish Ministerio de Trabajo y Seguridad Social.

2. The matters for debate

2.1. Problems of a general nature

The late 1970s and early 1980s saw an increase in social protection expenditure owing to the ageing of the population, the generalization of unemployment (even long-term unemployment) and the spread of need situations among the most disadvantaged sections of the population.

At the same time, the revenue from social security contributions and general taxes felt the effects of the moderate growth of the economies and the difficulty of increasing such taxes and contributions above existing levels for fear of provoking a resurgence of fiscal deficits and discouraging the desired private initiative.

This two-edged pressure, known as the 'fiscal scissors', was experienced in a similar way throughout the Community countries.

This did not help convergence at 'macro' level of the systems of social protection within the Community and important differences persist.

One characteristic of recent years which warrants particular mention is that social security expenditure and revenue have stabilized in relation to the GDP in virtually all the Community countries.

While that does not mean that there may not be a latent risk of increasing expenditure, it does show that it is possible to control expenditure in this field.

Another common characteristic of the systems of social protection within the Community is the relatively high level of individual protection offered to those who are insured. The differences noted therefore primarily concern the extent to which the population as a whole is covered (degree of universality).

The vital question in this field is how to consolidate this system of social protection which is enjoyed at European, and not simply Community, level while at the same time finding a flexible and neutral financial basis *vis-à-vis* economic activity.

2.2. The specific problems

The debates at Toledo also focused on the financing of specific programmes and not only problems of a general nature.

The major programmes of social protection (pensions, health, unemployment and family benefits, the fight against poverty, etc.) are sometimes associated with financial resources as well as specific methods and affect demographic groups whose responses to change vary greatly and which call for closer analysis.

Pensions

The ageing of the population, to which reference has already been made, the maturing of retirement systems and the burdens on salaries attained by contributions to these services lie at the basis of present uncertainties concerning retirement systems, not only within the Community but also in many industrialized countries.

The growth in the active (and employed) base of the population, combined with the gradual and limited introduction of methods of capitalization, could present the risk of the saturation of the trends described in the preceding paragraph becoming a reality in the early years of the next century.

¹ See, among others:

Euzeby, Alain and Maynard Alan. 'Financement de la sécurité sociale et effets sur l'emploi', Commission V/42/83 (EN/FR) 1987.

Pierik, J. B. M. *et al.* 'Financement de la sécurité sociale: une étude par un groupe d'experts indépendants', Commission V/482/86 (EN/FR) 1986.

Launay, Jean P. 'The macroeconomic consequences of alternative methods of financing social protection', Commission V/691/87 (EN/FR) 1986.

Le Grand, Julian *et al.* 'Prélèvements obligatoires et financement de la protection sociale', Commission V/184/88 (EN/FR) 1988.

Segura, Julio *et al.* 'Le financement de la protection sociale dans la Communauté européenne: un débat à Tolède', Commission, to be published (ES, EN, FR) 1988.

Health

The demand for health care and the cost of such services have increased considerably over the last decade. This is due, once again, to the ageing of the population, a progressive generalization of cover and the increasing cost of medical technology, particularly in the field of intensive care.

Even if some of these trends continue into the future, important savings seem to be possible in the sector of social protection if a way is found of:

- (a) introducing more competition into health care; and
- (b) limiting demand by rational and non-discriminatory means as regards users of the services who are in a vulnerable economic position.

Unemployment benefits

In July 1988 a total of 15.6 million people were registered as unemployed at the Community employment offices. This figure, which has remained virtually stable over the last four years, nevertheless conceals the generalization of long-term unemployment, a phenomenon which has become of increasing concern over recent years.

This situation has had important repercussions on systems of unemployment benefit which are today among the 'major' programmes of social protection.

The benefits are becoming assistance benefits rather than insurance benefits in many countries following an 'insured' period of between 12 and 24 months, depending on the country concerned. And yet, only a very small proportion of the total expenditure is devoted to promoting employment.

Renewed economic growth and a rise in employment would have a two-fold effect on the problem of financing

unemployment benefit (more revenue, less expenditure). There is, however, a need for increased revenue to be devoted to vocational retraining programmes if there is real desire to meet the challenges of technological development.

The fight against poverty

Poverty, in the Community as elsewhere, is constantly increasing, one of the major causes of this development being the increase in long-term unemployment.

The resources devoted to assistance programmes generally come from general taxes, the difficulties experienced in this field consequently being well known.

The anatomy of poverty must be even better known if we are to be able to take effective action as many of the causes are not strictly speaking economic, although it is true that the main cause of recent developments lies, as was stated in the preceding paragraphs in long-term unemployment. In the meantime, financial assistance continues to be the main weapon in the fight against poverty.

The competitiveness of companies

The vast resources needed by social protection in order to finance all the various programmes amounts, within the Community, to somewhere in the region of 27 % of the GDP. A large part of these resources comes from salaries and therefore constitutes a proportion of the expenses of companies.

Although it is neither possible nor easy to determine what proportion of social security contributions is effectively reflected in net salaries, thereby contributing to the increase in the costs of labour, such contributions are often

accused of burdening the finances of companies.

Nevertheless, investigations into the most neutral basis and method for deductions *vis-à-vis* the decisions of economic agents must continue.

3. Conclusion

The following extract from the report on the meeting will serve to conclude this brief article on the debates at Toledo.

'Present systems of social protection within the Community are the result of a wide-ranging social consensus which not only corresponds to the principal values of our democratic systems, but which was also an essential element in achieving present levels of production and the well-being of our economies.

Two implications appear to be present throughout the majority of the debates in the course of this seminar. First of all, present levels of social protection do not have to be reduced, which is not to say that measures designed to improve its functioning, financing and management do not need to be taken. Secondly, any change to the systems of social protection must be on the basis of a wide-ranging social consensus; public debate and reliable information on such systems should therefore be encouraged as much as possible.'

In effect, social protection is of interest to society as a whole and not only to the specialists. It, too, comprises an element of solidarity which is much stronger than we believe. It is up to us to build upon the present basis.

José B. Herce

Education — Vocational training

Actions and guidelines

Youth initiative projects in the context of vocational training policy

Commission support for young people's projects began in 1981, as part of its response to the urgent problems of the social and vocational integration of young people caused by unprecedented levels of youth unemployment. The Commission wanted to explore the scope for a new kind of action, which drew on the initiative of young people themselves to tackle their problems. Such a 'youth initiative' approach would, it was hoped, be able to release the talents and energies of young people, and give them a chance to explore their own ideas regarding solutions to the new problems and situations in which they found themselves. It needed also to take into account the fact that very many young people were neither in membership of, nor in contact with, the traditional agencies and organizations providing services for youth. And it should extend and complement, in the post-school world, the processes of independent and active learning, which had emerged as important elements in successful new approaches to meeting the needs of such young people in the school-level pilot project actions developed in a number of countries in the first transition programme.

In the framework of that programme, the Commission therefore decided to fund three projects to produce information booklets for young school-leavers — *Ung ABZ* (Denmark), *Viaggio* (Italy) and *Young Scot* (United Kingdom). These projects aimed to provide information about the choices, opportunities, facilities and services available to young people, and involved young people directly in identifying and editing the information which was important to them, and in a language and style appropriate to the intended audience. The three pocket-sized booklets thus produced were warmly welcomed and used not only by young people, but also by teachers, parents and the wide range of youth and other agencies whose services were mentioned in them.

Encouraged by this success, the Commission decided in 1984/85 to assist in the preparation of similar youth guides or handbooks in other Member States at either regional or national level. In doing so, and following the further development of the information project approach into other fields, especially in Scotland, the Commission became aware of a number of other, often more local, projects where young people had

been successfully involved in taking action on their own behalf, not only in the field of information. At the end of International Youth Year 1985, the Commission brought together policy-makers, practitioners and young people in Luxembourg (the Info-Action conference) to discuss how such youth initiative projects might best be developed; and, after hearing their views, announced that greater financial support would be available for such projects and to fund links between them transnationally.

An experimental or pilot phase was therefore launched in 1986, linked to the Commission's second transition programme. During 1986 and 1987, 260 projects were funded in all parts of the Community (Annex 1). Most of them were still in the field of youth information, but initiatives mainly aimed at job creation, training and social and cultural activities were included. A substantial number of projects were supported in certain areas, in particular:

- (i) young people's housing/accommodation problems;
- (ii) the needs of disadvantaged young people;

Annex 1

Summary of projects financed during 1986 and 1987 by theme and Member State

Member State	Employment	Training/Development	Information	Socially/culturally/disadvantaged	Total
Belgium	4	12	5	2	23
Denmark	—	8	8	2	18
FR of Germany	2	2	11	6	21
Greece	2	1	2	5	10
Spain	8	6	10	1	25
France	5	8	9	8	30
Ireland	3	10	10	5	28
Italy	8	4	10	4	26
Luxembourg	—	—	1	3	4
The Netherlands	3	5	2	7	17
Portugal	1	8	6	1	16
United Kingdom	3	14	16	9	42
Total	39	78	90	53	260

(iii) training related to the new technologies;

(iv) the needs of girls and young women.

In all cases, the main criterion for support continued to be that the projects should be managed and controlled by young people. All grants were limited to a maximum of ECU 10 000, non-renewable.

In 1986, the Commission set up an informal *ad hoc* advisory group to advise it on the development of this action, to help stimulate project applications in certain Member States, and to assist with the evaluation of applications. This group continues to meet twice a year, in Brussels, and its members, who are appointed individually by the Commission, are either experienced in coordinating/support roles in national/regional youth services or have been active themselves in youth information/initiative projects.

The range of youth initiatives

A brief look at one project from each Member State will demonstrate the range of activities being assisted:

- (a) Module 26 is a timber workshop, in Liège (Belgium). The young people who had previously been unemployed are now making toys and large wooden frames for use in nursery schools. Apart from the practical skills which they have gained, they have also had a general training course on subjects such as French, management and mathematics;
- (b) the Association of Youth Clubs in Denmark is training young people to inform others about their rights and entitlements when unemployed and about possibilities for further education, training and employment;
- (c) Automina is a youth cooperative in Barcelona (Spain) which services and repairs cars and provides continuing training programmes with the assistance of the local technical institute;
- (d) in Luxembourg, the Groupe Animalier comprises 60 young people between 17 and 24 years of age. They

provide leisure and sporting activities for children and younger people;

- (e) the Meiden Werk Plaats in Eibergen in the Netherlands not only provides workshop training for girls but also education and action programmes on girls' attitudes to career choices;
- (f) Fano, in the centre of Italy, is the locale of a youth information service which is run by young people, and provides information on a range of issues;
- (g) Network for Jobs in Ireland is a group of six small cooperatives run by young people in Dublin. The cooperatives include a neighbourhood newspaper, a clothing repair service, the production of ornamental goods and computer software;
- (h) a group of young people in Argyri (Greece) which is a remote rural area, have organized a youth centre which, in addition to leisure and sport provision, has established a mechanical repair workshop which provides both employment and training opportunities;
- (i) in Bencanta in Portugal, there is a workshop developing skills in sewing, pottery, tapestry-making and video;
- (j) young members of the Gateshead Youth Council in the North of England are involved in providing a Youth Enquiry Service, answering all kinds of queries on work, education, training, travel, etc., and also developing opportunities for voluntary service, mounting courses on training in personal and social skills and organizing tuition in playing musical instruments;
- (k) many projects involve disadvantaged groups of young people or address problems they share with others; for example, Boutiques Logement in Paris and the JIWA in Aschaffenburg offer information, advice and support to young people with housing problems. Both projects are also encouraging young people to renovate existing redundant housing stock.

