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drawn up on behalf of the Committee on Social Affairs
and Employment

on the harmonization of social legislation in the
Member States

PART B: EXPLANATORY STATEMENT

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EXPLANATORY STATEMENTINTRODUCTION

This report arises out of an oral question with debate to the Commission of the European Communities by Mr Pininfarina (Doc. 1-384/79) which was debated in plenary sitting on 23 and 25 October 1979. On the subject of the harmonization of the policies of the Member States in the field of social legislation the question was put in the following terms :

'The Commission is asked to report on the measures already taken, and currently in progress, to harmonize the policies of the Member States in the field of social legislation and to give its opinion on the present state of industrial relations with specific reference to all laws relating to equal competition between undertakings and equality between workers in the Community.

One of the more obvious obstacles to real European integration is the often considerable disparity in legal provisions on labour relations between the various Member States.

This problem has immediate effects on undertakings and workers in the Member States since it places them on an unequal footing, with direct repercussions on competition and consequently productivity and working conditions: undertakings and workers engaged in the same activity are bound by different legislation according to their location .

The efforts being made in every field to harmonize the policies of the Member States and the laws governing the life of European citizens should - in the questioner's opinion - be matched by more uniform European social legislation '.

In this way the question reopened a long-standing debate with the aim of encouraging Community initiatives under the provisions of Article 117 of the EEC Treaty which calls for 'improved working conditions and an improved standard of living for workers, so as to make possible their harmonization while the improvement is being maintained'.

Such a development, the Article continues, would ensue 'not only from the functioning of the common market, which will favour the harmonization of social systems, but also from the procedures provided for in this Treaty and from the approximation of provisions laid down by law, regulation or administrative action'.

It is a fact that, for social, cultural and historical reasons, and as a result of factors relating to the different economic structures of each Community country, the divergences between the social legislation of the different Member States are often very marked. One has only to refer to a few key aspects of such legislation - such as the law governing the employment market, the structure of pay conditions and social security schemes - to realise that the divergences within the Community are considerable indeed.

However, the need to defend the European economy and promote equal working conditions for undertakings and workers in the Community means that the harmonization of social legislation is essential.

Whether one argues in terms of standardizing conditions of competition - which should include the labour cost factor - or regards social policy as an end in itself, the main object should consist in bringing national regulations and legislation into line with standards obtaining in the Member States where the best results have been obtained with the most limited means. The intention should not be to change social policies but to harmonize them by creating a framework within which a consistent body of law may be contained. What is at issue is the efficiency of the European economic and social system, by comparison, it might be argued, with other non-Community countries.

For these reasons it would be inappropriate to confine the work of harmonization to a few detailed aspects, such as the reduction of working time, since an action is considerably weakened when it remains an isolated measure. It is thus important to arrive at a general assessment of the problem of harmonizing social legislation.

Here the EEC Treaty only provides a relatively limited basis for action since its provisions governing social policy (Articles 117 to 122 and 128) only refer to the promotion of close cooperation between the Member States. However, following the adoption by the Council of the social action programme on 21 January 1974 (OJ No. C 13, 12.2.1974) a series of measures for the harmonization of legislation was undertaken, mainly in 1975 and 1976.

The rest of this statement is divided into three distinct sections relating respectively to :

I. a historical review of the harmonization of social legislation in the European Community,

II. a summary of the current state of progress with the harmonization of social legislation in the European Community,

III. a general assessment of the current state of progress and practical considerations with regard to the prospects for extending the work of harmonization.

I. HISTORICAL REVIEW OF THE HARMONIZATION OF SOCIAL LEGISLATION IN THE EUROPEAN COMMUNITY

Since the harmonization of social legislation forms part of Community social policy it can only be considered in conjunction with the pace of development of Community social policy in general. According to the report drawn up by the Economic and Social Committee in 1978¹, the importance of which should here be stressed, four distinct phases in the development of Community social policy may be discerned :

A - the phase relating to the activity of the European Coal and Steel Community in the years 1952 to 1958 ;

B - the phase relating to the activity of the Communities during the period from 1958 to 1968 ;

C - the third phase, covering the period from 1969 to 1972; and finally

D - the fourth phase, from 1973 to the present.

A - In the first phase during the activity of the Coal and Steel Community (ECSC) the Community authorities concentrated their efforts on a series of measures for adjustment based on Article 56 of the Treaty and linked with the use of funds to provide for the productive re-employment of the available manpower.

Hence the work of the ECSC as regards social harmonization was, generally speaking, confined to the endeavour to phase in freedom of movement for workers in the coal and steel industries.

¹ 'Current State of progress with the harmonization of social legislation in the European Community ', ESC Secretariat, Brussels, June 1978.

B - The second phase covering the period 1958 to 1968, is characterized by completion of the Common Market.

In the social context two significant achievements should be underlined :

1. freedom of movement for workers, which was achieved between 1958 and 1968, and
2. the entry into force of framework regulations governing social security for migrant workers, begun in 1958 and completed in 1971.

During this phase Community social policy developed at a noticeably slow pace for two reasons :

(a) the isolated and fragmentary nature of the Treaty provisions in the social field which give rise to only limited opportunities for Community action, particularly when compared with the means available in the economic sphere and in the sectoral policies such as agriculture and transport.

(b) the fundamental disagreement between the Commission and the Council, arising out of these Institutions' different attitudes to the participation of the social partners in social policy. In the Commission's views, Community social policy was not feasible - was not even conceivable - without the close involvement of employers' and workers' organizations; the Council, however, considered - on the basis of the wording of Articles 117 to 121 and 128 of the EEC Treaty - that the coordination of social policy in cooperation with the social partners was a national responsibility and should therefore take place as part of national consultations.

