I. Jobs, skills and mobility

I.1 Creating jobs and preventing unemployment

1. “Ensure the full implementation of the employment strategy, centred around annual presentation and assessment of the Employment Guidelines and, where appropriate, the formulation of Recommendations to Member States.”

1998 was a key year on the employment front, when the new procedures laid down by the Amsterdam Treaty were tested out (see also article by C. Degryse and P. Pochet in part one). For openers, there was the implementation of the decisions taken at the Luxembourg Extraordinary European Summit on Employment (November 1997). This, it will be recalled, laid down four pillars - employability, adaptability, entrepreneurship and equality between men and women - broken down into nineteen guidelines. The first half 1998 witnessed a long series of meetings and reports of all kinds. The EU States incorporated these nineteen priorities into national action plans (NAPs), following the inconclusive experience of Essen (1994), where national reports were variable as to both content and form. The Commission took proactive steps to create a modicum of consistency in the presentation of measures. Having received the national plans, the Commission undertook a cross-cutting analysis of them. Notwithstanding a broadly positive verdict, the Commission identified a series of shortcomings1, including an over-emphasis on the “employability” and “entrepreneurship” pillars. It hoped that future national plans would be more balanced to take the other European priorities into account.

The highlight of 1999 was the first recommendations drawn up by the Commission2 on the implementation of the employment policies, addressed by the Council to the Member States where they were given a mixed reception (see article C. Degryse and P. Pochet in part one). The Commission’s justification for these first recommendations was the legal basis given them by the entry into force of the Amsterdam Treaty. The method favoured - immediate publication for public consumption - could also be seen as a parting shot by outgoing Social Affairs Commissioner, Padraig Flynn. The nine areas identified by the Commission relate to: tackling youth unemployment; preventing long-term unemployment; reforming the tax and benefit systems, with a particular focus on older workers and women; promoting lifelong learning; creating job opportunities in services; reducing the fiscal pressure on labour; modernising work organisation; tackling gender issues in the labour market; improving indicators and statistics. Before being approved by the Helsinki European Council of December 1999, the recommendations were endorsed by the joint “Labour and Social Affairs” and “Economic and Financial Affairs” Council of 29 November.

The Commission made only a few minor changes to the employment guidelines for 2000 to take account of Member States’ remarks3. The changes reflect the hopes placed in the job-creating capacity of the information society, and the desire to keep older workers in the labour market for longer. They also point up the need for a preventive approach, the role of the public employment services in local job creation, and the social partners’ involvement in

modernising work organisation. In November 1999, in its first formal consultation following implementation of the Amsterdam Treaty, the European Parliament echoed the Commission in calling for more specific quantifiable targets to be set so as to make the guidelines into concrete proposals which could be turned into practical measures in the Member States. None of its proposals were incorporated, however. For the positions of the social partners, see the article on “European employment policy in 1999”.

2. “Ensure that the Broad Economic Guidelines and the Employment Guidelines are mutually reinforcing and promote a consistent economic strategy for growth, stability and employment designed, among other things, to raise employment levels and provide a solid and sustainable base to improve living standards in the Union.”

The broad economic policy guidelines (BEPG) are central to the attempt to coordinate Member States’ economic policies. The introduction of the euro brought the Council’s setting of the BEPG into sharper focus as articulating and reflecting the Fifteen’s coordinated strategy on growth and jobs.

The adoption of the broad economic policy guidelines is the end point of a complex institutional process triggered off by the Commission’s annual economic report, which contains guidelines and proposals. Notwithstanding the rhetoric about a mutual reinforcement of the broad guidelines and the Luxembourg process, and the references to it in the text of the BEPG, the last two years’ BEPG reveal a clearly different tone on employment and social protection to that which came out of the Luxembourg process.

On labour market reforms, the 1998 BEPG are based on the employment guidelines, but with a sharper focus on active labour market initiatives, reducing the tax pressure (taxes and social security contributions) on labour, reforming social protection systems, making work “pay”, and conditions in which the organisation of working time can help improve jobs.

The broad economic policy guidelines of the Member States for 1999 urges the Member States to:
- review their pension and health care systems in order to be able to cope with the financial burden on welfare spending of the ageing of the population and the need to influence future labour supply
- review and adapt their tax and benefit systems to ensure that they actively support employability and job creation;

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5 Based on article 103 of the EC Treaty.
provide for the necessary financing of investment in human capital and other active labour market policies, within the constraints of national budgetary positions;

- reduce the overall tax burden and especially the tax wedge on the lower paid via reduced spending or shifts to environmental, energy or consumption taxes.

A more guarded approach towards wages, however, is evidenced by this extract from the EU Economy Review (which replaces the annual economic report):

“In the present situation, while the strong profitability position achieved in many Member States, allied to generally favourable competitiveness and labour market conditions, may in certain cases justify having real wage increases more closely aligned with labour productivity developments, this is undoubtedly not the case for all countries”9.

The Lisbon Extraordinary European Council (March 2000) looked at rationalisation of procedures and their interaction. The Portuguese Presidency’s briefing document10 sought to clarify and simplify the various procedures.

The ETUC has repeatedly called for the employment and BEPG procedures to be put on an equal footing. While approving many aspects of the Presidency document, the ETUC pointed out that it risked strengthening the BEPG and called for the Intergovernmental Conference to put the different procedures on a par in the Treaty11.

One final point to make is that the Commission has published a Communication on mainstreaming employment across Community policies12. It is provided for by article 127 of the Treaty, and should be an annual report. On employment rates, the Commission published a report13 which, among other things, stresses the importance of the employment rate as a measure of economic performance.

3. “Enhance exchange of best practice and innovation and the provision of analytical material on the employment and labour market situation in the Member States.”

and

4. “Assist in the development of an agreed comparable database in Member States, and agreed indicators, in order to monitor implementation of the Employment Guidelines.”

Benchmarking is not, on the face of it, a suitable means for comparing social systems. Most specialists look more to consistency policy approaches than any particular indicator to explain employment results. The Commission uses different studies to underpin its approach14.

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12 Communication from the Commission: Community policies in support of employment, COM (99) 167 of 21 April 1999.
The Commission designed a peer review system to select the best examples of national practice.