The benefits

As can be seen from these examples, the benefits of these projects to young people are in the following areas:

- (a) guidance: many initiatives help young people to develop their ideas about what they want to do with their life and what kind of training opportunities they need or can find to enable them to do it;
- (b) initiative: self-help and cooperative group projects are a way of developing skills and attitudes which help young people to think and act independently;
- (c) problem-solving skills, teamwork and adaptability: giving more initiative to young people is one way to encourage them to develop, by experience, skills such as problem-solving, and abilities such as working in a team and coping with the unexpected. These are qualities which employers increasingly regard as important;
- (d) communication skills: the skills of self-presentation, discussion, advocacy and negotiation are prerequisites not only for an effective working life but for success in all of adult life;
- (e) vocational skills: many youth initiatives are information-based and even where they are not, there is a strong promotional and publicity element. Thus young people are presented with opportunities to develop a variety of communication skills, e.g. in graphics, design and printing, broadcasting and new technologies. In addition, projects have provided skill training in areas such as boatbuilding, ceramics, textiles, craft work and even fine-art restoration;
- (f) self-employment: it has to be recognized that successful young entrepreneurs are rare, and likely to be rather well qualified, coming out of technical education, for instance. But many of the youth initiative projects concern a very wide spectrum of young people, so the projects are making a contribution here, and in the Mediterranean Member States a

number of youth cooperatives have been financed.

The purpose of the first and second transition programmes has been to clarify the needs of young people in the years immediately before, and after, the end of compulsory schooling, and to highlight and analyse policies and approaches developed in different countries to meet these needs more effectively and appropriately. The 'gap' between such needs and the services provided in schools or in the local community remains wide in many countries, aggravated by unemployment (for young people, as high as 70% in some regions) and the complex and (to them) inaccessible nature of the specialist services available. At the personal level, schools' best efforts, in such areas, are bound to be inadequate: the scale, and duration, of young people's problems are an enormous task for whatever services for 'youth' exist. In too many cases, young people's experience of school is still negative and destroys, rather than builds up, their faith in themselves and their own abilities. The difficulty of finding training, and the low chances of finding a job at the end of it, can often then lead to a feeling of hopelessness, destroying their self-esteem and self-confidence. Rebuilding that is often the main and essential prerequisite for their entry into the labour market, and their successful functioning as individuals in society.

Without suggesting that all areas are so problematical, or all individual problems so severe, the case for the further development of youth initiatives as part of Petra (Programme for European Community youth training) rests on the fact that there are many young people (perhaps 20 to 30% in most countries) who do not make a successful or smooth transition into adult life in most Member States; and that youth initiatives can provide such young people with a second chance because they:

- (i) take account of the totality of young people's own needs, and situations; and enable them to learn flexibly, compared with the school situation;
- (ii) develop their responsibility for them-

selves (and others) and their autonomy;

- (iii) help to put young people in touch with others who have (or have had) similar problems, and give them information and advice in a non-conventional form, style, language, which they find credible and acceptable;
- (iv) point many of them towards recognizing the value of skills of a practical, social or creative kind, which will probably not have been developed or recognized in them at school;
- (v) achieve concrete results in a short space of time.

It is interesting to note that youth initiatives have been most successful in situations where the ideas and the management have come from young people but where existing institutions and agencies have reacted to their request by providing assistance (money or resources or technical information and training geared to the needs of the project). Through the creation of this type of linkage in which the existing institution or agency responds directly to the needs and interests of young people, it has been possible to:

- (i) establish employment initiatives;
- (ii) reintegrate young people into the labour market;
- (iii) reintegrate young people into existing systems of education and training;
- (iv) develop alternative forms of transition which reinforce the self-confidence and self-esteem of young people.

The Commission attaches importance to the potential exploitation of the youth initiatives experience as part of its support for national and regional authorities in their development of improved vocational training. The youth initiative projects, in its view, are a resource:

- (i) to be studied for their contribution of innovative policy solutions to current problems in the vocational training area;
- (ii) to be exploited for their value for training staff — changing attitudes,

raising expectations, reconsidering professional practice in regard to contacting and communicating with young people, etc.;

- (iii) to be considered as potential pilot experiments on which national/regional/local authorities can build, so as to develop their own support structures and resources available for the support of projects of this kind in each Member State.

To this end, the Commission:

- (a) will review the experience of the youth initiative projects by networking groups of the projects and analysing their work as part of its process of continuous reporting on the programme; this may be done in terms of theme-areas, target-groups, the types of activity/training which projects develop, or the professional target 'user-groups' of the messages coming out of the project. Such reports will, it is hoped, be disseminated widely in Member States;
- (b) would like to see a substantial number of the training initiatives supported in the European network of Petra develop activities which build on the philosophy and approach of the youth initiatives. Already, in the first phase, several do so;
- (c) wishes to encourage periodic examination and review of the youth initiative experience in Member States, so as to bring it to the attention of those concerned with service provision, professional staff development, resource provision, etc., for the purposes outlined above;
- (d) hopes that national authorities will include references to their assessment and use of this aspect of the programme in their reports next year to the Commission on training policy developments;
- (e) hopes that the role at present played by the Commission, in advocating and supporting these initiatives by young people, will be increasingly shared with appropriate national, regional and local resource-providing bodies, of whatever kind.

EuroTecNet action programme in the field of new information technologies and vocational training 1985-88

Introduction

Whereas the EuroTecNet programme is being continued for 1989 during which time the European Commission processes its proposals for a new and renewed programme — the original EuroTecNet programme came to an end in 1988 and a report on EuroTecNet from 1985-88 is due for publication early in 1989.

This article intends to track the background of the EuroTecNet 1985-88 programme:

- (i) to consider the various developments which impinged on it;
- (ii) to illustrate the activities resulting from execution of the programme; and
- (iii) the key results leading finally to the conclusions which may be drawn from this programme.

The EuroTecNet programme was based on the Council Resolution of 2 June 1983 (OJ C 166, 25. 6. 1983), concerning vocational training measures relating to new information technologies. This resolution called for the launching of a Community action programme to promote the development of a common approach to the introduction of new information technologies which is simultaneously responsive to economic and technical needs and to the social effects such technologies generate.

On the basis of the Council's resolution, the Commission launched its action programme in the field of new information technologies and vocational training 1985-88 in 1985 (COM(85) 167 final), which became known as EuroTecNet, which put into operation the basic thrusts of the Council resolution, i. e. to integrate the new information technologies and the specific skills they involve into broadly-based training programmes, so as to facilitate access to continued employment, and even to improve employment opportunities. In prac-

tical terms, EuroTecNet was constructed and developed as the basis of the following action areas:

- (i) a network of demonstration projects with a development and exploitation objective;
- (ii) a programme of visits, on one side for specialists in the field of vocational training (organized with the cooperation of Cedefop), and on the other side for the persons directly responsible for each of the demonstration projects;
- (iii) a programme of concerted research dealing with key issues relevant to NIT and training;
- (iv) a series of specialized working parties to encourage exchange of experiences and distillation of knowledge among specialists;
- (v) national dissemination conferences to favour the mutual transfer of experiences to Member States;
- (vi) round tables with trade unions and employer experts;
- (vii) and general conferences and publications to inform a wider public about developments taking place within the programme.

Themes and target groups

Some of the actions carried out by Member States under the resolution were directly related to the network of demonstration projects and other specific aspects of the EuroTecNet programme, while others were more general in scope. The Council resolution specified that the measures undertaken in EuroTecNet (network of demonstration projects, research programme, exchange of vocational training experts) were intended to supplement measures in the Member States 'in view of the introduction of the new information technologies, to promote the development of a common procedure that meets industrial and technical requirements and at the same time takes into account the social effects of these technologies' (OJ C 166, 25. 6. 1983, p. 2).

The following were named in the working programme as priority themes of common interest:

- (i) qualification and training requirements of small and medium-sized enterprises;
- (ii) transition of young persons into professional life;
- (iii) guaranteeing the employment or reintegration of skilled workers;
- (iv) professional adaptation or integration of female workers.

The range of demonstration projects proposed by Member States gave a clear indication of the wide variety of issues being examined and solutions being sought to new training problems. The following tasks were stressed in particular:

- (a) the introduction of basic training in information technology into vocational education;
- (b) the further adaptation of training arrangements and basic curricula to the new information technologies;
- (c) the communication of basic qualifications covering several subjects;
- (d) the training and continuing training of trainers and teachers in vocational training institutes and organizations;

- (e) the qualification of teachers for continuing vocational training;
- (f) improving the transparency of the continuing education market;
- (g) improving the coordination of supply and demand in industrial continuing training;
- (h) recycling and giving additional qualifications to persons with inadequate professional qualifications;
- (i) support for small and medium-sized firms in the introduction of the new technologies;
- (j) facilitating the access of women to technical professions of promise for the future.

Most projects were selected in such a way as to cover as broad a spectrum as possible of problems regarding techniques, branches of industry, sizes of firms, professions/jobs and target groups. These projects related to the priority uses of the new information technologies named above. Responsibility for the projects varied widely. Some were firms in branches of industry particularly affected by information technologies. In other cases, those responsible were training institutions for continuing vocational training. In still other cases, responsibility was assumed by a central association, e. g. for a craft sector, or vocational schools of an industrial and technical nature.

This particularly rich distribution of projects throughout Member States, and the interactive mechanisms built into the programme, have created the groundwork for the development of responses to continuing vocational training problems common to all Member States in sectors such as electrotechnics, metalworking, industry and administration.