This disagreement culminated in a complete cessation of Community activity in the social sphere between 1962 and 1967 but was resolved following a compromise reached between the two Institutions on 14 December 1966. Under the terms of the compromise the preparation of studies by the Commission - to be carried out if necessary with the cooperation of the social partners - would be subject to the prior agreement of Council.

C - The third phase (1969 - 1972) may be regarded as an important stage in the development of Community social action, not so much because it is possible to detect action directly aimed at harmonizing social systems, but rather because the direction which should be taken to achieve this end was now clearly defined and the appropriate instruments for such a policy had been established. To summarize the achievements of this period, the following points should be noted :

- following the gentleman's agreement between the Council and the Commission in 1966, the latter endeavoured to include specific measures it proposed to take in the social field in a kind of overall programme which would have to be adopted by the Council before it could be implemented.

- The idea that social policy should be considered as a separate policy rather than merely a function of economic policy was gradually gaining ground within the Commission. Meanwhile, the Council, partly as a result of influence from outside the Community (such as the inclusion of the social partners in general consultations on the main economic and social options in the Federal Republic of Germany, or the 'Grenelle agreements' in France), adopted a more favourable attitude to the inclusion of the social partners in the preparation of the Communities' social policy.

- In 1970, after several conferences on employment, the Standing Committee on Employment was set up.

- Following a decision taken at the European Summit in the Hague in December 1969 calling for the implementation of economic and monetary union in the coming years, for which a Community social policy was considered indispensable, the Commission drew up a document entitled 'Preliminary Guidelines for a Community Social Policy Programme' on 17 March 1971 (SEC (71) 600 final).

- The seal was set on this change of attitude on the part of the Member States in favour of a Community social policy at the European Summit in Paris in 1972, at which the Member States admitted for the first time in their declaration that 'vigorous action in the social field has for them the same importance as the achievement of economic and monetary union'.

In the same declaration the Community institutions were invited to 'adopt by 1 January 1974, after consultation of the social partners, an action programme' which would aim to 'implement a coordinated policy in the field of employment and vocational training, to improve working and living conditions, to provide for worker participation in business decisions, to facilitate the conclusion of European collective agreements in the appropriate fields, on the basis of the situation in the different countries, and to strengthen and coordinate measures for consumer protection' (Doc. PE 31.175/Ann.). The European Summit stated that one of the means for implementing these guidelines could be through the use of Article 235 of the EEC Treaty.

D - In the fourth phase (from 1973 to the present) there were two distinct periods :

- from 1975 to 1976, and
- from 1977 to the present.

(a) The first period saw the adoption of genuine measures for the harmonization of social legislation, the fruit of the momentum between 1972 and 1974 in favour of a Community social policy.

Following the declaration at the European Summit in 1972 the Commission drew up an action programme which was eventually adopted on 21 January 1974 in the form of a Council Resolution¹. This resolution included several priority measures to be implemented during the years 1974 to 1976. The legislation which emerged, largely in the form of directives, still forms the bulk of the Community's repository of social law.

(b) The second period was largely affected by the energy crisis of 1974 and the ensuing recession in all the Member States. The pace of European integration, and hence of Community social policy, slackened as a result. Meanwhile the divergence between achievements in individual countries, as a result of disparities in social legislation from one country to another, has continued to grow.

The only field in which the process of harmonization has continued is that of health and safety at work, where substantial progress has been made since 1979. The Commission's recent reports on the social situation in the Community show that the use of dangerous and toxic substances is being regulated increasingly widely at Community level (see annex to this statement). These are admittedly areas in which measures taken are not affected by financial fluctuations and do not in the main pose major economic difficulties.

The inevitable conclusion to be drawn from this historical review of the development of Community social policy is that the bulk of the work of harmonization in the social field has yet to be completed. Before considering the opportunities and prospects for resuming the process, it would be appropriate to present a review, in the following section, of the main achievements as regards the harmonization of social legislation in the Community to the present day.

¹ OJ No. C 13, 12.2.1974

II. SUMMARY OF THE CURRENT STATE OF PROGRESS WITH THE HARMONIZATION OF SOCIAL LEGISLATION IN THE EUROPEAN COMMUNITY

This review of the current state of progress with the harmonization of social legislation in the Community as here presented deals exclusively with the normative aspects of Community social policy resulting in the harmonization of certain national provisions. This brief study will therefore not cover :

- Community measures under Articles 7, 48 and 49 of the EEC Treaty (on the free movement of workers) and Articles 52 to 66 of the EEC Treaty (freedom of establishment and freedom to provide services); nor will it cover

- other Community social policy measures implemented with the aid of financial resources, such as those of the European Social Fund and European Regional Development Fund, and which are socio-structural in character, such as the employment policy.

The purpose of this second section is to consider the main aspects of what is social law in the strict legal sense. Such a choice is obviously likely to make Community social policy look extremely, if not offensively limited - taken as a whole and considered from every viewpoint - but it does have the merit of providing a clear picture of the limited degree of integration in this field and of the still considerable divergences between the Member States as regards the conception of a common social policy and the opportunities for its application. Our aim here is to show what is intended and what it is possible to achieve. By concentrating strictly on the text of the actual body of law we shall be best able to tackle this important question with the caution needed to arrive at practical and valid conclusions.

This statement continues by focussing on three distinct aspects of the harmonization of social legislation :

- (a) measures for certain professional categories ;
- (b) general measures and
- (c) measures forming part of legislation on health and safety at work.