“The identification and dissemination of good practice is a key aim of the European employment strategy. A "peer review" system was set up: the idea was to subject the results of specific policies implemented under national action plans to scrutiny by independent panels of experts from all sides to assess and determine if and how they might be exported to other Member States. Lists of good practices were drawn up on the basis of measures proposed by each country and submitted to their peers. The policies which secured most backing were selected”\(^{15}\).

In the wake of the Essen Summit, a decision was taken to develop tools for analysis, research, exchanges of information and experiences on employment and the labour market. But it was not until three years later that anything operational materialised\(^{16}\). Established for a period of three years running from 1 January 1998 to December 31 2000, their aim was to foster cooperation in analysis, research and monitoring, identify best practices and promoting exchanges and transfers of information and experience, and develop an active information policy\(^{17}\). The Employment and Labour Market Committee, and the social partners, are to be involved in the activities.

Comparability of statistics is essential both to measuring the effects of employment policy, and instigating benchmarking procedures. Even so, it is a supremely political issue. Emphasis on a particular indicator (e.g., unemployment benefit or the poverty rate) may lead to widely-differing conclusions. In a report to the Vienna Council in December 1998, the Commission noted that the Member States had already agreed on nine indicators (the most general ones) but that no consensus had yet been reached on the others\(^{18}\) (18). In particular, the Member States were called on to ensure rapid implementation of Council Regulation No 577/1998 on the organisation of a labour force sample survey in the Community.

Based on the Commission proposal of September 1998\(^{19}\), the Council adopted a Regulation on structural statistics on earnings and labour costs\(^{20}\). This is a key instrument both for the Commission and the European Central Bank for the use of comparable data on earnings and labour costs, on which only certain Member States currently keep statistics.

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\(^{17}\) The Decision required the Commission to submit an interim report on the results of the specified activities by 31 December 1999 at the latest, and a final report by 31 December 2001 at the latest.


\(^{19}\) Draft Council Regulation (EC) concerning structural statistics on earnings and on labour costs, COM (98) 491 of 3 September 1998.

5. “Launch a debate on how to tackle the problem of undeclared work and promote exchanges of good practice on how to encourage such work into the open.”

One problem with Community action is that the European Union simply passes binding legislation - chiefly Directives - and verifies whether they have been incorporated into national legal systems. But it has no powers of local inspection to check whether national legislation is being applied. A 1996 Recommendation called on the Member States to coordinate the activities of the competent services to tackle the illegal employment of third country nationals.

As part of the action programme, the issue of undeclared work was addressed in a report based on disputed figures, but which distanced itself from the highly legalistic approach of harmonisation of social laws to look at the harder realities of the labour market. The Commission believes that the problem of undeclared work can be viewed as an issue of individuals taking advantage of the system and undermining solidarity in the process, or as the outcome of greater flexibility in the labour market and slower adaptation of existing legislation. For that reason the policy options proposed range from highlighting the counter-productive consequences of undeclared work via tougher sanctions and awareness campaigns to prevention through adapting inappropriate legislation to reflect new labour market realities and reducing burdens and obstacles. The Commission believes that implementation of several of the employment guidelines, such as those on developing entrepreneurship and encouraging adaptability, will help to discourage undeclared work. The ETUC has called for a specific course of action on the matter.

Following on from this Communication, the Council adopted a code of conduct inviting the Member States to observe a series of principles to improve coordination of their activities in combating social security fraud, undeclared work, and in the field of transnational hiring-out of workers.

6. “Stimulate a Europe-wide debate on the modernisation of Public Employment Services (PES) as a tool for tackling unemployment.”

Essen put “modernisation” of employment services onto the agenda. This, of course, is what is described as an “active” employment policy according to the OECD list.

The Commission considers that it is high time public employment services (which attempt to match labour supply and demand, in particular) were modernised to support the European employment strategy with a view to “activating employment policies and preventing long-term unemployment”. A December 1998 Communication on the matter says that these services have an “essential” institutional role to play for each of the four employment guideline priorities. But they have to adapt to an environment that is changing rapidly. These changes,

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22 Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee, the Committee of the Regions and the social partners on undeclared work, COM (98) 219 of 7 April 1998.
23 Resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council of 22 April 1999 on a Code of Conduct for improved cooperation between authorities of the Member States concerning the combating of transnational social security benefit and contribution fraud and undeclared work, and concerning the transnational hiring-out of workers, OJ C 125 of 6 May 1999.
24 “Modernising public employment services to support the European employment strategy”, COM (98) 641 of 13 November 1998.
says the Commission, require the PESs to rethink their institutional role, working methods, goals and objectives. In passing, it should be noted that although it admits the need for guarantees of a certain standard of living, the report also espouses the idea that excessively generous unemployment benefits may have disincentive effects on jobseekers. It argues that by linking unemployment benefits to active job search efforts and/or participation in active programmes, PESs can alleviate such disincentive effects and enhance labour market efficiency.

7. “To promote the development of innovative forms of job creation through local development measures, including territorial employment pacts and the social economy, under the Structural Funds.”

The Structural Funds are addressed in point 9 and in the introductory article, so the focus here is on the territorial pacts which resulted from the Commission President’s 1996 proposal for a European employment pact.

In a progress report on the implementation of the territorial employment pacts published in June 1997, the Commission listed the 89 or so pacts which had been concluded in regions and towns which had received technical assistance to draw up practical action plans to promote employment. In an own-initiative opinion of 9 September 199825, the Economic and Social Committee suggested various ways of enhancing the effectiveness of territorial employment pacts (TEPs). Strengthening the partnership between all the players involved is also a key objective, especially involvement by private partnership, universities and training agencies. Finally, because of their role as a local development instrument, the TEPs must be consistent with regional and national development strategies, and in particular with employment policies. The Committee of the Regions is also concerned with consistency. In its Opinion, it argued that “employment pacts should not lead to the creation of yet another separate sector in a still more fragmented society. On the contrary, TEPs must be a rallying point for local actions (...)”26.

A major conference hosted by the Commission on 10 November 1999 to evaluate the effectiveness and results of the territorial employment pacts concluded that 55,000 jobs could be created.

The CEEP focussed on the local dimension, regretting that the guidelines “do not place greater importance on the local level”27. It wanted the guidelines to include a more general reference to the four pillars of social policy: “Having regard to the sharp rise in local public/private partnerships, the Member States shall encourage initiatives which implement the four pillars of the guidelines in territorial pacts geared towards sustainable development and employment”. It makes the case for adding a fifth, cross-cutting pillar to the guidelines - local areas and production systems.