In addition to the concerns shown by the national demonstration projects, other measures taken by Member States highlighted their common preoccupation with the training and continuing training of skilled workers in the industrial, technical and commercial field (skilled workers, apprentices, technical and commercial assistants) in handling new information technologies.

Experience gained during the course of the implementation of the resolution and the execution of the EuroTecNet programme identified a number of critical areas in which possible solutions would be developed to problems common to all Member States, particularly in relation to the following issues:

- (i) qualifications;
- (ii) enterprises;
- (iii) disadvantaged groups;
- (iv) methodologies.

Qualifications

In the course of the programme national experience showed that it was unlikely that completely new professions would spring up to any considerable extent, either in the industrial and technical sector or in the commercial and administrative sector. On the other hand, because of the changes in qualification requirements and occupational structures, it was at least necessary to adapt the content of traditional training.

In the continuing education and training sector, there was a clear indication of increasingly new types of further training diplomas and further training qualifications which would be largely based on established professions.

Overall, apart from the acquisition of qualifications in the field of new information technologies, the main issue was to broaden the competence and the skills in several specialities of the gainfully employed. This was also required in view of the fact that with the greater degree of flexibility in the organization of work connected with the new information technologies, there must be corresponding qualifications for the personnel of the firm.

Enterprises

Experience in the Community also showed that the use of modern technologies was not advancing as rapidly in small and medium-sized enterprises (SMEs) as it was in large firms. Here, processes of innovation came up against difficulties of adaptation. These

were due in particular to the limited possibilities of business leadership and management. In many cases, there was a lack of time, energy and financial resources to take on, as both a manager and a worker in a small or medium-sized firm, new requirements with a longer time horizon. Thus in the case of SMEs, training and continuing training in new information technologies came up against so many problems that these firms could not always solve them with their own resources. In many cases, the training measures offered by the technology manufacturers were also considered inadequate.

On the other hand, the courses offered on the free market for continuing training did not reach many of these firms. This meant that training and continuing training in the new information technologies in SMEs had increasingly to be supported by training institutions covering several firms. Here new forms of training delivery were identified as being one solution (computer-based training — CBT, interactive video, etc.) in tandem with the organization of training consortia.

Disadvantaged groups

The new requirements, especially those connected with new information technologies, involved the adaptation of the professional qualifications of gainfully employed and unemployed young persons, more than half of whom had never completed any vocational training.

Through special programmes, these young persons who had social or personal difficulties or gaps in their school learning were able to achieve a recognized vocational training in their firms or in vocational training institutions. For this purpose, measures were necessary which either made an additional or further qualification possible, or had a content of vocational recycling, or guaranteed that qualifications already attained were maintained and improved in a lengthy period of unemployment. According to the nature of the occupation, the information technology content played an increasing role.

Methodologies

It follows on from the above that the development and testing of new learning methods became increasingly necessary, since the trainees had to master, in a given training time, a greater volume of knowledge content with the best possible results. Member States also found that there had to be more development and testing of the methods to be used by the trainers, as well as the forms of learning, cooperation and involvement on the part of the trainees. Additional problems were caused by the increasing heterogeneity in the groups of trainees, and the conversion of jobs in the firm to such an extent that the skills and knowledge required in highly technical and automated manufacturing organizations could no longer be imparted on the spot. In such cases, there was an increasing use of simulation models.

Member States indicated that qualifications covering several cognitive skills (areas such as capacity for abstraction, capacity for solving problems, independence and capacity for cooperation) could only be transmitted as part of an integrated approach to new curricula in vocational training. This called for new interactive methods of learning such as CBT, interactive video, open learning, project methods, pilot study methods, planning games, exercises, etc. From the multiplicity of different approaches which were tried for solving the problems of adapting on-the-job learning to the changed conditions and requirements, methods such as trainee-centred, experiential, personal effectiveness, project and pilot study were the subject of model experiments.

Questions of content and of teaching method also played a significant role in model experiments in vocational

schools. Examples are the development and testing of software suitable for use in teaching, or the use of audiovisual media for an introduction to microelectronics.

Conclusions

The foregoing is an attempt to present a summary of the objectives of the programme, the problem areas identified in the Member States and the mechanisms enabling cooperation to take place within EuroTecNet.

However, the programme is concerned essentially with people. The central place of the individual trainee or worker is paramount in this process.

In excess of 4 500 professionals have been directly involved with EuroTecNet as project leaders, project trainers, participants at conferences or seminars, etc.

The unknown figure is the number of young and older workers whose training and qualifications were greatly enhanced by the proliferation and propagation of superior quality technological training programmes.

What is known is that all Member States have greatly increased the provision of training programmes and the range and level of the technologies.

The application of the Council's Resolution of 2 June 1983 (EuroTecNet) has raised the level of qualifications and emphasized the need to link training activities to the technological innovation process within firms. It has also created an interdependency between training and technological development which should support in a very concrete way the restructuring of European enterprises in the 1992 perspective.

Future vocational training must support flexibility and innovative qualifications.

EuroTecNet, through its network of demonstration projects, is regarded as a potentially powerful agent of change in relation to training for the new technologies. It has the potential to influence methods and procedures throughout the education/training system and it provides an appropriate mechanism for developing effective links with the world of work.

EuroTecNet is therefore considered to have made a useful contribution to the development of the application of emerging technologies to the content and delivery of training.

The general consensus is that EuroTecNet has had a positive impact on vocational training systems. To begin with, the introduction of this action programme, had itself a 'stimulating and prompting' effect on the Member States. It introduced a degree of constructive, non-conflictive competition, together with a continuous process of improvement. EuroTecNet also brought about a great openness insofar as cooperation and experience-sharing are the prerequisites to the programme. The network and all of its dynamic activities have contributed broadly to the propagation and proliferation of training in, for and through the technologies.

The successful operation of the programme has identified the continuing need for European-level cooperation on new technologies and training. A follow-up programme, EuroTecNet II, is under preparation within the Commission in order to build on existing accomplishments and help identify future trends which will be relevant and applicable throughout the Community.

Erasmus grants for 1988-89

'The considerable success of the Erasmus programme in its second year of operation demonstrates the ever-increasing interest of the academic world and of students in better and broader inter-university cooperation and greater mobility for staff and students.'

This was the way Commission Vice-President Manuel Marín summed up the situation when presenting the results of the 1988-89 selection process to the plenary session of the Commission. And indeed, with regard to each of the many types of cooperation for which funding is available within Erasmus, both the number of applications for support and the total amount of money requested have increased dramatically by comparison with 1987-88. In all, applicants requested over three times as much support as in 1987-88 (almost ECU 103 million as against ECU 34 million). Given that the total budget available was only ECU 30 million, compared with ECU 10 million in 1987-88, the ratio of supply to demand remained unchanged at approximately 1:3.4. This highly selective situation is clearly a cause for concern.

In overall terms, the Erasmus programme will be providing support in the 1988-89 academic year to:

- (a) 1 091 inter-university cooperation programmes, of which 948 will involve mobility of students and 214 an integrated exchange of university staff members;
- (b) an estimated 13 000 students, spending periods of between three months to a full year in another Member State;
- (c) 1 267 visit projects which will enable some 2 611 higher education staff members to prepare cooperation programmes, to study aspects of higher education systems or give guest lectures;
- (d) 23 European projects launched by university associations and consortia;
- (e) 12 publications on aspects of university cooperation and mobility in Europe, together with other major publications prepared at Community level, such as the EC student handbook, *Higher education in the European Community*.

Additionally, grants and organizational support will be provided to ensure the smooth functioning and further de-

velopment of the EC network of National academic recognition information centres (Naric) and to universities participating in the pilot phase of the European Community course credit transfer system (ECTS) (see call for expressions of interest elsewhere in this supplement). 1988-89 will also witness the award of the first Erasmus prizes of the European Community.

Inter-university cooperation programmes (ICP)

The total number of applications for support of ICPs in 1988-89 was 2 041 compared with 898 in 1987-88 (+ 127%). The ECU 52 million requested represent almost six times the amount available (ECU 9 million). These bare figures demonstrate the enormous interest among universities Community-wide in becoming involved in the Erasmus programme, and in particular the European University Network. Of the 2 041 applications received, 1 579 (77%) involve a student mobility programme, 745 a teaching staff mobility programme, 575 a programme for the joint development of curricula and 521 an intensive programme (the last of these being a new element in Erasmus introduced for the first time in 1988-89). It is interesting to cast a closer glance at these figures in terms of their distribution by the Member State of their 'coordinating institution', i.e. in most cases the university which took the main initiative to submit the application. This analysis reveals that Portuguese universities submitted five times more applications than in 1987-88, the corresponding ratios for the other Member States being as follows: Belgium, 2.7; Denmark, 2.3; the Federal Republic of Germany, 2.4; Greece, 3.6; Spain, 4.1; France, 2.3; Ireland, 1.9; Italy, 2.7; the Netherlands, 1.9; UK, 1.8. In terms of the involvement of each Member State in all applications, Spain increased its participation rate by 7.6%, while Italy (+ 4.7%) and Portugal (+ 3.7%) also recorded considerable increases. Conversely, the UK universities' participation rate fell by 8.6%, the other Member States remaining relatively stable.



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From these figures, it may be seen that the most significant percentage increases in applications came from those countries which had been less in evidence in 1987-88. The continuing low number of applications from Denmark is an exception in this regard.

Viewed in terms of the academic disciplines involved, a very similar pattern emerged to that recorded in 1987-88, the main differences being substantial increases in the proportion of applications in the fields of agriculture, engineering and languages, and a very substantial fall in the percentage of applications in business studies. The low number of applications in teacher edu-

cation and, to a lesser extent, medical sciences, remains a cause for concern.

The Commission decided to distribute the support available among 1 091 inter-university cooperation programmes. Of these, 948 include a student mobility programme (87%), 214 a teaching staff mobility programme, 79 a programme for the joint development of curricula and 72 an intensive programme (it should be noted that each ICP can contain various different types of cooperative activity). This corresponds to a success rate of 53% overall, although the success rates for the individual components of the programme differ considerably (60% for student mo-

bility programmes, 29% for teaching staff mobility programmes, 14% for programmes for the joint development of curricula and intensive programmes).

In financial terms, the supply/demand situation was even more dramatic in the case of curriculum development and intensive programmes, for which 15 times and 17 times as much money was requested respectively than was available. This was due to the fact these types of programme form part of Actions 3 and 4 of Erasmus, on which the Council Decision places a total ceiling of 10% of the overall Erasmus budget.

Table 1 provides a survey of the participation of universities from the various

Member States in all 2 041 applications and in the 1 091 projects accepted for inter-university cooperation programmes.