1. Measures for certain professional categories

A. Harmonization of the law governing commercial representation

Directive (64-224) of 25 February 1964 provided for the abolition of restrictions affecting the professional activity of commercial representatives.

Harmonization began with the legal provisions applicable to this profession (Working document V.XIV 15683/68 of the Commission of 29 November 1968). This working document stated that 'harmonization shall apply to all contracts and all legal situations in which an agent or representative negotiates and concludes commercial operations for and on behalf of one or more undertakings in a professional capacity and on a permanent basis'.

There is also a proposal for a directive of 17 December 1976 (Bull.1/1977) on independent commercial agents.

B. Drivers

Regulation 543/69 of 25 March 1969 governs such questions as the composition of crews, working and rest times, overtime arrangements and the introduction of a log book. The regulation lays down the maximum driving and rest times for coaches and lorries per day, per 48 hours, and per week.

The results here are rather meagre, however, as many Member States do not apply the regulation and are calling for its revision.

2. General measures

A. Collective redundancies

Directive of 17 February 1975 (OJ No. L 48, 22.2.1975) based on Article 100 of the Treaty.

(a) this applies to redundancies defined by two criteria :

- redundancy for reasons 'not related to the individual workers concerned' ;

- redundancies affecting either 10 employees (in businesses employing 20 - 100 persons), 10% of employees (businesses with 100 -300 employees), 30 employees (businesses of more than 300 employees) over a period of 30 days; or 20 employees, whatever the size of business, over a period of 90 days.

It does not apply to contracts of employment for limited periods of time, nor to employees in public administration, nor to cases of closure as a result of a judicial decision.

(b) It requires the employer first to engage in consultations with staff representatives 'with a view to reaching an agreement' on the possibilities of avoiding or reducing redundancies or mitigating their consequences. The

proposed redundancies take effect 30 days after notification of the competent public authority.

B. Transfers of undertakings (restructuring)

Directive of 14 February 1977 (OJ No. L 61, 5.3.1977) based on Articles 100 and 117 of the EEC Treaty. This applies to transfers of undertakings, businesses or parts of businesses, i.e. in the event of cessation of business or merger.

(a) The rights and duties arising out of the employment contract are transferred to the 'transferee'. However, the Member States may limit the period in which collective employment conditions are maintained if the period is of no less than one year.

(b) As regards representation, the transfer does not affect the mandate and protection of staff representatives where the business preserves its 'autonomy'.

(c) Again as regards representation, both transferor and transferee are required to inform their employees' representatives in good time of the reasons for and implications of the transfer and the measures envisaged in relation to employees.

C. Equal treatment of men and women

- Directive 75/117 of 10 February 1975 (OJ No. L 45, 19.2.1975) states that 'the principle of equal pay means, for the same work or for work to which equal value is attributed, the elimination ... of all discrimination on grounds of sex. In particular where a job classification system is used for determining pay, it must be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex'.

- Moreover, on the basis of Article 119 of the EEC Treaty the DEFRENNE judgements acknowledged that the egalitarian principle of this article could be invoked in national courts with a wide sphere of application (second judgment), whilst stressing that the principle was confined to equal pay and hence did not extend to other working conditions (third judgment).

- Directive on equal treatment of men and women workers (Directive of 9 February 1976, OJ No. L 39, 14.2.1976) governs access to employment, training, career promotions and working conditions.

- Directive on equal treatment of men and women in the field of social security (Directive of 19 December 1978, OJ No. L 6, 10.1.1979, p.24).
Implementation delayed for six years.

3. Measures forming part of legislation on health and safety at work

As has already been stated in the first section when discussing the fourth and final phase in the development of social policy in the Community, the progress attained in recent years has been considerable.

A large number of directives have been proposed by the Commission and adopted by the Council dealing with the protection of workers at their place of work.

The annex attached to this report provides an exhaustive summary of the current state of progress in the harmonization of the different national legislations in this field. It should be said that the application of Community standards with regard to the use of toxic and dangerous substances has largely replaced national standards. In its most recent annual reports on social development, the Commission stresses the fact that there has been widespread progress in the application of Community standards, encouraged by the need for constant revision and adjustment to scientific and technical progress.

As a result, 'European integration' in the field of legislation on the safety and protection of workers has shown clear progress. While such progress has taken place in a relatively discouraging wider context - as regards the general field of social policy and employment law - it could nevertheless be said to constitute a significant first step in the process of harmonization launched in the 1974 social action programme and currently in the doldrums.

III. ASSESSMENT OF THE CURRENT STATE OF PROGRESS AND PRACTICAL CONSIDERATIONS WITH REGARD TO THE PROSPECTS FOR EXTENDING THE WORK OF HARMONIZATION

In the light of the foregoing comments an assessment should now be made of the results obtained so far in the field of social harmonization. This assessment will be followed by a general assessment of problems raised by the process of harmonization as a whole and in its current context of crisis. The study will conclude with a few brief ideas on the question of the harmonization of social security systems since this constitutes a significant part of the body of social law.

A. Assessment and practical considerations with regard to extending the work of harmonization

The approximation of the social legislation of the Member States with a view to its eventual and gradual harmonization is based on the provisions of Articles 100 and 117 of the EEC Treaty. The latter as we have seen makes reference to the 'need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonization while the improvement is being maintained'. It was with this aim in view that the social action programme adopted by the Council in its Resolution of 21 January 1974 was drawn up, on the basis of which the Community and the Member States made a start on the harmonization of some social provisions.