27 Opinion 98/21.
One of the four priorities lines of action laid down by the November 1997 Luxembourg Extraordinary European Council as the basis of the employment guidelines was entrepreneurship (the others being employability, adaptability, and equality between men and women). The problematic is to define exactly what entrepreneurship means in practice, and how to encourage it. A series of Communications and initiatives dealing directly or indirectly with this issue were adopted. They include the implementation of the action plan for the single market\(^{28}\), the development of venture capital\(^{29}\), and the action plan on innovation\(^{30}\). It even formed the title of a Commission Communication\(^{31}\).

In the wake of the recommendations made to the Cardiff European Council by the BEST task force, set up in 1997 to look at ways of improving the quality of legislation and eliminating the unnecessary burdens which restrain the development of SMEs in particular, the Commission submitted a Communication\(^{32}\) and an action plan to the Council in September 1998. The Communication and action plan pull together the measures generated by all these policy initiatives into an overall framework for achieving the key aims of promoting entrepreneurship as a means of improving the competitiveness of and growth opportunities of European companies, and creating sustainable jobs. The Industry Council adopted this action plan in 1999\(^{33}\). Key measures in the action plan include: education, training, access to finance, research and innovation, improving public administration, employment and working conditions. In this connection, the Commission will collect good practice based on the network for the modernisation of work organisation (see also point 18). Most of the measures are aimed at small and medium-sized firms.

Strengthening the role of SMEs is a recurrent theme in various Commission Communications, and appears again in a Communication on the role of venture capital markets in stimulating growth of small and medium-sized firms and promoting a new entrepreneurship in Europe\(^{34}\). The Commission identifies various lines of action based on six priorities:

- promoting integration of risk capital markets in Europe;
- eliminating the institutional and regulatory barriers to their development, including in Community legislation;
- improving the taxation system for risk capital;
- promoting the development of SMEs in the high tech sector;
- increasing the supply of qualified entrepreneurs and experts;
- reducing the cultural barriers to entrepreneurship.

The idea is to give these “new global players” the means of their own development, through their potential for generating large numbers of jobs. The Commission stresses that “in the USA, the digital economy is building on the critical mass of SMEs and innovative, networked start-ups”\(^{35}\). The Commission also believes that many Member States should realise the

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\(^{30}\) Action plan on innovation in Europe, COM (96) 589 of 20 November 1996.
\(^{33}\) Action plan to promote entrepreneurship and competitiveness, Conclusions of the Industry Council of 29 April 1999.
\(^{34}\) Cf. footnote 29.
\(^{35}\) “The competitiveness of European enterprises in the face of globalisation - how it can be encouraged”, COM (98) 718 of 20 January 1999.
need to simplify the rules and Regulations on starting up new businesses, with a particular focus on the development of venture capital to fund innovation\textsuperscript{36}.

Entrepreneurship has also been the focus of attention by the European Trade Union Institute and the Swedish SALTSA research programme, while national and comparative studies have been carried out on the way in which this pillar has been incorporated into national strategies\textsuperscript{37}.

9. “Encourage Member States to further increase the level of investment in human resource development and lifelong learning under the Structural Funds, particularly the ESF, in line with the Commission’s proposals for reform.”

In the broader setting of structural policy reform\textsuperscript{38}, the objectives of the ESF have been redefined to take account of the context of the new European Employment Strategy (EES) and the inclusion of the new Employment title in the Amsterdam Treaty (see article by C. Degryse and P. Pochet in part one). In concrete terms, the ESF will fund the new Objective 3 (human resources), which is mainly focused on supporting the adaptation and modernisation of Member States’ policies and systems of education, training and employment. The Structural Funds allocation for Objective 3 amounts to 24.05 billion euros for the period 2000-2006 - 12.3% of total Structural Funds budgetary resources.

The new Regulation (EC) 1784/1999\textsuperscript{39} lays down five broad policy fields for the ESF closely linked to the four pillars of the employment strategy:

- developing and promoting active labour market policies to combat unemployment;
- promoting equal opportunities for all in accessing the labour market, with particular emphasis on those exposed to social exclusion;
- promoting and improving training, education, and counselling as part of a lifelong learning policy;
- promoting a skilled, trained and adaptable workforce, innovation and adaptability in work organisation, and developing entrepreneurship;
- specific measures to improve women’s access to and participation in the labour market.

The Regulation also takes in the need to:

- support local initiatives concerning employment (including territorial employment pacts);
- take account of the social and labour market dimensions of the information society;
- foster equal opportunities for women and men as part of the gender mainstreaming approach. The ESF also contributes to the implementation of the Community Initiative for combating discrimination and inequalities in connection with the labour market (EQUAL) (see also point 47).

The ETUC\textsuperscript{40} considers the Regulation’s overt reference to the European employment strategy to be a very important element of Structural Funds reform, but insists that all the

\textsuperscript{40} Structural Funds Reform, ETUC Proposals, 15 November 1998.
Structural Funds must contribute to its implementation, including the territorial employment pacts. The ETUC wants the level of skills included in the eligibility criteria for Objectives 1, 2, and 3, because upgrading skills is a key way of tackling unemployment. On the ESF more specifically, the ETUC stresses that giving binding force to preventive measures to facilitate workers' adaptation to industrial and structural changes will help prevent unemployment and enhance competitiveness.

One final point to make is that 1996 had been declared the European Year of Lifelong Learning41.


A significant focus of institutional activity over the past two years has been on taking forward the development of the new generation of EU programmes in the fields of education (Socrates) and vocational training (Leonardo). Based on guidelines laid down in 199742, the Socrates and Leonardo programmes43 now hinge on common general aims: support for mobility, language skills, transnational cooperation networks and innovatory pilot projects, dissemination of the use of information and communication technologies, and the establishment of terms of reference. These courses of action are the same as those found in the previous programmes, so the really new aspect is the greater focus on the gradual establishment of terms of reference for education and training policies and systems.