Table 2 shows the distribution of the applications and programmes over the various subject areas. In this context, attention should be drawn to the problem that the number and quality of the applications in the various subject areas differed considerably. In certain subject areas, good quality applications accumulate, so that care must be taken to ensure that the Erasmus programme is not flooded by individual subjects (in particular, languages and business studies could be mentioned here). Within closely drawn limits, the selection

must set stricter standards for some subjects than for others.

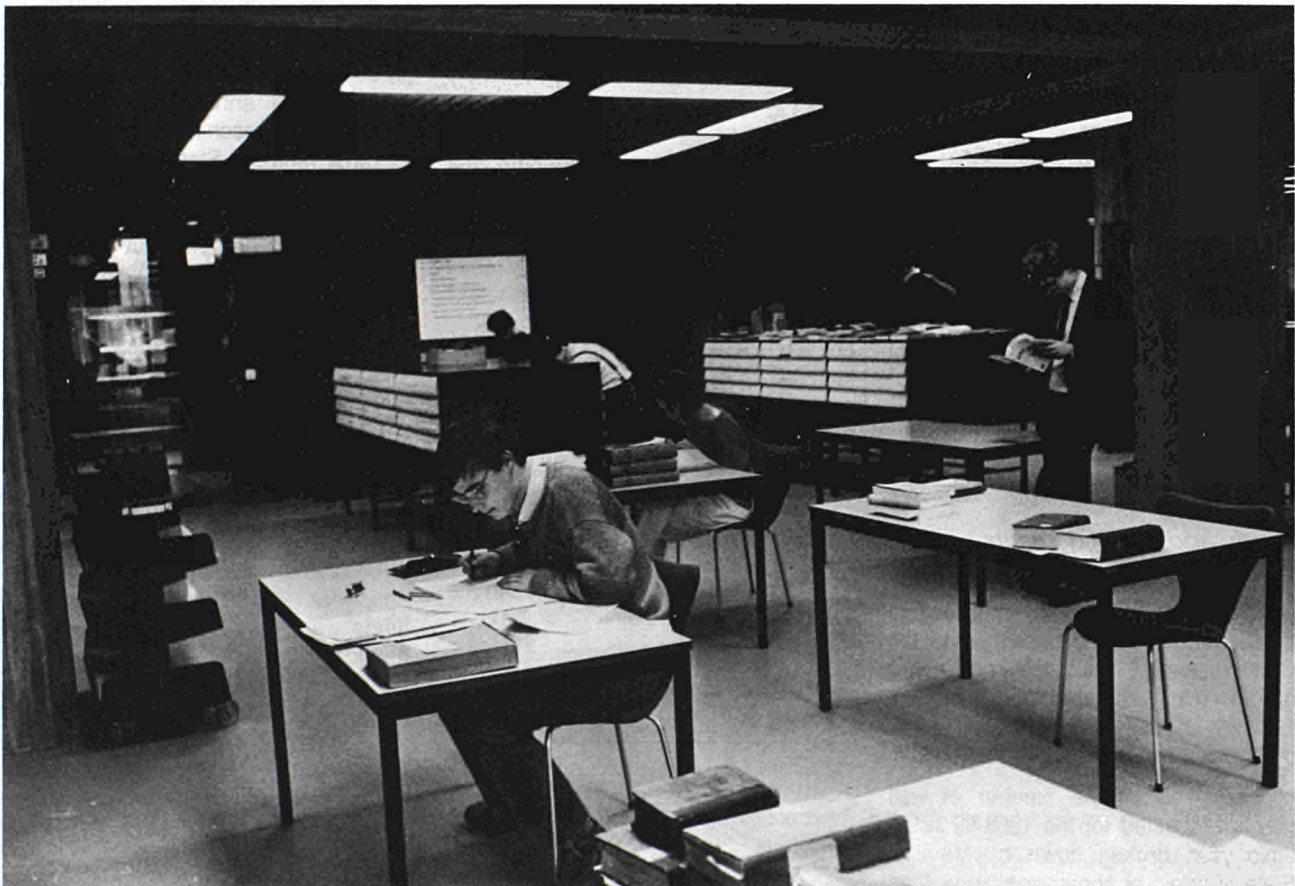
Student grants in great demand

As indicated above, 948 of the ICPs to be supported in 1988-89 will involve an exchange of students for integrated periods of study in another Member State. Table 3 demonstrates certain features of these programmes as regards the involvement of each Member State.

Students participating in these programmes are given priority treatment by the National grant-awarding authorities (NGAA), which are responsible for the distribution of Erasmus student grants. In addition to these students, most of

the NGAA's will also be awarding a number of grants to so-called 'free-movers', i.e. students who fulfil the normal eligibility requirements but who are going to another Member State outside the framework of EC-supported ICPs. The number of such students (estimated at around 2 000) will be severely limited in 1988-89 due to the lack of available funds.

In all, student grant requests amounted to approximately ECU 39 million, three times the available budget of ECU 13 million. This budget has been divided up among the 12 Member States on the basis of the criteria provided for by the Council Decision on the Erasmus programme: the number of



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young people aged between 18 and 25 (inclusive) and the number of students enrolled in the higher education institutions. This gives the following distribution (in % of the student grants budget within Erasmus):

Belgium:	3.02	Ireland:	0.94
Denmark:	1.64	Italy:	17.07
FR of Germany:	20.79	Luxembourg:	0.7
Greece:	2.58	The Netherlands:	5.13
Spain:	12.64	Portugal:	2.43
France:	17.13	United Kingdom:	15.88

A close analysis of the flows, between Member States, of students for whom a grant has been requested within the framework of accepted ICPs throws up some very interesting data. In most cases, a very real balance is to be observed in terms of 'export' and 'import' of students for each Member State (see following table). From this standpoint, only the United Kingdom can really be considered as a 'net importer' and Greece a 'net exporter'.

Member State	'Exports'	'Imports'
Belgium	320	330
Denmark	120	113
FR of Germany	2 056	1 830
Greece	164	97
Spain	1 056	970
France	2 543	2 587
Ireland	266	357
Italy	700	592
Luxembourg	Figures too low to be significant	
The Netherlands	530	489
Portugal	136	128
United Kingdom	2 348	2 851

Study and teaching visits

For the 1988-89 academic year, teachers and administrators in higher education institutions submitted to the Commission 3 510 applications for visit grants (as compared to 2 377 in 1987-88), in order to visit universities in other Member States of the Community.

Table 4 gives the number of visit grants requested for the 1988-89 academic year, broken down by Member State of origin of application, as well as by rate of growth with respect to the

1987-88 academic year. What is clear, and this is both encouraging and promising for the future, is that the biggest increase in applications for visit grants comes from Member States still experiencing some difficulty in promoting Inter-university cooperation programmes. The comparatively small number of applicants from Denmark remains a cause for concern.

Roughly two in every three applications are concerned with a visit for the purpose of preparing new cooperation agreements, thereby clearly demonstrating the part that visit grants can play in the development of new ICPs. As Table 5 indicates, the Commission accepted 1 267 applications, or 36% of the total (as compared with 48% in 1987-88). A sum of ECU 2.1 million was available for this purpose although applicants requested a total ECU 8.5 million. Over half the 1 267 grants awarded are for group visits, and no less than 2 611 persons altogether will be able to carry out visits thanks to this form of Commission support.

As in 1987-88, but to an even greater extent, particular attention has been paid to applications concerning the Member States which are not yet fully involved in the ICP network.

Table 5 documents this clearly. Thus in total the four countries of the south of the Community (Portugal, Spain, Italy and Greece) will receive 647 visit grants, that is 51% of the total — which represents exactly twice their current participation in the ICPs, which amounts to 25.4%. 2.5% of the visits originate in Denmark (2.3% of the ICPs).

As for the Member States, the visits concern in particular those fields of study which are less represented in the ICPs (see also Table 6):

	ICPs	Visits (in %)
Agriculture	3.6	5.3
Fine Arts	2.08	4.7
Teacher Education	2.1	6.1
Humanities	5.5	7.5
Mathematics	3.6	5.7
Medical Sciences	5.8	8.6

On the other hand, fields already closely involved in the ICPs are proportionally less well represented in the visits:

	ICPs	Visits (in %)
Languages	18.9	11.3
Engineering	14.5	9.9
Business	9.4	4.7

Threefold increase in grants for associations and publications

Action 4 of the Erasmus programme groups together a series of complementary measures designed to encourage the mobility of university students. Action 4.2 includes two main components:

- (i) support to associations or consortia of universities working on a European basis, in particular with a view to making innovative initiatives in specific fields better known throughout the European Community;
- (ii) support for certain publications designed to enhance awareness of study and teaching opportunities in other Member States or to draw attention to important developments and innovative models for university cooperation throughout the European Community.

Support for associations/consortia of universities was introduced in academic year 1987-88, when 30 applications were received. 102 requests for support were received for academic year 1988-89 which represents an increase of 72 or 340%. 27% of applications came from student organizations. Additionally 23 requests for support for publications were received for the academic year 1988-89, the first year in which funds were made available to external applicants under this heading.¹

¹ In academic year 1987-88 work was also carried out on a number of publications issued by the Commission itself (e.g. *European Community Student Handbook*, *Directory of Higher Education Institutions*, *Diploma Handbook*, *Erasmus Newsletter*).

From this total of 125 applications, 35 projects (23 for university associations and 12 for publications) varying widely in nature and scope were selected for support. ECU 270 000 have been awarded to university associations; the 12 publications will be sharing a total of ECU 252 900. These amounts represent 11.5% and 19.5% respectively of the total amount requested. The projects approved cover a wide spread of subject areas. All Member States are involved in 10 of the 23 projects from university associations (43.5%) and 10 of the 12 publications (83.3%) being funded.

Conclusions

In his concluding remarks to the Commission, Commissioner Marin ex-

pressed his satisfaction with the way in which the Erasmus programme was developing, while at the same time expressing some concern at the inadequacy of the available budget in relation to the enormous demand for Erasmus grants.

'Overall, we can be very satisfied with the operation of the Erasmus programme and with the interest which it has aroused both among potential users and in the Community at large. In addition, I am pleased at the way that Member States are cooperating with the Commission in order to best achieve the objectives of the Erasmus programme.

From information currently to hand, and following the large number of study

visits undertaken to prepare future inter-university cooperation programmes, a doubling of applications can be expected for the 1989-90 academic year. This will make selection more difficult, given the paucity of available funds (ECU 45 million).

The Commission's financial estimates which accompanied the proposal for a Council decision were fully justified. Unfortunately, the Council saw fit to reduce them by half. I trust that next year, the Commission will take budgetary measures adequate to respond in a realistic manner to the growing requests for cooperation by the universities and for the mobility of students and staff. If it does not, the Erasmus programme itself could be at risk.'