The current situation, as described in the second part of this statement, is summarized in full in the table given in the annex. This table confirms the foregoing points and shows that the crisis of 1973 had a damaging effect on the process of harmonization, which had just begun with a series of legislative texts published during the period from 1974 to 1976. It must be said that after that period the conditions for 'harmonization while the improvement is maintained' have no longer been fulfilled since the Community countries have been going through - to a greater or lesser extent - a long phase of recession, which has hitherto at least prevented any attempt at economic recovery and has rather given rise to austerity measures. Thus the background, in the period from 1973 to the present, has not been particularly favourable to an undertaking as ambitious as the approximation and harmonization of social legislation.

However, the problem continues to be as topical as before, if not more so. It would be inappropriate to dwell on such outmoded arguments as that which calls for preference to be given to the economic aspect, through the regulation of competition, or that which stresses the importance of tackling social policy as a separate entity constituting an end in itself. It is enough to quote Commissioner Vredeling when he confirmed that 'a difference between economic convergence and social convergence must not be allowed to occur. It should be one policy.'¹

¹ Debates of the European Parliament, sitting of Tuesday, 23 October 1979

These points only underline the urgency of the task which the Community initiated by implementing its social action programme in 1974. It is, after all, not without significance that the question of the relationship between the cost of manpower and social protection on the one hand and international competition on the other has been raised with increasing frequency specifically since 1974. Our countries' economies are 'competitive economies' which means that many of their industries are exposed to strong foreign competition. This gives rise to problems of balance on foreign trade which can become a fundamental constraint on their development. It is thus essential for businesses to be competitive if their markets are to stand up to foreign trade and recourse to protectionism is avoided. This requirement of competitiveness is the context in which the control of manpower costs (pay plus social security contributions) takes on the appearance of an actual economic policy instrument.

This consideration covers the economic aspect of the problem to some extent but it also explains the inter-dependence between the economic and social aspects, since the force of foreign competition and its adverse repercussions threaten to impede the development of social protection at a time when the latter's role in softening the impact of the crisis cannot be denied. It is thus difficult, if not impossible, to dissociate economic and social convergence, and this conclusion is perfectly consonant with the provisions of the EEC Treaty, which advocate the approximation, coordination and harmonization of social policy in the Community.

In the social field, the policy pursued by each of the Member States' governments generally reflects priorities which are usually laid down at national level. This tends to increase the divergences which are also apparent in the field of economic policy. The adverse effects of this lack of coordination are becoming increasingly apparent; they include distortion of competition and a general trend on the part of governments to reduce social security benefits in real terms and constrict their field of application. All this occurs in a context in which the external constraint continues to increase, together with the Member States' public spending deficit.

Whilst mention has been made of the need to control manpower costs as an instrument of economic policy it would be a mistake to suggest that this directly calls the system of social security protection into question. The 'Report on the social aspects of European economic cooperation' drawn up by the International Labour Office¹, and other more recent studies² agree that 'it is

¹ ILO Studies and Documents series, 1956

² V. Chantal EUZEBY, 'Social security protection and International competition' in DROIT SOCIAL, December 1983, p.730 et seq.

not social security contributions alone which affect business competitiveness, but the combination of pay and statutory levies (both fiscal and social security) taken together'. The same applies to the cost of manpower, which 'is not the only factor affecting competitiveness'.

Hence it is hard to imagine how an attack on a single front - in this case that of social policy - could produce an appropriate solution to the different problems which have been facing the governments of the Member States for some time. With the help of the Community authorities the governments must, where possible, concentrate their efforts on two distinct but closely inter-related lines of action. They will need :

- first to foster the economic efficiency and competitiveness of their businesses, at the risk of foregoing certain social objectives on a provisional basis ; and

- second, to readjust the relationship between direct pay and social security benefits and/or between social transfers and other types of expenditure financed by statutory deductions.

Transferring this dual problem to Community level will specifically mean presenting the Community authorities with the challenge of endeavouring to bring about the harmonization of social legislation. Such an analysis makes it easier to understand the reasons why the process of harmonization in some areas of social security law has failed to make headway. At the same time it reveals the true dimension of a problem which is likely to be with us for some little time.

B. The specific problem of harmonizing social security systems

In the light of the Commission document containing its thoughts on social security problems (COM (82) 716 final/2) and bearing in mind that social security constitutes a considerable part of what may be termed social legislation, it would be useful to discuss a few ideas central to the notion of harmonization in this area.

'From the multi-annual estimates on the development of social security a number of conclusions can be drawn which show that there is no harmonization at the moment'. This comment by Commissioner Vredeling to the European Parliament¹ reveals the true dimension of the problem.

¹ Debates of the European Parliament, sitting of Tuesday, 23 October 1979

reserved for employed persons up to a certain period will gradually provide cover for self-employed workers as well.

Despite the fact that the social action programme provides for the coordination of self-employed schemes within the context of freedom of establishment and freedom to provide services, this is far from being the case in practice since self-employed workers are covered for a modicum of social security protection for limited risks which differ from country to country - hardly simplifying matters.

(b) The harmonization of finance

Problems of a different order arise here and by no means facilitate the work of harmonization :

- Two different methods of financing social security : first, contributions deducted from pay and divided in varying degrees between employers and employees, and second the fiscalization of social security, under which an increasing share of social security expenditure is met from public spending.

- Considerable differences between Member States in the share of state finance in social security: approximately 19% in Italy, 16% in France, 42% in the United Kingdom and 25% in the Federal Republic (figures apply to end 1979).

- A general increase in health expenditure, likely to cause difficulties for the entire social security system which is already heavily in deficit in several countries.

(c) The harmonization of health policies

The following points apply :

- The 'liberation' of the medical profession as provided for in the Treaty of Rome, since the frontiers of the nine countries, as they then were, were opened to freedom of establishment for European doctors (see Directive of 16 June 1975).