Leonardo is the first programme to have been adopted, and also that which came out of the action streamlining exercise most substantially changed. It now hinges on three aims (instead of nineteen before), namely integration of young people, access to quality continuing training, and supporting the contribution to job-related training. These specific aims are implemented in the five (down from twenty three) areas now common to training, education and youth programmes: mobility, pilot projects, language skills, transnational networks and reference tools (surveys, analyses, exchanges of information and good practice,.....). It has funding of 1.15 billion euros for the period 2000-2006.

As regards Socrates, the European Parliament and Council reached agreement on the total funding for the programme in November 1999 - 1.85 billion euros. The agreement was reached in the Conciliation Committee, and enabled the second phase of Socrates to be launched on 1 January 2000. The European Parliament forced a programme review clause to accommodate EU enlargement to the Central and Eastern European countries. As a result, Council and Parliament could increase the Socrates budget, based on a Commission report, in 2004.

11. “Encourage the social partners, at their various levels of responsibility, to conclude as soon as possible agreements with a view to increasing the possibilities for training, work experience, traineeships and other employability measures in Europe’s workplaces.”

The Commission has been fairly judgmental (see article on employment). A compilation of good practice is in the pipeline (see point 18).

12. "Ensure that equality of opportunity is mainstreamed within the Guidelines."

Article 3 of the EC Treaty makes gender equality a cross-cutting objective. Since the employment guidelines were adopted in December 1997, equal opportunities have been one of the four pillars of the European Employment Strategy. Within the Commission, the work programmes of all Directorates are analysed from a gender perspective. A report on the follow-up of the 1996 Communication on gender mainstreaming reviews the progress made since then, in three areas in particular: employment and the Structural Funds, external relations (including development cooperation and fundamental rights of women), and education, training and youth. The Commission stresses the need to mainstream the gender dimension into the enlargement process and the information society.

The second annual report on equal opportunities paints a more upbeat picture of progress on equality in the year under review, based mainly on the new Amsterdam Treaty provisions, placing the gender dimension at the heart of the employment guidelines, and strengthening mainstreaming strategies within Commission departments by introducing gender-proofing structures and procedures to ensure that the gender dimension is effectively mainstreamed across all policy areas. A third report reviews developments in the current action programme.

The annual report for 1998 deals with mainstreaming equal opportunities in the employment strategy, development cooperation, education, training and youth, research and development and the reformed Structural Funds.

As well as describing developments in 1999, the fourth annual report foreshadows new initiatives: a new gender equality programme (2001-2005) encompassing a wide-ranging set of gender equality policies from domestic violence to women's human rights overseas; amending Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions by including new provisions on important issues, such as sexual harassment in the workplace, and by specifying better some of the existing provisions. The report summarises the seven rulings given by the Court of Justice in 1999: three in cases brought in the United Kingdom, one in Austria (two applications) two in Germany and one in France.

Balanced participation of women and men in the decision-making process was the focus of a specific Commission report on developments since the adoption of the Council

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44 “Incorporating equal opportunities for women and men into all Community policies and activities - ‘mainstreaming’, COM (96) 67 of 21 February 1996. The Commission has also published a glossary of terms on equality between women and men entitled: “100 words for equality”.


Recommendation of 2 December 1996 on the matter. Generally-speaking, under-representation of women has not changed considerably, but the report looks at the situation in the Member States of the EU and the European Economic Area in relation to the four priorities laid down in the Recommendation (adopting a comprehensive, integrated strategy designed to promote balanced participation of women and men in the decision-making process; encouraging and supporting all social and economic players to put equal opportunities into practice; promoting the collection and publication of statistics to provide a clearer picture of how women and men are represented at all levels of the decision-making process, and identifying good practice; promoting balanced participation by women and men at all levels in governmental bodies and committees).

13. “Seek to develop, in co-operation with the Member States, family-friendly employment strategies to bring about real and rapid progress in care provision both for children and adult dependants.”

In line with the third framework action programme on equal opportunities for women and men (1991-1995) and the programme for implementation of the “Social Charter”, Recommendation 92/241/EEC on child care stressed the importance of measures enabling men and women reconcile their work and family responsibilities to enable women to participate in the labour market on equal terms with men. A report on the application of the 1992 Recommendation based on Member States’ replies to a Commission questionnaire of 1992 looks at childcare provision in the Member States under four broad headings: 1) quality of services, 2) parental leave, 3) work-related measures and 4) burden sharing. The report concludes that the Recommendation has stimulated the debate on some aspects of work-life balance policy (like the role of employers and men's position on custody rights) but that Member States' replies reveal no more direct impact on childcare provision for parents and children EU-wide.

The work/life balance has also featured in the guidelines for Member States’ employment policies since 1997, with the emphasis on an adequate provision of good quality care for children and other dependants in order to support women's and men's entry and continued participation in the labour market. Among other ways to consider of improving the employment situation, the Commission suggests in its Report on employment rates that action be taken on the "demand" (GDP and employment growth, development of the service sector, part-time work, etc.) and "supply" (child care services, raising skill levels, etc.) side factors of the economy. Finally, the 1999 employment guidelines invited Member States to design and implement programmes to promote family-friendly policies, including affordable, accessible and high quality care services for children and other dependants, as well as parental and other leave schemes.

In a resolution on the protection of families and children, the European Parliament called in particular for a stronger role for the European Family Policy Observatory currently operating

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Social policy developments in the European Union in 1999

under the aegis of the Directorate General for Employment and Social Affairs and for the 1992 Recommendation to be turned into a Directive53.

Finally, the conclusions of the Lisbon European Council (March 2000) stressed the need to “further all aspects of equal opportunities, including reducing occupational segregation, and making it easier to reconcile working life and family life, in particular by setting a new benchmark for improved childcare provision”.

14. “Present a Communication on raising employment levels of people with disabilities.”

In a working document published in autumn 199854, the Commission said it would be paying particular attention to the employment of people with disabilities in its work around the employment guidelines in 1999. It had found that the employment rate of disabled people was 20 to 30% below that of non-disabled people (the employment rate for the rest of the population being 70%). So, a specific guideline (number 9) calls for Member States to pay “special attention to the needs of the disabled, ethnic minorities and other disadvantaged groups and individuals”, and the development of “appropriate forms of preventive and active policies to promote their integration into the labour market”55.