Table 1: Inter-university cooperation programmes 1988-89: general overview by Member State

Coordinating institution ¹						Total number of involvements ²			
Member State	All applications		Accepted ICP		Success rate	All applications		Accepted ICP	
	Number	%	Number	%		Number	%	Number	%
B	173	8.5	89	8.2	51	347	17.0	191	17.5
DK	44	2.2	25	2.3	57	120	5.9	73	6.7
D	293	14.5	144	13.2	49	830	40.7	449	41.1
G	51	2.5	20	1.8	39	137	6.7	74	6.8
E	180	8.8	103	9.4	57	532	26.1	314	28.8
F	444	21.8	225	20.6	51	1 044	51.1	578	53.0
IRL	57	2.8	26	2.4	46	160	7.8	95	8.8
I	211	10.3	124	11.4	59	489	24.0	291	26.7
L	2	0.1	0	0	—	8	0.4	4	0.4
NL	169	8.3	96	8.8	57	418	20.5	260	23.8
P	50	2.5	29	2.7	58	160	7.8	101	9.0
UK	367	18.0	210	19.2	57	1 030	50.5	571	52.3
Total	2 041	100	1 091	100					

¹ Each ICP has one coordinating institution. This institution is in many cases the main driving force behind the ICP.

² The figures mean that for example, Belgian universities are *involved* in 191 (17.5%) of the 1 091 accepted ICPs. Each country is counted only once in each accepted ICP in which it is involved, even if several universities from that country are participating in the ICP concerned.

Table 2: Inter-university cooperation programmes: general overview by subject area

Subject area	All applications		Accepted ICPs	
	Number	%	Number	%
Agriculture	65	3.2	39	3.6
Architecture	71	3.5	39	3.6
Fine Arts/Music	61	3.0	31	2.8
Business	222	10.9	102	9.3
Education	63	3.1	23	2.1
Engineering	281	13.8	158	14.5
Geography/Geology	62	3.0	26	2.3
Humanities	108	5.3	61	5.5
Languages	371	18.2	208	18.9
Law	119	5.8	72	6.9
Mathematics/Informatics	68	3.3	39	3.6
Medical Sciences/Psychology	139	6.8	63	5.8
Natural Sciences	172	8.4	103	9.4
Social Sciences	184	9.2	100	9.2
Miscellaneous	52	2.5	28	2.6
Total	2 041	100	1 091	100

Table 3: Student mobility programmes by Member State

Member State	% success rate in relation to application	% rate of participation in student mobility programmes	
		1987-88	1988-89
Belgium	62.5	10.8	15.3
Denmark	70.4	6.5	6.0
FR of Germany	59.8	43.2	41.4
Greece	64.5	7.8	6.3
Spain	67.4	22.9	28.4
France	60.6	53.8	53.3
Ireland	57.1	7.3	7.1
Italy	70.5	21.4	26.5
Luxembourg	—	0.3	0.1
The Netherlands	68.0	16.6	21.7
Portugal	76.5	5.0	7.9
United Kingdom	60.8	59.8	51.1

Table 4: Study visit grants: applications by Member State

Member State	1987-88	1988-89	Increasing level %
Belgium	151	240	+ 58.9
Denmark	81	87	+ 7.4
FR of Germany	235	294	+ 25.1
Greece	149	289	+ 93.9
Spain	297	488	+ 64.3
France	350	546	+ 56.0
Ireland	94	112	+ 19.1
Italy	246	454	+ 84.5
Luxembourg	1	3	—
The Netherlands	139	173	+ 24.5
Portugal	108	275	+154.6
United Kingdom	526	549	+ 4.4
Total	2 377	3 510	+ 47.7

Table 5: Visit grants: grants awarded by Member State

Member State	Accepted applications	Number of participants	% success rate (Applications/grants)
Belgium	82	194	34
Denmark	32	71	37
FR of Germany	101	193	34
Greece	128	225	44
Spain	202	386	44
France	117	299	21
Ireland	52	95	46
Italy	198	394	44
Luxembourg	2	4	67
The Netherlands	69	187	40
Portugal	119	231	43
United Kingdom	165	332	30
Total	1 267	2 611	36

Table 6: Visit grants: grants awarded by Member State and subject area

Subject area	Member State from which application originated												Total
	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	
Agriculture	2	2	4	13	2	12	2	14	0	4	8	4	67
Architecture	2	3	2	8	4	3	0	12	0	1	2	9	46
Fine Arts	0	1	1	2	15	5	2	4	0	7	13	10	60
Business	0	0	9	7	3	12	5	1	0	5	6	12	60
Education	4	1	12	5	16	4	0	3	0	3	22	7	77
Engineering	10	3	15	9	19	11	13	12	0	7	7	20	126
Geography	1	0	1	3	5	5	0	5	0	3	3	11	37
Humanities	5	2	4	4	16	10	1	35	0	3	4	11	95
Languages	10	3	16	12	22	13	3	31	1	9	5	18	143
Law	6	0	6	5	17	8	1	11	0	2	2	6	64
Mathematics	8	2	4	10	6	1	6	20	0	3	3	9	72
Medical Sciences	12	2	6	16	33	8	3	7	0	9	3	10	109
Natural Sciences	3	1	7	9	18	4	5	8	0	2	12	19	88
Social Sciences	13	4	7	14	13	10	3	12	1	6	18	11	112
Others	2	5	3	8	10	5	5	9	0	4	8	6	65
Higher Education	4	3	4	3	3	6	3	14	0	1	3	2	46
Total	82	32	101	128	202	117	52	198	2	69	119	165	1 267

Launching the 'Youth for Europe' programme

On 24 May 1988 Foreign Affairs Council agreed to the 'Youth for Europe' programme to promote youth exchanges in the European Community. The formal Council Decision¹ was adopted three weeks later, on 16 June 1988. The last of the Commission's International Youth Year group of proposals, including the mobility of young people (Comett, Erasmus, and now Youth for Europe), has finally been adopted. It had taken precisely 835 days since the Commission's original proposal, put forward on 5 March 1986 as part of the follow-up to the International Youth Year.

And yet, paradoxically, there had never been very much debate about the desirability of the activities that the Commission was proposing. During those 835 days, the preparatory group in the Council adjusted the age-range of young people involved (from 16 to 25 they — and the Commission in an amended proposal — enlarged it to 15 to 25); they removed one small action proposed by the programme; they made a few small changes in the objectives and in the text. Overall, the programme as adopted will carry out the general functions that the Commission proposed, in the way the Commission proposed, and to meet the Commission's objectives.

What are those objectives? They can perhaps be best divided into two groups. With one group of objectives, the programme aims to encourage the personal development of young people, to help them with the capacities they need to survive and flourish in today's society. The other group relates to young people as citizens of the European Community — to help them understand the similarities and differences between their situations and those of their counterparts in other Member States, to experience life in another Member State, to build those links of friendship and communication that must underlie a people's Europe.

Easier said than done, one might think. But experience and analysis of the process of learning through a youth exchange shows that this does happen. Young people do develop new personal skills and capacities in preparing for youth exchanges — just as many of them, for example, do come back from an exchange with a much greater acceptance of the value of differences in others, or an understanding that foreign-language learning does, in fact, have some point.

So these are the objectives for Youth for Europe: how do we go about turning them into fact, and what do we have to build upon?

Some countries are much more developed in their use and support of

youth exchanges than others. The leaders in the Community are the Federal Republic of Germany and France, with their substantial commitment to the Franco-German Youth Office, and their wide range of bi-lateral cultural agreements providing for youth exchanges. In the Community as a whole there is a substantial experience of youth exchanges and considerable know-how: part of the role of this programme must be to spread that know-how wider.

There are no reliable figures to say how many youth exchanges take place each year within the Community. Each Member State can, in theory, provide the number of exchanges and of young people who received official support, but everyone agrees that this is only a fraction of the total, since many young people organize their own exchanges without official bodies even knowing that an exchange is under way. It is clear, however, that the Youth for Europe programme does not set out into uncharted waters, but that a much more considerable number of exchanges than it will be able to support (given the budget reductions imposed by the Council on the Commission's proposal) will continue to exist around it.

Most of the finance available under the programme — estimated at ECU 15 million for the three years 1989-91 — will go directly towards supporting young people in their exchanges. That is as it should be: the programme is about, and for, young people, and the biggest single obstacle to the development of youth exchanges in the Community is undoubtedly the shortage of cash in the hands of young people.

But a significant part of the programme is devoted to other forms of support: to the creation of centres in each Member State where young people can obtain information or advice about youth exchanges and their organization, or about other opportunities for mobility such as work abroad, language courses, voluntary work, music, drama, sports abroad; to training courses for

¹ Decision 88/348/EEC — OJ L 158, 25. 6. 1988.

youth workers interested in youth exchanges, be they organized at local, regional, national or transnational levels as a contribution to the work they do with young people; to study visits for youth workers for the same purposes; and to administrative and technical support of various kinds.

It would be easy to dismiss such matters as unimportant — to say that any programme money not spent directly on young people is programme money not well spent.

However, the framework within which an exchange takes place — the programme structured so as to encourage an active learning process, the care that surrounds the inter-cultural learning process, the forethought about matters such as the use of linguistic or non-linguistic communication between groups of young people who may not speak a word of each others' languages — these are the elements that set apart a youth exchange (in the Youth for Europe sense of that term) from youth tourism, youth festivals or any other form of youth mobility. And if youth exchanges do not have these informal learning elements in them, then however enjoyable

they may be (that too is a criterion) they are not eligible for support under the programme. Informal learning in a structured context is the key to support under the Youth for Europe programme.

In mid-September 1988 the Commission held the first meeting of the Youth for Europe Advisory Committee, to discuss with them the different actions set up under the programme, and how they could be best implemented. The debates were detailed, but the Committee largely agreed with the Commission's intentions as to how this should be done. In mid-October 1988, barely a month later, the Commission met the coordinating structures designated by Member States — popularly known as the 'national agencies' — to take the policy guidelines discussed with the Advisory Committee and to turn them into operational 'nuts and bolts'. And on 1 January 1989 — or, to be precise, on Monday 2 January — these national agencies become fully operational under the terms of the programme.

The agencies are the key to the successful operation of Youth for Europe. If they work well, the programme will succeed in its objectives; but if they have

problems, so will the programme. In some Member States, the choice of the national agency was easy — for example, both Ireland and the United Kingdom already have Youth Exchange bodies, which already fulfil some of the functions required of Youth for Europe agencies. In other countries — for example, in France or Spain — a more generally based Youth Institute has been chosen. But in some Member States the chance has been seized to establish, often for the first time, a single national centre to deal with all aspects of all youth exchange and youth mobility programmes. And even apart from the advantages of coordination between the programmes, the existence of a single address from which information can be obtained must, in the long run, make life easier for young people.