- The harmonization of sickness insurance schemes: it is proposed that these should be harmonized and not standardized as it would not appear

possible for such schemes to be based on the same model (see the difference between the Cash medicine and Third party payment schemes).

CONCLUSIONS

This report could have no other aim than to draw the attention of the Commission, Council and governments of the Member States to a practical problem falling within the ambit of European integration. Having touched, if briefly, on its different aspects we have shown the measure of its complexity, especially as what is at stake goes well beyond the social security field. In the long term, its repercussions on other issues, and particularly the place of the Community in the world as an entity capable of asserting itself in the system of free trade whilst preserving its advanced social protection system, will be increasingly apparent.

There are obviously many different and complex aspects to this problem which make it particularly difficult to tackle in a period of crisis. For this reason no progress could possibly be made without first entering into dialogue with the social partners in the Community. Close and sustained consultations with the European trade union movement and with the European employers' organizations is indispensable, particularly as an undertaking of this magnitude cannot hope to succeed without the participation of the workforce in all the Community countries.

COMMUNITY LAW: CURRENT STATE (1)

This table gives the current position of the main EEC laws (binding Directives, Regulations, etc) and proposed legislation in the company law, safety and health, and social affairs fields. The table lists only those measures which are under active consideration.

The measures are listed in chronological order, indicating the dates of formal notification to the Member States and implementation for laws already passed, or the current stage of procedure (Opinions due from the European Parliament/EP, Economic and Social Committee/ESC, etc) for legislative proposals. "OJ" references are to the publication of the law/proposal in the European Communities' Official journal.

Subject	Current position
COMPANY LAW	
<p>Company structure and administration-Proposed 5th Directive (OJ/131/72 and C240/83)</p> <p>(Harmonization of company law - A series of Directives, including the 5th referred to above, have been agreed, proposed or are planned to harmonize various aspects of company law, eg company accounts, mergers, etc - OJL65/68, L26/77, L295/78, L222/78, L100/80, L193/83, C317/79 (1st, 2nd, 3rd, 4th, 6th, 7th and 8th Directives respectively)</p> <p>European companies - Proposed Council Regulation providing for the incorporation of a European company under Community law (OJC93 and L24/74)</p>	<p>Proposed Directive originally published by the Commission in 1972, and a consultative document (Green Paper) on employee participation issued in 1975. A Commission working document was submitted to the EP in 1978. The ESC submitted its formal Opinion on the proposed Directive in 1978, and the EP finalized its Opinion in May 1982. The Commission gave its response to the EP in September 1982, and submitted its final revised proposals to the Council in August 1983.</p> <p>(Directives 1-7, excluding 5, in the company law harmonization series have already been adopted. They concern disclosure of information, company capital, internal mergers, company accounts, company prospectuses, and group accounts. Proposals for an 8th Directive, on qualifications of auditors, have been formally submitted to Council but not yet adopted. No formal proposals for a 9th Directive, on links between groups of companies, have yet been released).</p> <p>Proposed Council Regulation presented to the Council by the Commission in May 1975, after it had been amended to take account of Opinions from the ESC and EP. An ad hoc Council working group is in the process of examining the detailed provisions, many of which are dependent of decisions on other EEC proposals (eg the proposed 5th Directive -see above) before they can be finalized. No date has yet emerged for final proposals to be submitted to the Council of Ministers.</p>

(1) This list was drawn up by EUROPEAN INDUSTRIAL RELATIONS REVIEW in October 1983 (n° 117, pp. 12-14)

Subject	Current position
SAFETY AND HEALTH	
<p>Classification, packaging and labelling of dangerous substances -Council Directive as amended (OJL259/79)</p>	<p>Directive originally adopted in 1967 and subsequently amended. 6th amendment notified to Member States on 18 September 1979. Implementation in 2 stages -by 18 September 1981 and final provisions by 18 September 1983.</p>
<p>Electrical equipment -Directive on protections for use of such equipment in potentially explosive atmospheres (OJL24/76 and 43/79)</p>	<p>Framework Directive adopted in 1976 and special implementing Directive adopted and notified to Member States on 6 February 1979. Full implementation required by 6 August 1980.</p>
<p>Safety signs at the workplace -Council Directive as amended (OJL229/77 and L183/79)</p>	<p>Directive originally adopted in 1977 and subsequently amended. Directive notified to Member States on 25 July 1977 and implementation required in 2 stages -by 1 January 1979 and 1 January 1981. Amendment notification on 21 June 1979 and implementation required by 1 January 1981.</p>
<p>Safety action programmes -Council Resolutions (OJL165/78 and C308/82)</p>	<p>Council Resolution on first programme adopted and notified to Member States on 29 June 1978. Proposed second programme and Resolution agreed in principle at Council meeting in June 1983, but still await formal adoption and notification.</p>
<p>Vinyl chloride monomer-Directive on the protection of workers exposed to VCM risks (OJL197/78)</p>	<p>Directive adopted and Member States notified on 29 June 1978. Full implementation required by 29 December 1979.</p>
<p>Accident hazards -Council Directive on major accident hazards of certain industrial activities (OJL230/82)</p>	<p>Directive submitted to the Council of Ministers in July 1979 and again in June 1981, and finally approved in principle by the Council in December 1981. The Directive was formally adopted on 25 June 1982 and should be implemented in the Member States by 8 January 1984.</p>
<p>Lead - Council Directive on the protection of workers exposed to lead risks (OJL247/82)</p>	<p>Directive submitted to the Council of Ministers on 10 December 1979, approved in principle on 27 May 1982, and formally adopted by the Council on 27 July 1982. Implementation will be required by 1 January 1986 at the latest.</p>
<p>Microwaves - Proposed Council Directive on the protection of workers exposed to microwave risks (OJC249/80)</p>	<p>Proposed Directive submitted to the Council of Ministers on 26 June 1980. The Directive has not yet been finally approved.</p>
<p>Ionizing radiation - Directive on the protection of workers exposed to radiation risks (OJL246/80 - Euratom Directive)</p>	<p>Directive adopted and Member States notified on 15 July 1980. Full implementation required by 3 December 1982.</p>