At the Social Dialogue Committee meeting of 19 May 1998, the social partners adopted a joint statement emphasising among other things the promotion of equal opportunities for people with disabilities, and focussing on ability rather than disability. The statement also includes recommendations to employers, trade unions and public authorities, while a compendium of good practice on the employment of people with disabilities had been sent to the Vienna European Council of December 1998.

At a conference on “European employment policy for people with disabilities” (Dresden, 24 and 25 February 1999), the European Commission, the ETUC, the UNICE, and the European Disability Forum drew a series of conclusions, in the wake of which the Council adopted a resolution56 on equal employment opportunities for people with disabilities, calling on the Member States to place particular emphasis on the promotion of employment opportunities for people with disabilities and to develop suitable preventive approaches within their national policies, in cooperation with the social partners and non-governmental organisations.

I.2 Promoting free movement

15. “Presenting a package of proposals to adapt and update the key legislation in this area.”

The main development in free movement of the persons is a Commission proposal57 aiming to widen and facilitate various aspects of the exercise of the right of residence. It

57 Proposal for a European Parliament and Council Regulation amending Council Regulation 1612/68 on freedom of movement for workers within the Community; proposal for a European Parliament
establishes a right of residence for unemployed job-seekers, trainees, the parents and children of the worker and his spouse, any other member of the family of the worker or that of his spouse who is dependent on the worker or is living under his roof (consensual partner, children of any age, in particular), regardless of their nationality. It also provides that members of the worker’s family will retain the right of residence if the marriage is dissolved provided they have lived in the host country for a period of three consecutive years. It also specifies that the first residence permit issued to the worker must be valid for at least five years and automatically renewable for a period of ten years, and restricts the derogation’s enabling the national authorities to withdraw the right of residence. Finally, it prohibits all discrimination on grounds of sex, racial or ethnic origin, religion, belief, disability, age or sexual orientation.

This proposal stems from the follow-up to the Veil group’s recommendations, dealt with in a Communication in which the Commission reviews initiatives already taken, in particular under its 1997 action plan and those in the pipeline. Legislative action aside, the Commission also plays up the importance of giving the public and all the players concerned better information about their rights (public authorities, employers,...).

Most of the progress now being made on the right of movement and residence within Union territory is through reducing restrictions on the exercise of that right. Among these, Member States’ discretion to refuse entry or terminate residence on public policy, public safety or public health grounds was dealt with in a Communication in which the Commission seeks to clarify individual rights and its own position as regards the application of Community legislation and case law. In a sense, the Commission points out the limits to Member States’ discretionary powers as regards citizens’ rights, especially as regards excessive delays in processing applications, deportation of second generation migrants, improper processing of records, and failure to inform applicants properly of the grounds for refusal.

16. “Further development of EURES and 17. Developing co-operation with national authorities and the social partners so as to ensure the efficient functioning of the existing legal framework.”

The EURES network - a network of Member States’ employment services, their partners if any, and the Commission - was set up in 1993 to ensure the exchange of information to


58 On public policy and public security grounds in particular.
59 Set up in 1996 to assess problems in the field of free movement and propose solutions.
60 Communication on the follow-up to the recommendations of the High-Level Panel of the Free Movement of Persons, COM (98) 403 of 1 July 1998.
62 Especially by developing the “Citizens of Europe” initiative - now “Dialogue with Citizens and Business”, since June 1998; developing and enhancing the EURES employment network; the Euro-Jus network for legal assistance and advice via Commission offices in the Member States,...
63 Communication from the Commission (...) on the special measures concerning the movement and residence of citizens of the Union which are justified on grounds of public policy, public security or public health, COM (99) 372 of 19 July 1999.
be made available to potential users. It is based on a computerised, uniform exchange procedure. The Member States’ employment services, the Commission via the European Coordination Bureau, public or private partners of the employment services, and employers and trade unions designated in agreements setting up a cross-border EURES network are members of the EURES network. These “Community employment opportunities” can be accessed on the Internet at the Europa site66. The network extends to the member countries of the European Economic Area (EEA) through a dialogue between the directors of public employment services (PES) of the EEA countries. At the end of 1998, the PES signed a memorandum of agreement to exploit “the full potential of the EURES network as a common instrument of the PES to support free movement of workers and accomplish the European labour market”67.

In July 1998, the Commission adopted the Report on EURES activities for the period 1996-199768 which describes and assesses the main developments and results in 1996-97. The Commission believes that the development of a European employment strategy and the establishment of economic and monetary union will inevitably produce a more integrated employment market. The challenge for EURES is to become a fully integrated service within the employment services. For that, the volume of job offers processed through the network must achieve a “critical mass” to optimise service provision to all users.

II. The changing world of work

II.1 Modernising work organisation and promoting adaptability

18. “Present a Communication on work organisation and adaptability to facilitate and complement implementation of the adaptability pillar of the Employment Guidelines (consulting social partners on a possible framework agreement on all elements of work organisation, including working time flexibility, and identifying the issues to be addressed at EU level to adapt the legal frameworks to encourage more adaptable contractual arrangements, including the link between social protection and changing working patterns).”

The Communication on the modernisation of work organisation69 follows on from the Green Paper “Partnership for a new organisation of work”, in which the Commission calls on the social partner to be proactive in areas like continuing training, working time over working life, the diversification of employment relationships, new technologies, incentives through forms of participation and equal opportunities. In its proposal for employment policy guidelines 2000, the Commission again urges the social partners “to agree and implement a process” (negotiated agreements again?) to modernise the organisation of work. In addition to the other areas of discussion (reduction of overtime and development of part-time work and career breaks), it suggests that the subjects covered might include training and retraining, the introduction of new technologies, new forms of work and working time issues like the annualization of working time and access to training.

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65 Provided for under Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community
66 http://europa.eu.int/jobs.eures
67 Memorandum of agreement between the public employment services of the EEA for the development of the EURES network, 16 November 1998.
The Commission has set up and runs, with national institutes and the European Foundation for the Improvement of Living and Working Condition, a European Network on work organisation to stimulate organisational innovation.

The European Parliament has called on the Commission to submit a strategy for drawing the line between those areas in which the Commission is to encourage agreements between the social partners and those in which it is to specify the necessary legislative measures to be taken.

In their joint contribution to the Vienna Summit, the social partners pledged to put forward an analysis of best practice and attempt to identify the reasons for success through a common scheme of evaluation. Their analysis was submitted to the Lisbon Extraordinary Summit (March 2000).