So, at the start of 1989, we have 57 young people in the Community within the age-group covered by the programme; we have our tally of national agencies; we have an unknown quantity of professional and voluntary youth workers waiting to take part; and we have three years to show that Youth for Europe can be, and will be, a success.

Health and security

Actions and guidelines

Protection of workers against risks related to biological agents: the Commission's approach

The Commission of the European Communities recently submitted a proposal for a directive concerning the protection of workers against risks related to exposure to biological agents at work.

This proposal concerns the third field of the framework Directive 80/1107/EEC — the protection of workers against risks related to chemical, physical and biological agents — which, to date, had not given rise to any specific measures at Community level: biological agents.

However, it is a well-established fact that many biological agents have a harmful effect on health and that exposure to such agents therefore increases the risk of illness. This exposure may occur as a result of a range of activities, such as, for example, those carried out in

- (i) research and development laboratories;
- (ii) hospital isolation wards;
- (iii) clinical, veterinary and diagnostic laboratories;
- (iv) industries using biological agents.

This proposal also attempts to respond to fears expressed concerning the development of biotechnologies during which biological agents dangerous to man could be used or produced.

Therefore, for workers employed in these sectors of activity, it is particularly important to ensure that their exposure to biological agents is avoided or reduced as much as possible to avoid the development of infections or illnesses.

In addition, the EC Member States recognize the importance of protecting workers against risks related to exposure to biological agents.

Nevertheless, national legislations deal with the question in a different manner. In certain cases the national legisla-

tion does not include any specific provisions and it is above all the provisions of a general nature which could possibly provide, in part, legal cover for protection against biological agents. Other Member States, on the other hand, have already introduced quite detailed legislation, which often proves inadequate in certain areas, especially as regards biotechnologies.

In short, in the light of all these present circumstances, there was a real need for a directive.

Furthermore, in its Communication on its programme in the field of security, hygiene and health in the place of work,¹ the Commission of the European Communities had already announced its intention to propose a directive on biological agents which are the cause of adverse effects to health, such as, for example, pathogenic micro-organisms, and on the engineering techniques liable to present a health risk.

The aim of the proposal is, therefore, to protect workers against the risks to their health and safety posed by exposure to biological agents and to promote harmonization in future developments in the provisions existing in the Member States in this field.

General principles of the proposal

Taking into account the experience acquired in certain Member States, the protection of workers against the risks related to exposure to biological agents in the place of work requires a prior assessment of the said risk.

This assessment should make it possible to determine the nature and degree of

- (i) the intrinsic danger presented by the agents;
- (ii) the exposure or potential exposure of workers;

- (iii) the probability or the risk of propagation within the group.

The characterization of a biological agent as constituting a danger to health must take into particular account the existing epidemiological data, together with the directives given by the responsible authorities on the manner in which certain agents should be controlled.

Following such an assessment, the Member States must classify the biological agents according to their degree of danger on the basis of the definitions proposed by the directive. This classification will be made for activities in research and development laboratories, rooms in which animals are kept, and for industrial processes.

The proposal for a directive also offers a very clear distinction between the activities which constitute a conscious decision to work with biological agents, on the one hand, and those which imply an accidental exposure, on the other hand. For these two groups different provisions are made, with more stringent protective measures being applied to the first type of activity.

As regards biotechnologies, the proposal for a directive covers biological agents already classified as dangerous and which are the subject of genetic handling and those which, as a result of this handling, can become dangerous.

The proposal attempts therefore to provide guidelines allowing measures to be implemented for the protection of workers either *vis-à-vis* agents which are known to be dangerous or those which are suspected of being dangerous.

Freiria Cardoso

¹ OJ C 28, 3. 2. 1988, p. 3.

Six directives for the protection of workers

The Single European Act, which entered into force on 1 July 1987, sets new objectives for the Community: the completion of the internal market together with the reinforcement of economic and social cohesion. Far from being a simple free-trade area, this new economic space will, thanks to the accompanying policies, also become a common social space.

The new provisions of the Treaty have reinforced the competence of the Community in matters of health and, in October 1987, the Commission adopted an ambitious programme in the field of safety, hygiene and health at the place of work, a programme which received the support of the Council in its Resolution of December 1987. In this way the Commission indicated its desire to promote harmonization while improving working conditions, an important element of the social dimension of the Single Act, and also to take into account the social implications of the proposals it submitted with a view to completing the internal market.

Although it is not the only provision of the EEC Treaty able to support social policy, Article 118a (supplemented by Article 21 of the Single Act), by virtue of the directive power it confers upon the Council (in the framework of an adoption by a qualified majority in cooperation with the European Parliament), permits the implementation of measures designed to improve the working environment.

On the basis of its own programme and the Council Resolution, implementing Article 118a, in February 1988 the Commission adopted an initial body of proposals for directives aimed at improving the protection, safety and health of workers at the place of work, which was submitted to the Council.

General characteristics of the body of proposals for directives

(a) A coherent body

Six proposals for directives were submitted to the Council.

- (i) A framework directive designed to cover the safety aspect in its entirety on the basis of minimum requirements as provided for by Article 118a. This framework directive, of a general nature, will be supplemented by directives of particular application in order to cover different components or different aspects of the working environment. Five directives of this type were immediately proposed;
- (ii) they cover the places of work; the work equipment and machines; individual protective equipment; work stations featuring a visual-display unit; work involving the handling of heavy loads;
- (iii) these application directives constitute an initial body of measures, others are in the pipeline. This system, linked to a framework directive, provides a large measure of adaptability and flexibility. This is all the more true as — the measures included in these proposals being limited to the essential aspects — the details of their execution are left to the national regulations.

(b) The basic principles

- (i) The notion of the working environment is considered by the Commission as not necessarily being limited to the health and safety of workers in the strictest sense (see action programme in the field of hygiene, health and safety at work). Consequently, fields such as ergonomics are also the subject of provisions.
- (ii) The improvement of this working environment must be achieved — in view of the legal motivation, by virtue of minimum requirements (Article

118a(2)). These minimum requirements may not be minimalist requirements; nor should they be of the 'lowest common denominator' or 'arithmetical average' type with regard to existing conditions of health and safety in the different Member States. By involving Member States and technical bodies at the preparatory stage of the texts by means of studies, opinions or the organization of consultations with the social partners, the Commission has defined minimum requirements corresponding to a minimum level below which no Member State may be situated after the stated deadlines.

This — original — level of protection may of course be reinforced and the Member States may do so either by maintaining or introducing more stringent measures of protection (Article 118a(3));

- (iii) The basic principle adopted by the Commission as to the applicability of these texts is universality. The provisions provided will apply to all companies, regardless of their size.

In effect, at no time has the Commission supported two-tier directives as the problems of safety for workers apply in all types of company. However, every precaution has been taken to ensure that the spirit of Article 118a(2) is respected and that the proposed measures do not present an obstacle to the creation and development of SMEs, whether at the administrative, financial or legal level. The degree of flexibility incorporated in the text of the proposals regarding the size of the company, socio-economic factors and the deadline from which the directives will apply will permit the necessary process of adaptation in the case of the SMEs to be taken into account.

Finally, it should be pointed out that all these texts were presented to the social partners at the time of the (institutional) consultation of the Advisory Committee for Hygiene, Health and Safety.

(c) A new methodology

The completion of the single market which was decided at the Milan Summit in 1985 has led the Council to produce a new tool for its realization, known as the 'new approach'. The 'new approach in the field of technical harmonization and standardization' (Council Resolution of 7 May 1985) makes provision for directives in the technico-economic field for the completion of the internal market to include only the essential safety requirements needed to eliminate technical obstacles to trade linked to problems of safety. The technical details specifying these essential requirements will in future be left to European standardization (CEN and Cenelec).

In this way, the directives determining these essential safety requirements are expressed in a general manner in terms of objectives or aims to be achieved and no longer include the complete technical description which rendered their preparation so burdensome a task and which delayed and complicated their adoption. The system has consequently become more flexible, more rapid and therefore more efficient. The Commission considered it useful and even necessary to apply this 'new approach' method to certain directives in the social domain aimed at improving health and safety protection at work as provided for in its programme. This choice is explained by three reasons:

- (i) the Commission considers that there is a parallel between the essential safety requirements laid down by the directives drawn up on the basis of Article 100a of the EEC Treaty which are of an economic and commercial character, and the minimal requirements provided for by Article 118a which are of a social character. Some of these '118a' proposals and directives are moreover related to the '100 a' proposals and directives. The two policies are complementary;
- (ii) the minimum safety requirements contained in some proposals may be expressed, in the same way as the essential requirements, in a general way in terms of aims or objectives to be achieved, and this all the

more so as Article 118a (2) (first paragraph) requires that the conditions and technical rules of each of the Member States be taken into account when drawing up minimum requirements.

When the time comes to specify the technical complements to these provisions at Community level this may be done on the basis of 'an appropriate form of standardization' drawn up by the European committees for standardization (CEN and Cenelec) on which the various institutes of national standardization are represented, this satisfying the requirements of Article 118a(2) as mentioned above;

- (iii) finally, we know that Article 118a (3) does not 'prevent any Member State from maintaining or introducing more stringent measures for the protection of working conditions'. The Commission must, however, analyse and monitor the provisions of the Member States which translate the minimum requirements of the directives into their national legislation. In this way it is possible to understand that, in order to avoid a deharmonization which would be against the spirit of these texts from the Treaty, the Commission must have reference elements in order to be able to exercise its monitoring obligations. Only an 'appropriate form of standardization' will yield these reference elements.

These three reasons having led the Commission to opt for a 'new approach' in the field governed by Article 118a, there remained the matter of defining the 'appropriate form of standardization'. In effect, harmonized standards such as those of the essential safety requirements could not be used as they are strict values of application while the minimum requirements are no more than a 'floor' below which the Member States may not descend. Attention therefore shifted to technical reports, the characteristic of which is precisely that they only contain minimum technical elements which can be adopted at the CEN and Cenelec by a simple majority rather than the qualified majority required by the harmonized standards.

The specific provisions of the proposals for directives

When drawing up the texts, the Commission implemented the spirit of Article 118a which provides for the development of the dialogue between social partners at European level. In addition to the *ad hoc* studies and contributions, the main forum where the social partners exercise their role is the Advisory Committee on Safety, Hygiene and the Protection of Health at the place of work, set up by a decision of the Council in 1974. All proposals for directives, drawn up on the basis of Article 118a (or Article 100a) are submitted for consideration by this Committee, which means that its activities are destined to expand considerably.