Subject	Current position
Asbestos - Council Directive on the protection of workers exposed to asbestos risks (OJC262/80)	Directive originally submitted to the Council of Ministers on 26 September 1980, and approved in principle on 2 June 1983. Implementation will be required by 1 January 1987 or 1 January 1990 for asbestos mining activities.
Asbestos - Council Directive on the marketing and use of asbestos (OJC78/80 and C273/82)	Directive originally submitted to the Council of Ministers in 1980, and approved in principle on 21 June 1983. Implementation will be required by early 1985.
Harmful agents - Directive on the protection of workers from harmful exposure to chemical, physical and biological agents at work (OJL327/80)	Directive adopted and Member States notified on 27 November 1980. Implementation in 2 stages - by 4 December 1983 and final provisions by 4 December 1984.
Noise - Proposed Council Directive on the protection of workers exposed to noise risks (OJC289/82)	Proposed Directive released in draft form in January 1981, and submitted to the Council of Ministers on 18 October 1982. The Directive has not yet been formally approved.
Carcinogens - Proposed Council Directive on the protection of workers exposed to carcinogenic substances (Commission Document N° 2964/81)	Commission proposals released in draft form in April 1981. No formal proposals yet submitted to Council.

SOCIAL AFFAIRS

Social action programme - Council Resolution (OJC13/74)	Council Resolution adopted and notified to Member States in February 1974.
Equal Pay - Directive on equal pay for men and women (OJL45/75)	Directive adopted and Member States notified on 12 February 1975. Full implementation required by 12 February 1976.
Collective redundancies - Directive on procedures to be applied in redundancy situations (OJL48/75)	Directive adopted and Member States notified on 19 February 1975. Full implementation required by 19 February 1977.
Hours of work and holidays - Council Recommendation on the principle of a 40-hour week and 4 weeks' annual paid holiday (OJL199/75)	Recommendation adopted and notified to Member States on 23 July 1975. The Recommendation, though not binding on Member States, was intended to be applied by 31 December 1978 at the latest.
Equal treatment - Directive on equal treatment for men and women as regards access to employment, promotion, vocational training and working conditions (OJL39/76)	Directive adopted and Member States notified on 12 February 1976. Full implementation required by 12 August 1978.

Subject	Current position
Acquired rights - Directive on employees' rights and advantages in the case of mergers and take-overs (OJL61/77)	Directive adopted and Member States notified on 16 February 1977. Full implementation required by 16 February 1979.
Equal treatment - Directive on equal treatment for men and women in matters of State social security (OJL6/79)	Directive adopted and Member States notified on 22 December 1978. Full implementation required by 22 December 1983.
Insolvency - Directive on the protection of employees in the event of their employer's insolvency (OJL283/80)	Directive adopted and Member States notified on 22 October 1980. Full implementation required by 22 October 1983.
Transnationals - Proposed Council Directive on procedures for informing and consulting employees in large national and multinational firms (OJC297/80 and, as amended, C217/83)	Proposed Directive (so-called "Vredeling" Directive) initially submitted to the Council of Ministers on 24 October 1980. The ESC submitted its formal Opinion on the proposal in January 1982, and the EP gave its Opinion in December 1982. The Commission submitted revised proposals to the Council of Ministers on 15 June 1983. The Directive has not yet been finally approved.
Equal treatment - Proposed Council Directive on equal treatment for men and women in occupational social security schemes (OJC134/83)	Commission proposals released in draft form in June 1981, and submitted to the Council of Ministers on 5 May 1983. The Directive has not yet been finally approved.
The disabled - a framework for Community action (OJC347/81)	Action programme for social integration of the disabled, approved by the Council on 8 December 1981 and notified to Member States.
Flexible retirement - Council Recommendation on Community policy regarding retirement age (OJL357/82)	Proposed Recommendation submitted to the Council of Ministers on 15 December 1981. The Council expressed a favourable opinion on the proposal at a Council meeting on 27 May 1982, and formally adopted the Recommendation on 10 December 1982. Member States' progress reports are required by June 1985.
Part-time work-Proposed Council Directive on voluntary part-time work (OJC62/82 and, as amended, C18/83)	Proposed Council Directive submitted to the Council of Ministers on 4 January 1982. The Directive has not yet been finally approved, though it was discussed at Council meetings on 27 May 1982 and 10 December 1982.

Subject	Current position
Temporary work - Proposed Council Directive on temporary work (OJ128/82)	Proposed Council Directive submitted to the Council of Ministers on 7 May 1982, and discussed in Council on 10 December 1982. The Directive has not yet been finally approved, and the Commission is expected to publish revised proposals later this year.
Equality action programme, Council Resolution (OJ186/82)	Community action programme on the promotion of equal opportunities for women, approved and accompanying Council Resolution adopted on 27 May 1982 and notified to the Member States.
Training and technology- Council Resolution (OJ166/83)	Proposals on vocational training and new information technologies submitted to the Council of Ministers on 10 June 1982, adopted in Council on 2 June 1983, and notified to the Member States.
Training in the 1980s-Council Resolution (OJ193/83)	Proposals on vocational training policies for the 1980s submitted to the Council of Ministers on 28 October 1982, adopted in Council on 3 June 1983, and notified to the Member States.