19. “Present a Communication on adapting and promoting social dialogue at Community level.”

The Communication on adapting and promoting the Social Dialogue published in May 1998 hinges on two issues: adapting the Social Dialogue to the new challenges of social and employment policy, and reviving the dialogue after the problems encountered in issues recently addressed. To that end, the Commission proposes four priority areas of work: improving the efficiency of information channels, rationalising methods of consultation, especially by reorganising the Standing Committee on Employment (SCE), setting up a new partnership for employment, and encouraging sectoral and cross-industry bargaining. More detailed information on this can be found in C. Degryse’s article on the Social Dialogue in part 1. The main focus here is on the reform of the Standing Committee on Employment. This was being called for as early as July 1997 by the European Parliament, in a call for the Standing Committee on Employment to be reformed as a matter of urgency and for coordination mechanisms to be introduced between that committee and the Employment and Labour Market Committee. Under the Council Decision of 9 March 1999, the task of the Standing Committee on Employment “shall be to ensure, in compliance with the Treaty and with due regard for the powers of the institutions and bodies of the Communities, that there is continuous dialogue, concertation and consultation between the Council, the Commission and the social partners in order to enable the social partners to contribute to the coordinated employment strategy and to facilitate coordination by the Member States of their policies in this field, taking into account the economic and social objectives of the Community as reflected in both the Employment Guidelines and the Broad Economic Policy Guidelines”. The members of the Council or their representatives, the Commission, and representatives of the social partners at European level are to take part in the work of the Committee.

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70 Resolution A4-0182/99 of 13 April 1999 on the Communication from the Commission on “Modernising the organisation of work - a positive approach to change”.
73 Resolution A4-0226/97 of 18 July 1997 on the Commission communication concerning the development of the social dialogue at Community level.
75 There is a maximum of 20 social partner representatives organised in two equal delegations. The social partner delegations cover the whole economy, being composed of European organisations.
20. “Consult the social partners in 1998 on the need for Community action on the protection of teleworkers.”

The Commission pledged to consult the social partners on the expediency of EU action on the protection of teleworkers. With this in view, the Commission adopted a Recommendation in 1998 calling on non-signatory Member States (Germany and the United Kingdom) to ratify the International Labour Organisation (ILO) Convention on home work. The Convention aims to improve working conditions and terms of employment to ensure equal treatment - still far from achieved - between homeworkers and other wage earners as rapidly as possible. The Recommendation also requires Member States to inform the Commission of the measures taken pursuant to the Convention to enable it to monitor the national situation.

The ETUC had proposed an autonomous initiative by the social partners.

UNICE and CEEP thought the problem should be examined in detail, but only after additional exploratory studies or awareness-building campaigns. UNICE stressed the need to draw the line between what is specific to teleworking as opposed to other aspects of the employment relationship.

21. “Present proposals to protect workers currently excluded from the working time Directive.”

Working Time Directive 93/104/EC excluded air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training from its scope. Parliament and the Economic and Social Committee specifically pressed the Commission when the Directive was being passed to take the necessary steps to regularise the situation of workers in these sectors. Building in particular on the work done in the sectoral committees, the Commission opened the first phase of social partner consultations in July 1997 by publishing a White Paper in which it recommended a differentiated approach distinguishing between activities which could be accommodated under the original Directive (non-mobile workers) and those requiring a specific sectoral approach which would be left to the social partners.

After a second round of consultations, the social partners reached an agreement in the railways sector in June 1998 and in the sea transport sector the following September, but failed to end a stalemate in the road industry. In November 1998, the Commission put forward a series of legislative proposals. The provisions of the 1993 Directive were representing either general interests or more specific interests of supervisory and professional staff and small and medium-sized businesses.

extended to all non mobile workers, namely those in air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and doctors in training. Mobile workers in the other sectors were given four weeks' guaranteed leave\textsuperscript{80}, and maximum annual working hours. Transitional provisions and specific arrangements are planned to take account of sector-specific features.

The Commission put forward a new text for the rail transport industry\textsuperscript{81}.

For road transport, by far the most significant sector due to its strategic importance for the economy, the number of employed and self-employed workers concerned (6.5 million), and the impact on public safety, an annexed proposal makes special provision for working time, breaks, rest periods and restrictions on night work\textsuperscript{82}.

Using the scope afforded by article 139 of the EC Treaty, the Council adopted the Directive on the organisation of working time of seafarers based on the sectoral agreement concluded between the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST)\textsuperscript{83}. The Commission judged that this Directive needed backing up by a specific Directive to cover third country ships using Community ports so that all seafarers were afforded the same level of protection. As a result, Parliament and Council adopted another Directive on the matter in December 1999\textsuperscript{84}.

After nearly a year's worth of negotiations, the social partners in the civil aviation industry also reached an agreement on working time in March 2000 covering 100,000 flight personnel (pilots and cabin crew)\textsuperscript{85}. The agreement limits annual working time to 2,000 hours (the parent Working Time Directive fixes it as 2,304 hours). Working time includes "stand-by periods as defined by prevailing legislation" and reduces flying time to 900 hours - less than the statutory provision in some Member States. Like those in the sea transport sector, this agreement can be backed up by a Directive under article 139 of the EC Treaty.

The differentiated approach followed by the Commission received the qualified backing of both CEEP and the ETUC, which nevertheless had deep misgivings about the annualization principle. UNICE and UEAPME advocated a strictly sectoral approach and dismissed the

\begin{footnotesize}
\begin{itemize}
\item The Commission proposed a derogation to the minimum four weeks' leave provision for share fishermen in order to take account of Europêche's objections. The derogation was reversed in the Council's common position which brought the provisions into line with those planned for sea transport.
\item In the form of an amended proposal incorporating certain European Parliament amendments, COM (99) 699 of 20 January 2000.
\item Adjustments to Communication COM (98) 662 as a result of the entry into force of the Amsterdam Treaty, SEC (99) 581.
\item The partners concerned are the Association of European Airlines (AEA, representing the national carriers), the European Regional Airlines Association (ERA), the International Air Carrier (IACA), the European Transport Workers’ Federation (ETF, for cabin crew) and the European Cockpit Association (ECA, for pilots).
\end{itemize}
\end{footnotesize}
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distinction between mobile and non mobile workers. Industry employers’ organisations, however, had no inherent objections to the texts proposed by the Commission. The AEA (air transport) approved the extension of the guarantees offered by the Directive to all personnel. The IRU (road transport)86 and the ECSA (shipping), in agreement with the relevant industry unions, stressed the need to set aside an area for the application of possible future sectoral agreements.