The framework directive

Proposal for a directive concerning the implementation of measures to promote improvements in the safety and health of workers at the place of work, COM(88) 73 final.

This framework directive is therefore destined to constitute a social dimension in the completion of the single market by determining the essential elements for improving safety at work in general.

The overall objectives will be specified in particular directives provided for by Article 13 on the subjects as listed in the annex.

The measures implemented to achieve these objectives contain a certain number of structural and administrative provisions together with provisions for social dialogue aimed at employers, workers and their representatives. In this way, the proposal is seeking to promote dialogue between social partners as a means of promotion and prevention of professional risks. The provisions contained in this directive also help to establish the right of workers to information and to training in matters of safety at work.

To this end, the employer must have at his disposal an assessment of existing risks to safety and health at work and must determine the protective measures to be taken. In being informed in this way, workers who have received adequate training in the work station they occupy will play an active role in this protection and will contribute to it by honouring the obligations incumbent upon each of them in such a manner as to be attentive to both their own safety and the safety of others.

These obligations imposed on workers by Article 12, together with the principle that they must be consulted (Article 10), in no way detracts from the principles of the employer's responsibility (Article 4 (3)).

The employer may not claim, in order to be released of all or part of his responsibilities as regards the safety and health of workers in his company, that he has used a service specialized in security and health or any external consultant whatsoever (Article 4 (2)).

The field of application of this directive is very broad. The provisions proposed concern all companies: however, while not reducing the level of protection, certain provisions have been made to alleviate the constraints in certain cases.

Finally, this proposal also provides for the setting up of a Committee for adaptation to technical progress composed of representatives of the Member States in order to implement any necessary changes. This same procedure for adaptation will also be adopted in the particular directives.

The particular application directives

A. Proposal for a Council directive concerning the minimum safety and health requirements at the place of work (first particular directive in the sense of Article 13 of the directive), COM(88) 74 final.

This directive proposes to progressively improve the conditions at the

place of work, in particular on the basis of material organization.

The measures proposed are limited to the essential aspects and concern existing places of work, whether new or modified.

Among these measures, particular attention should be drawn to the importance placed on a regular technical servicing of these places of work and the servicing and checking of the operation of safety systems designed to prevent or eliminate danger.

An important provision concerns the procedure as regards conformity to the minimum requirements at the place of work if these are specified in technical reports, or otherwise provisionally if the technical reports have not yet been drawn up. It falls upon the Member States to ensure that these national provisions are in conformity. They inform the Commission that this is so, which then brings them to the attention of the other Member States. The directive includes annexes which distinguish between the minimum requirements for places of work designed, constructed or exploited after the entry into force of the directive (Annex 1) and those which must be applied within a period of five years to places of work already in use (Annex 11).

A committee will be responsible for adapting these annexes in accordance with the procedure in the framework directive.

B. Proposal for a directive concerning the minimum health and safety requirements for the use of machines, equipment and installations (second directive) COM(88) 75 final.

The objective of this proposal is to improve the safety and health of workers concerning the use of all work equipment and henceforth constitutes the 'social section' of the proposal for a directive on the essential safety requirements concerning the design and sale of machines.

The proposal determines the minimum safety requirements for existing work equipment as a whole and provides specific details for machines as listed in the annex. A period of five years is allowed to respect these requirements in order to take particular account of the ability of the SMEs to adapt.

The proposal also covers, in terms of minimum safety requirements, the sale of work equipment.

Finally, in order to promote the use of the safest possible equipment and to facilitate social dialogue at the level of companies in this field, indicative reference elements concerning the safety of machines are concluded in a nonobligatory annex. New annexes will be drawn up by a committee responsible for adaptation to scientific and technical progress.

C. Proposal for a directive concerning the minimum requirements for the use of individual safety equipment by workers (third directive), COM(88) 76 final.

This proposal seeks to improve the conditions for the use of individual safety equipment and to define the most appropriate characteristics of this equipment on the basis of the risk present.

It constitutes the 'social section' of the proposal for a directive on the essential safety requirements concerning the design and sale of individual protective equipment.

The proposal establishes a priority for the means of collective protection as a basic principle and presents individual safety equipment as the second 'line of defence' in protecting the safety and health of workers at the place of work. The proposal takes into account the fact that in many companies there are numerous circumstances where the risks for the safety and health of workers are not avoided or sufficiently reduced by methods of collective protection due to technical and/or economic reasons. In these cases, and in order to nonetheless ensure the same level of protection

for workers, strict and appropriate conditions of use for individual protective equipment are necessary. The use of inappropriate equipment not only signifies the absence of protection but also the supposed presence of protection and therefore unconsciously careless behaviour. Finally, the proposal is also designed to promote 'the good choice' of individual protective equipment so that it may be used in a system which is adequate and coherent from both a technical and a human point of view, in particular in order to obtain the cooperation of the workers.

The committee of adaptation is in accordance with that of the framework directive.

D. Proposal for a directive concerning the minimum safety and health requirements relating to work on visual-display screen equipment (fourth directive), COM(88) 77 final.

The main object is to maintain the safety and health of workers by an adequate arrangement of work stations using visual-display units — whatever the process.

This directive which, furthermore, is included in the overall field of application of the framework directive does not include minimum requirements. It will be applied to all kinds of companies.

The various provisions included in this proposal may be classified into two groups.

- (i) The obligatory or indicative requirements must be taken into account by all companies; (key work stations

which are the subject of restrictive regulations only if they are new, existing work stations having to conform as far as possible). These requirements are given in the annex to the directive.

- (ii) The provisions concerning the training, information and consultation of workers destined to occupy a work station including a visual-display screen. An ophthalmological monitoring scheme is proposed, the methods of which are specified.

The Commission will adopt the annex determining the minimum requirements in accordance with the same procedure as applied to the other proposals.

E. Proposal for a directive concerning the minimum safety and health provisions concerning the handling of heavy loads presenting risk of back injury to workers (fifth directive) COM(88) 78 final.

This proposal is designed to reduce as much as possible the carrying of heavy loads by workers in order to reduce the risk of back injury resulting from such handling. In cases where manual carrying cannot be avoided, the different factors contributing to the creation of risks should be taken into account in order to take the adequate measures to reduce their incidence.

The proposal contains general obligations on the part of the employers — in particular concerning assessing the risks incurred by workers when handling heavy loads and this thanks to the

criterion given in the annex to the directive; it also contains measures concerning training, information and the consultation of workers, in order to provide concerted and effective prevention.

The adaptation procedure from the annex to the other proposals is also included here.

Conclusions

These proposals as a whole constitute an initial body of proposals for the implementation of the Commission working programme for health and safety at the place of work; other proposals will follow, in particular whenever it is necessary to 'supplement' a proposal aimed at instituting the single market by means of a social section. The high-risk activities — construction, agriculture and fishing — are considered as priority activities for specific actions.

The principles concerning the improvement of the working environment are

- (i) a high level of minimum provisions;
- (ii) training;
- (iii) information for workers; and
- (iv) dialogue between the social partners.

These principles are and shall remain the main theme of the Commission's proposals in this field.

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A. Berlin
W. Goeminne
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The European Community and European Cancer Information Year

It was at the London European Council in December 1986 that 1989 was designated European Cancer Information Year by the 12 Heads of State and/or Government. This innovative decision confirmed the importance attached by the European Community at the highest level to the Europe against cancer programme which it had launched the previous year at the Milan European Council.

In January 1987 the European Commission published a specific proposal for an action plan to mobilize, in 1989, all the forces involved in the fight against cancer throughout the European Community. This proposal very quickly received active support from the various cancer associations and leagues. It was also endorsed by the Economic and Social Committee in June 1987 and by the European Parliament in February 1988.

On the basis of those endorsements, the Council of Ministers for Health adopted the Commission's proposals on 31 May 1988 and ECU 10 million was allotted for the preparation and implementation of European Cancer Information Year.

The central message of this awareness campaign is that cancer is no longer a fatal disease and that the frequency of its occurrence can be reduced by preventive and early warning measures. To this end, the high-level Committee of Cancer Specialists, which advises the Commission, has drawn up 10 simple individual rules aimed at reducing significantly the risk of cancer.

Finalized in Madrid in May 1987 on the occasion of the Committee's fourth meeting, the European Code against cancer was approved by the 12 Ministers for Health and by all of the European Community's associations and leagues against cancer. It was officially presented to the Heads of State and/or Government, in December 1987, at the Copenhagen European Council.

As emphasized by the Committee of Cancer Specialists, 'if the 10 European "golden rules" were observed, the result would be a significant reduction — possibly by as much as 15% by the year 2000 — in the number of deaths from cancer in the European Community'.

To spread the message of these 10 'golden rules' as widely as possible, the Europe against cancer programme will enlist help from a number of quarters: the various associations and leagues against cancer, anti-smoking organization, television medical programmes, medical general practitioners and the various national Ministries of Health and Education.

Throughout 1989, those involved at national level in the fight against cancer will introduce the European dimension into their information publications and in their national campaigns. All such parties have undertaken to ensure that the European Code against cancer is brought to the attention of the public at large, private individuals as well as doctors, pharmacists and teachers. School pupils and young students and even, in some countries, young conscripts, will also be targeted, from the beginning of the academic year in autumn 1989, in an information drive on cancer prevention. In the majority of countries, campaigners at national level have decided to

European Code against cancer

Certain cancers may be avoided:

1. Do not smoke

Smokers, stop as quickly as possible and do not smoke in the presence of others

2. Moderate your consumption of alcoholic drinks:

beers, wines or spirits

3. Avoid excessive exposure to the sun

4. Follow health and safety instructions,

especially in the working environment concerning production, handling or use of any substance which may cause cancer.

Your general health will benefit from the following two commandments which may also reduce the risks of some cancers:

5. Frequently eat fresh fruits and vegetables and cereals with a high fibre content

6. Avoid becoming overweight

and limit your intake of fatty foods.

More cancers will be cured if detected early:

7. See a doctor if you notice a lump or observe a change in a mole or abnormal bleeding

8. See a doctor if you have persistent problems,

such as a persistent cough, a persistent hoarseness, a change in bowel habits or an unexplained weight loss.

For women:

9. Have a cervical smear regularly

10. Check your breasts regularly

and, if possible, undergo mammography at regular intervals above the age of 50.

coordinate and focus, depending on the period of the year, on one or more European 'golden rules', with a summary of the European Code at the end of the year. The precise programmes of all the campaign bodies involved will be divulged at the press conferences to be held in each of the 12 capitals to mark the start of European Cancer Information Year in January 1989.