MOTION FOR A RESOLUTION (Doc. 1-413/79/rev.)

tabled by Mr PININFARINA and Mr MANGEMANN on behalf of the Liberal and Democratic Group with request for an early vote pursuant to Rule 47(5) of the Rules of Procedure to wind up the debate on Oral Question No. 1-384/79 on harmonization of the policies of the Member States in the field of social legislation

The European Parliament,

- having regard to its debate at the October part-session,
 - having regard to the serious difficulties resulting from the repercussions of disparities in social legislation on competition within the Community and between the Community and industrialized third countries;
1. Decides to instruct its Committee on Social Affairs, in collaboration with the Economic and Social Committee, to make a detailed analysis of the present situation and to formulate practical indications to enable Parliament to determine its position on this matter; the Committee on Social Affairs must base its analysis on all available documentation resources, and in particular on hearings of experts and representatives of the social partners.
 2. Instructs its President to forward this resolution to the Council and Commission.

MOTION FOR A RESOLUTION (Doc. 1-423/79/rev.)

tabled by Mr PETERS, Mr LODERER, Mr VETTER, Mr DELORS, Mr PULETTI, Mr DIDO' and Mr VAN MINNEN

with request for an early vote pursuant to Rule 47(5) of the Rules of Procedure to wind up the debate on Oral Question Doc. 1-384/79

on the harmonization of Member States' policies in the field of social legislation

The European Parliament,

- having regard to the declaration by the Heads of State or Government meeting in Paris on 19/20 December 1972,
 - having regard to the Council's social action programme of 21 January 1974 and the individual measures taken to implement it,
 - convinced that the future of the European Community and the identification by workers of their interests with the process of European integration can be ensured only by overcoming the imbalance between competition and trade policy on the one hand and social policy on the other,
1. Urges that, from the outset, further moves towards convergence in the economic sector should be accompanied by parallel moves in the field of social security;
 2. Considers that Community social policy should no longer be pursued only in relation to the harmonization of legislation with a view to the establishment and operation of the Common Market;
 3. Emphasizes that equal conditions of competition and business interests in particular should cease to form the starting-point and legal basis for the formulation of Community policy in the field of employment, vocational training, the improvement of living and working conditions, social security and worker participation;
 4. Is convinced that the development of the European Community urgently requires the full utilization and development of the legal bases provided for in the social provisions of the Community Treaties;

5. Calls on the Council and Commission to take immediate steps to adopt an upward 'harmonization of social systems' and 'cooperation between Member States in the social field' as provided for in the EEC Treaty as an effective legal basis for the development of an independent Community social policy.
6. Instructs its President to forward this resolution to the Council and Commission.

MOTION FOR A RESOLUTION (Doc. 1-770/81)

tabled by Mr VANDEMEULEBROUCKE

pursuant to Rule 47 of the Rules of Procedure

on sickness insurance difficulties in German-speaking East Belgium

The European Parliament,

whereas:

- inhabitants of frontier regions often have to contend with administrative difficulties, especially when there are also language differences; German-speaking East Belgium is such an area,
 - there are difficulties concerning the mutual recognition of teaching diplomas between Belgium and West Germany, as indicated in an earlier motion for a resolution,
 - following a circular (O.A. 81/125) published by the Belgian Department of Sickness and Invalidity Insurance and dated 23 July 1981 there are now also considerable and tiresome difficulties concerning medical treatment,
 - this circular prohibits Belgian health insurance schemes from bearing the costs of medical treatment in a neighbouring country,
 - there is no German medical school in Belgium so that the inhabitants of the Eastern cantons are completely excluded from specialist university level medical care,
 - this ruling means that inhabitants of frontier districts, for whom a neighbouring (West German) town would be more suitable, are now obliged to use services situated much further away,
 - this seems to represent a move away from European integration, as has rightly been pointed out by the German-speaking Belgian Party in a letter of complaint about this situation to the competent authorities,
1. Requests the Council urgently to persuade the Belgian Government to withdraw the circular and its discriminatory consequences;
 2. Instructs its President to forward this resolution to the Council.

MOTION FOR A RESOLUTION (Doc. 1-917/81)

tabled by Mr G. DONNEZ

pursuant to Rule 47 of the Rules of Procedure

on harmonization of the provisions governing compensation for industrial accidents and recognition of medical certificates in the Community

The European Parliament,

- whereas it is necessary to give full effect to the freedoms provided for in the Treaties, particularly freedom of movement and freedom to provide services, by eliminating the distortions which are apt to result from differences in national legislation,
 - whereas the provisions governing compensation for industrial accidents vary appreciably between the Member States,
 - whereas it is a corollary of the freedom to provide medical services that the medical certificates issued by practitioners have the same legal effect in all the Member States,
1. Calls on the Commission, pursuant to Article 117 of the EEC Treaty, to draw up a proposal for a regulation on the rules governing compensation for industrial accidents and, in particular, for the harmonization of rates of compensation for personal injury;
 2. Requests the Commission to forward a communication to the Member States pointing out that in view of the freedom to provide services acquired by doctors following the adaptation of national laws to the 1975 directives, the medical certificates which they issue have full legal effect throughout the territory of the Community;
 3. Instructs its President to forward this resolution to the Commission.