Following a first Commission report (PEPPER I)87, the Council Recommendation of 27 July 1992 intended to promote employee participation in profits and enterprise results went virtually ignored88. That, at least, was the finding of the second Commission report on the same subject in early 199789. This report classified the Member States into three categories:

- countries with an established tradition of encouraging profit-sharing (France and the United Kingdom). During the period reviewed (1991-1995) both countries regularly extended the range of schemes and the amount of tax benefits available under them. There was a significant increase in schemes and the number of employees concerned in both countries.

- countries which regard such schemes as mainly a social partner responsibility (Belgium, Denmark, Germany, Greece, Spain, Italy, Luxembourg, Portugal, Austria and Sweden). Some countries recorded a slight increase in PEPPER schemes (Germany), in some there was no change (Denmark), while in others they declined (Spain).

- countries with a recent trend towards supporting participation schemes (Ireland, Finland and the Netherlands). Their provision is expected to increase in the future.

In January 1998, the European Parliament called for a programme to promote the exchange of information and best practice on financial participation schemes between EU Member States90. It also called on the Commission to conduct a new study into the impact of PEPPER schemes in Member States on employment, productivity and wage flexibility, and to assess the conditions for introducing such schemes in enterprises, in particular small and medium-sized enterprises.

Provision has been made in budget line B4000 in the 2000 budget to fund studies and meetings on financial participation on the basis of the PEPPER II report.

Financial participation was also on the agenda of the ETUC’s member organisations. It suggests a series of minimum safeguards. Financial participation is in addition to other forms of participation and must be seen as an aspect of worker participation. The arrangements

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86 The failure of negotiations in the road industry led to a specific proposal being drawn up. As the Commission stressed, however, the negotiations clarified the issues and proved a valuable basis for drafting the proposal.

87 PEPPER I Report (Promotion of Employee Participation in Profits and Enterprise Results), Social Europe, supplement 3/91.


should be negotiated at national and industry level. Dead-end schemes are to be avoided. The funds should be jointly managed by management and workers. Financial participation must be an additional source of income, not an alternative to wages. Government must underwrite the success of financial participation, so tax cuts are essential.

The ETUC calls on UNICE to conclude a framework agreement on the matter (comprising industry-wide bargaining, worker participation, a code of conduct,...)\(^91\).

### 23. “Bring forward clear guidelines concerning state aids for training.”

The rules used to assess public aid for industrial training were laid down in a decision dating from 22 July 1998\(^92\). The Commission proposes incorporating the conditions for exemption into a separate Regulation\(^93\). Back in 1996, the Commission published a Communication on the control of State aid and cutting labour costs (18 June 1996).

### II.2 Anticipating industrial change

#### 24. “Follow up the High Level Group’s recommendations in developing future policies in this area.”

In early 1998, in the wake of the Renault affair, the European Commission set up a high-level group of experts on economic and social implications of industrial change, chaired by Mr Gyllenhammar. Its report, published in October 1998\(^94\), made a series of specific recommendations in particular on:

- strengthen the Social Dialogue as means of adjusting to change and tackling the crises produced by industrial restructuring;

- all companies with over 1,000 employees should produce a “managing change” report setting out the company’s policies and programmes of training employees to maintain their employability and adaptability to new demands and outline what progress is made towards equal opportunities.

- setting up a European Observatory on industrial change to act as a resource centre for economic forecasts, especially on the most vulnerable sectors, and provide a forum for meeting, discussion and information exchange. The social partners agreed on this, and the practical arrangements are under discussion.

- The report also addresses infrastructure for new technologies, employability and life-long education and training, the creation and development of SMEs, new areas of employment like primary personal services, creative arts and entertainment, and management of the social repercussions of restructuring.

#### 25. “Pursue the adoption of minimum standards for national information and consultation.”

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The value of common European rules on information and consultation of workers has been recognised since the 70s. The adoption of the European Works Councils Directive strengthened the Community legal framework in this respect by creating a basic foundation of rights and a method of implementation which accommodated and was adaptable to companies’ national and particular circumstances. The Commission’s considered view was that the economic restructuring and technological change under way in Europe required a closer alignment of national laws on informing and consulting employees in order to promote socially acceptable change and ensure that employment growth remained the overarching priority.

Following the initial responses received to its Communication on worker information and consultation published in 1995, the Commission decided to launch social partner consultations in November 1997, in the vexed situation created by the closure of the Renault factory in Vilvoorde. In contrast to the ETUC and CEEP’s stated willingness to engage negotiations under the Social Agreement provisions, UNICE walked away from the discussions on this issue. The credibility gap opened up by UNICE’s attitude led to an extraordinary Social Dialogue summit being called on 2 June 1998 in a bid to defuse the tensions created first by the employers’ uncompromising stance, then the Commission’s decision to move forward with the traditional legislative method.

The Commission proposal requires companies with at least 50 employees to inform and consult their workers on a series of key matters: the recent, reasonably foreseeable development of the undertaking’s activities and its economic and financial situation, the structure and development of employment within the undertaking, including, if relevant, measures envisaged to offset any potential negative developments, and finally, decisions likely to lead to substantial changes in work organisation or employment contracts. These provisions are without prejudice to any more favourable national provisions. Taking the European Works Councils Directive as its basis, the proposal allows the Member States or the social partners at national or workplace level to provide for wider rights.

UNICE maintained its opposition in principle to the draft Directive, which it had put forth to the document disseminated for consultation to the social partners: that Community action in the matter would fall foul of the principles of subsidiarity - the Member States already had their own machinery for information and consultation - and proportionality. The Commission had addressed these issues. A Community legal framework was necessary to ensure equal treatment between European workers: statutory provision in two States - the United Kingdom and Ireland - was either non-existent or fell short of the proposed framework; also, leaving aside problems of enforcement of national or Community legislation, workers’ representatives were in many cases involved too far downstream of the process to ensure that the social implications of strategic decisions were effectively taken into account. The Commission also stresses that the proposed threshold excludes SMEs, which account for 97% of European firms. Basically, UNICE took issue with the forward planning of employment in the workplace in the form introduced by the draft Directive. UNICE’s objection to the provision for cancelling

decisions taken in breach of the draft Directive’s information and consultation obligations - one of the main lessons of the closure of the Renault factory in Vilvoorde - speaks for itself.