Measures to be taken at Community level will also be announced at these same press conferences. During the course of European Cancer Information Year, the following stages will be of particular significance:

January 1989: The results of the 'Europeans and the European Code against cancer' survey will be made public. They will show the extent of awareness of the European 'golden rules' at the start of European Cancer Information Year and gauge how far these have begun to be actively applied by the general public.

The European audiovisual material tested during the European Cancer Information Week held from 1 to 8 May 1988 will begin to be disseminated on a broad scale: brochures concerning the programme; posters on the European Code and charts showing the distribution of cancer deaths in Europe, video cassettes combining the three European television programmes made in 1988: *Euro-Jim versus Crab Cancer* (four minutes); *Man and cancer* (30 minutes) and *Lifestyles and cancer in Europe* (45 minutes).

The European Commission will announce its proposals for the harmonization of national legislation concerning restrictions on advertising. In particular, legislation concerning newspaper and magazine advertising will draw upon the current practice in the United Kingdom and Ireland where a large percentage of

advertising space must feature medical warnings such as 'Smoking causes cancer' and 'Smoking causes heart disease', in order to keep the public better informed of the damaging effects of tobacco.

April 1989: The results of the 'Medical general practitioners and the European Code against cancer' survey will be made public at the press conferences, in which cancer specialists and organizations representing general practitioners will participate, to be organized in each of the 12 capitals.

May 1989: On Sunday 7 May cycle rallies will be held in the 12 countries of the European Community to promote the European Code against cancer. The teams will include former cancer sufferers cured as a result of early detection (the last four European 'golden rules') and representatives from the various associations and leagues against cancer and from the medical press. On Tuesday 9 May each country will send to Brussels a team of 10 to take part in a grand European cycle rally.

June 1989: The Council of Ministers for Health is due to adopt certain of the proposals before it for a Council Directive, notably on the labelling of cigarette packets ('Smoking causes cancer', 'Smoking causes heart disease', etc.).

Commencing June 1989: Mobile exhibitions (using trains, buses and mar-quees) on the prevention and treatment of cancer will be organized Europe-wide, achieving special prominence in October 1989.

European television programmes made in 1989 (supplementing those produced in 1988) will be broadcast by a number of European channels: *Occupational cancers in Europe* (produced by RTBF); *A very European cancer (breast cancer)* (produced by Yorkshire TV); *Skin cancers in Europe* (produced

by BRT and Stratecom); *Just say no* (dissuasion of the young from smoking) (produced by RTE and Stratecom); *Soonest detected, most easily cured* (produced by ZDF); *How to treat cancer* and *Living with cancer* (produced by Yorkshire TV).

October 1989: The results of the 'Teachers and the European Code against cancer' survey will be made public at the press conferences, in which cancer specialists and representatives of teacher organizations will participate, to be held in each of the capitals.

During European Anti-cancer Week from 9 to 15 October all the many campaign bodies involved will be active, as was the case earlier in the year with May European Week. A Eurovision broadcast due to take place over this period should prove one of the resounding events of European Cancer Information Year.

December 1989: The Council of Ministers for Health is due to adopt certain of the five proposals for Directives on anti-smoking measures forwarded to it by the Commission during 1988 and early 1989.

All in all, European Cancer Information Year should result, in all European countries, in a greater awareness of the importance of preventive measures and early detection where cancer is concerned. It should also lead to significant progress in health education in schools, an area which continues to suffer from insufficient attention. Lastly, the European Community should adopt one or more of the five proposals for Directives on more intensive measures to curb smoking, herein being the principal cause of cancer deaths in Europe. The Community would thereby demonstrate its ability to make a major contribution in the fight against cancer.

The role of the Safety and Health Commission for the Mining and Other Extractive Industries (SHCMOEI)

The mining of mineral wealth belongs, together with agriculture, hunting and fishing, among the earliest industrial activities of man. Underground mining in particular, but also the exploration and extraction of crude oil and natural gas — offshore, in particular — and quarry-related activities, belong as they always have, to occupations which entail considerably higher risks to workers' health and safety than do most other branches of industry.

Article 55 of the ECSC Treaty has already prescribed measures relative to industrial safety for the industries which come under the Treaty, pertaining in particular to the furtherance of research. Articles 117 and 118 of the EEC Treaty outlined the goals and tasks with regard to the improvement of living and working conditions of working people, particularly the prevention of occupational accidents and diseases. These articles were supplemented by Article 118a, which has come into effect within the framework of the Single European Act, the object of which is the protection of the health and safety of workers.

The terms of reference of the SHCMOEI were defined by the Council of Ministers on 9 July 1957.¹ These terms of reference, initially limited to the safety of workers in coal-mining, were later extended to cover health protection,² and finally in 1974 to all extractive industries, including crude oil and natural gas as well as quarries.³

The impetus behind the establishment of the SHCMOEI was the mine fire in the Bois du Cazier coal-mine in Marcinelle, Belgium, which broke out on 8 August 1956 and took the lives of 262 miners.

In an effort to make the work of the Safety and Health Commission as effective as possible, the SHCMOEI was vested with the right of submitting proposals on the improvement of industrial safety directly to governments, while being empowered to solicit information directly from the governments of the Member States.

The SHCMOEI consists of two government representatives, one employee representative and one employer representative from each Member State. These are joined by a limited number of advisers and observers.

The SHCMOEI is chaired by a member of the Commission of the European Communities — at present Ms Vasso Papandreou. The Secretariat is incorporated in Directorate-General V, Employment, Social Affairs and Education, in the Health and Safety Directorate in Luxembourg.

The most important task of the SHCMOEI is the elaboration of proposals for the improvement of safety and health protection which, according to Article 1 of the terms of reference of the SHCMOEI are submitted directly to the governments of the Member States, without having to go through the Council of the European Communities. In this way, the operating method of the SHCMOEI is expedited and simplified. These proposals do not have the same binding effect as Council guidelines, but governments do adhere to them extensively.

The development of legislation in the field of industrial safety and health protection has been considerably influenced and coordinated at Community level by means of these recommendations, as the experiences of all Member States, the results of researches, especially ECSC researches, as well as technological developments have been applied and undergone serious evaluation by the Member States.

According to Article 4 of its terms of reference, the SHCMOEI must obtain information on measures which have been taken by governments for the purpose of implementing the SHCMOEI's proposals. The results of the relevant inquiries are included in the annual reports of the SHCMOEI.

Another task required by the terms of reference of the SHCMOEI is to monitor developments in industrial safety and health protection, including those of national regulations. To this end, the SHCMOEI compiles and evaluates comparable statistics on occupational accidents and diseases.

Usually, the SHCMOEI convenes twice a year; the sessions are prepared by the Restricted Committee, which consists of the government representatives of the Member States. During its sessions, the SHCMOEI reviews and

¹ OJ 28, 31. 8. 1957, p. 487/57.

² OJ 46, 22. 3. 1965, p. 696/65.

³ OJ L 185, 9. 7. 1974, p. 18.



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adopts draft documents submitted relative to:

- (i) proposals to the governments for the improvement of industrial safety and health protection;
- (ii) opinions;
- (iii) reports.

The proposals are prepared by working parties which are set up by the SHCMOEI on the basis of specific terms of reference. The proposals, opinions and reports are prepared in such a way in the working parties that they can be put immediately into practice.

Working parties are presided over by a member of the Restricted Committee, where experts representing the gov-

ernment, employers and employees work together, and if necessary are joined by specialists from test laboratories, research institutes and universities.

In particularly difficult investigations, the working parties can request the advice of expert committees, the members of which are selected on the basis of their special expertise.

A good example are the Specifications and Testing Conditions Relating to Fire-resistant Hydraulic Fluids drawn up by the working party on Rescue Arrangements, Mine Fires and Underground Combustions. These Specifications have not only gained entry in mining inside and outside the Community, but have also been used by other branches of industry.

We should also mention that in the course of 17 years, subsidies have been secured for 19 safety campaigns in the EC Member States. These campaigns have not been limited only to coal-mining, but have also been implemented successfully in other extractive industries such as natural gas, crude oil and quarries.

Explosions have continued to claim human lives in the extractive industries.

To mention just the most recent major accidents:

- On 25 February 1985, 22 men lost their lives following a fire-damp and coal-dust explosion at the Simon Colliery in Forbach in the Lorraine coal field;

- On 1 June 1988, 56 men were killed by a coal-dust explosion in the Stolzenbach lignite mine in Borken (Hessen);
- During the night of 6 to 7 July 1988, an explosion and fire at the Piper Alpha drilling and production platform in the North Sea 180 km north-east of Aberdeen claimed 167 lives.

The improvement of measures to reduce explosion and fire hazards and to improve the protection of personnel in the event of explosions and fires has always received particular attention within the framework of the activity of the SHCMOEI.

At present, a comprehensive report is being prepared on the improvement

of the said measures, especially with regard to coal-mining.

Moreover, the SHCMOEI will conduct a thorough review of the circumstances of the most recent catastrophe in the North Sea. Afterwards, proposals will be made to governments as to the relevant measures to be taken.

The success of efforts to limit explosion hazards in the coal-mining industry of the European Community is further illustrated by the table of figures attached herewith. The number of men killed by explosions has been reduced steadily these last few decades, though the number of explosions has not.

The conclusion that can be drawn from this is that the measures to limit the

consequences of explosions have been rendered more effective. In future, however, additional efforts must be undertaken to reduce the number of explosions as well.

The future tasks of the SHCMOEI consist of making sure that measures relative to safety and health protection are updated as soon as possible apace with technological progress and that they are rendered more effective. The long-range goal is to approximate the working conditions in the extractive industries — which have traditionally been and still are difficult — with those of other branches of industry.

**Wolfgang Obst
Eggehard Rother**



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Fire-damp and coal-dust explosions in coal mines in the EC¹

Period	Explosions (Total)	Deaths (Total)	Workers underground (average)	Number of work- ers killed per year referred to 100 000 workers employed	Output in Mio t/a (average)	Number of workers killed per explosion
1958-64 ²	8	423	325 000	18.4	237	52.9
1965-74 ³	9	146	311 000	4.7	215	16.2
1975-85	9	71	331 000	1.95	230	7.9
1986-31. 5. 1988	—	—	248 000 ⁴	—	189 ⁴	—

¹ From 1. 1. 1958 until 31. 5. 1988 there were no fire-damp and coal-dust explosions in the lignite mines of the European Community.

² The SHCMOEI was set up in 1957.

³ Including the UK as from 1972.

⁴ Including Spain and Portugal.



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