MOTION FOR A RESOLUTION (Doc. 1-1107/82)

tabled by Mr PEARCE

pursuant to Rule 47 of the Rules of Procedure

on harmonization of social security contributions in the Member States

The European Parliament,

- A. in the belief that Regulation 1408/71 operates against the interests of those persons working for short periods in various Member States,
- B. noting that social security contributions payable by employed persons are greater in some Member States than in others,
- C. noting that there has been no substantial progress towards harmonizing social security contributions as between Member States,
- D. believing that this situation restricts the free movement of labour between Member States,
- E. believing that the principles of the European Community demand that a person who pays social security contributions in one Member State, at the rate applicable in that Member State, should not be prevented from receiving social security benefits commensurate with the contributions that he has made, irrespective of which Member State he resides in when claiming benefits,

Urges the Commission to take a fresh initiative to ensure that employed persons do not suffer, in terms of social security contributions and payments, by working and living at various times in more than one Member State.

Opinion

of the Legal Affairs Committee

Draftsman: Mr DALZIEL

At its meeting of 23 and 24 November 1982, the Committee appointed Mr Dalziel draftsman of an opinion on Doc. 1-917/81.

The committee examined the draft opinion at its meeting of 21 and 22 February 1984 and adopted it unanimously at this meeting.

The following took part in the vote: Mrs VEIL, Chairman; Mr TYRRELL, acting draftsman; Messrs GONTIKAS, MEGAHY, SIEGLERSCHMIDT, Mrs VAYSSADE and Mr VETTER.

Introduction

1. The Motion for a Resolution (Doc. 1-917/81) tabled by Mr DONNEZ has a double objective. It calls on the Commission of the European Community to propose a regulation based on Article 117 of the EEC Treaty on compensation for industrial accidents and, in particular, harmonization of the rates of compensation for personal injury. Secondly, it calls upon the Commission to address [a communication to the Member States to the effect that following the adoption of Directives Nos. 75/362/EEC¹ and 75/363/EEC² medical certificates issued by doctors should have "full legal effect" throughout the Community.

Compensation for Industrial Accidents

2. The first of Mr DONNEZ's proposals concerns a measure in the area of social security legislation for which the EEC Treaty has provided a specific legal basis which may be more appropriate than the rather generally worded Article 117; this latter covers working conditions and "improved standards of living for workers". Article 51, on the other hand, situated amongst the Treaty provisions governing the free movement of workers, (one of the main preoccupations of the Motion for a Resolution under consideration) expressly obliges the Council to adopt "such measures in the field of social security as are necessary to provide freedom of movement for workers".

¹ OJ L 167, 30 June 1975, page 1

² OJ L 167, 30 June 1975, page 14

3. The existing Community rules concerning compensation for industrial accidents are contained in Council Regulation (EEC) No. 2001/83¹ of 2 June 1983 amending and updating Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and also amending and updating Regulation (EEC) No. 574/72 laying down the procedure for implementing Regulation (EEC) No. 1408/71; the regulation applies with effect from 1 July 1982.
4. Chapter 4 (Articles 52 to 63) of Title III of Regulation 1408/71 as amended² covers accidents at work and occupational diseases, and provides that an employed or self-employed person who sustains an accident at work shall be entitled to receive benefits, both in kind and in cash, in the Member State in which he is residing (Article 52). Other articles, for example, provide a specific rule for frontier workers (Article 53), govern short-term periods of residence (Article 54) and accidents while travelling (Article 56). In implementation of Articles 52 to 56, Article 65 of Regulation (EEC) 574/72 as amended³ lays down rules governing declarations of accidents at work and other provisions on the exchange of information between the competent social security institutions of the Member States.
5. The intention of the author of the present Motion for a Resolution is therefore presumably to go much further than the existing Community provisions and to lay down common rules governing such matters as the risks covered, the benefits which can be claimed, the field of application of compensation provisions and, the example which is expressly mentioned, the harmonization of the rates of compensation.

¹ OJ L230, 22 August 1983, page 6

² OJ L230, 22 August 1983, page 8

³ OJ L230, 22 August 1983, page 86

6. As is pointed out in the motion for a resolution, the current legislation on compensation for industrial accident varies considerably between the Member States. While the Community provisions in force go some way to minimising the effect these differences can have on the free movement of persons, the Commission of the European Communities should investigate to what extent such differences do and could distort the attainment of this fundamental objective of the Treaty of Rome, and take the appropriate action under Articles 51 and 235 (upon which Regulation (EEC) 2001/83 is based).

Medical certificates and the freedom to provide services

7. The second paragraph of the motion for a resolution cites Directives Nos. 75/362/EEC¹ and 75/363/EEC² which cover, respectively, mutual recognition of medical qualifications and the coordination of requirements for specialised medical training. Though based on Articles 49, 57, 66 and 235 of the EEC Treaty, they largely deal with freedom of establishment for doctors without attempting to abolish restrictions on the freedom to provide services in the field of medicine; the motion for a resolution cites the differences in the legal value attached to medical certificates issued by doctors as one example of such a restriction. In the committee's view, the Commission should also investigate the necessity to propose legislative measures to abolish restrictions such as that cited in order to allow for a greater freedom to provide services in this field.

Conclusions

- 8(a) The Legal Affairs Committee takes the view that the Commission should investigate to what extent differences in the legislation of the Member States on compensation for industrial accidents could and do distort free movement of persons and take the appropriate action under Articles 51 and 235 of the EEC Treaty.
- (b) The Commission should also investigate the existence of restrictions on the freedom to provide services in the medical field and make the appropriate proposals to ensure their abolition.

¹ OJ L 167, 13 June 1975, page 1

² OJ L 167, 13 June 1975, page 14