The ETUC welcomed the Commission’s decision to bring forward a Directive and made a series of suggestions for clarifying certain of its ideas. It proposed that the rights be more precisely worded so as to be properly enforceable.


The European Works Council Directive provided for a review within three years of being incorporated in national laws (22 September 96). In October 1999, the Commission put out an initial draft centred essentially on a comparative analysis of implementation. In the same month, the European Parliament called for the Commission to expedite its review of the Directive to ensure that information and consultation are effective and take place before decision-making, and for the Directive to be completed in order to speed up the rate of installation of works councils and to give them the capacity to operate autonomously. Meanwhile, more than 600 European works councils had been set up in an estimated total of 1,200 to 1,500 firms.

The ETUC Executive Committee adopted a resolution on this, calling among other things for the threshold to be lowered from 1,000 to 500 workers, the repeal of the exemption Regulations for ideological guidance undertakings and commercial shipping, representation from accession countries, and recognition of the role of the European Industry Federations.

UNICE thought it too early to move towards a review when fewer than half the groups concerned had a works council. She wanted more time to include problems and progress found in the field.

II.3 Seizing the opportunities of the Information Society

27. “Present a report to the Vienna European Council on the prospects for the development of electronic commerce, open networks and multimedia tools and their impact on training and employment.”

The impetus given to the information society by the 1993 White Paper on growth, competitiveness and employment resulted in the Commission gradually building up a more overall approach to accommodate the different challenges of the new concept. The Commission believes that the information society is a job growth area provided increased efforts are made to promote an enterprise culture in the EU, develop a flexible, but robust, policy framework, invest more in employability and adaptability of people, and boost skills

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101 Resolution B5-0185, 0186, 0196 and 0199/1999 on the restructuring of firms in the face of globalisation, of 28 October 1999.
102 For a list of agreements cf. Dublin Foundation: www.eurofound.ie.
and levels of technical literacy\textsuperscript{104}. The Commission makes dissemination of technologies, organisational change and boosting skills top priorities for the EU. Its recommendations to the Member States aim to draw these elements together within the framework of national overall information society strategies coordinated at EU level and closely linked into the national employment plans.

\begin{quote}
28. \textit{“Develop specific actions to maximise the contribution of the Information Society to promoting employment, equal opportunities and social inclusion, and build awareness of the social and labour market implications of the Information Society.”}
\end{quote}

The statement of the Social Affairs Council of 29 November 1999 on the job-creating potential and social dimension of the information society are worth mentioning. As regards the Commission, two Communications were in the pipeline for the first half of 2000. One on strategies for jobs in the Information Society was published in February\textsuperscript{105}. The other - on inclusion and participation in the knowledge-based society - is scheduled for April.

\begin{quote}
29. \textit{“Continue to build an Information Society dimension into other policies and actions.”}
\end{quote}

\section*{II.4 Creating a safe and healthy workplace}

\begin{quote}
30. \textit{“Focus on the effective implementation and application of existing legislation and complete the current Community programme on health and safety at work (1996-2000).”}
\end{quote}

The new social action programme bears out the loss of momentum in new rule-making for safety and health protection in the workplace since 1992. The emphasis, therefore, is on effective implementation of existing rules and adapting them to technical progress, instead of developing or extending the legislative framework.

Although the adoption of pending proposals is extremely slow going, the Council has taken a decision on the chemical agents Directive\textsuperscript{106} and issued conclusions on the protection of worker at risk from asbestos\textsuperscript{107}. Other initiatives in 1998 were to adapt existing legislation to

\begin{footnotes}
\item \textsuperscript{104} “Job opportunities in the Information Society: Exploiting the potential of the information revolution”, COM (98) 590 of 25 November 1998.
\item \textsuperscript{107} Council Conclusions of 7 April 1998 on the protection of workers against the risks from exposure to asbestos, OJ C 142 of 7 May 1998.
\end{footnotes}
technical progress\textsuperscript{108}, the main one being the adaptation of the Directive relating to work equipment for preventing falls from a height\textsuperscript{109}.

In 1999, the European Parliament and the Council adopted the Directive relating to the protection of workers potentially at risk from explosive atmospheres\textsuperscript{110}. The Council amended the Directive on the protection of workers from the risks related to exposure to carcinogens\textsuperscript{111} at work in order to extend the scope to mutagens and set limit values for occupational exposure to hard wood dust\textsuperscript{111}.

Health and safety, however, remains very much on the social and economic agendas. The report “Economic Impact of Occupational Safety and Health in the Member States of the European Union”, published in 1998 by the European Agency for Safety and Health at Work, stresses that the costs of work-related injuries and diseases to Member States’ economies range from 2.6% to 3.8% or from 0.4% to 4.0% depending on the indicators used and points out the value of developing common methods of evaluation to give a more precise and consistent measure of the cost/benefit performance of occupational health and safety legislation.

The Commission published a report\textsuperscript{112} on the Member States’ implementation of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the health and safety at work of pregnant workers and workers who have recently given birth or are breastfeeding, and another on the implementation of the 1993 Working Time Directive. The legal basis for this latter Directive at the time was a qualified majority, not that of health and safety Directives proper.

31. “Present proposals to update and complete existing legislative instruments (e.g. scaffolding; carcinogens), adapt standards to technical and scientific progress (e.g. limit values for occupational exposure to chemical substances; exposure to biological agents at work), and examine the need to cover risks that are not presently covered (e.g. musculo-skeletal disorders, new working patterns).”

The Commission addressed scaffolding in a new proposal through an amendment to the Work Equipment Directive (655/89)\textsuperscript{113}.


\textsuperscript{112} COM (99) 100, of 15 March 1999.

\textsuperscript{113} COM (98) 678 - 2\textsuperscript{nd} amendment to the Work Equipment Directive - temporary work at a height
The amendment to Carcinogens Directive 90/394 made two quite welcome changes: one extended the scope to mutagens, while the other established a limit value for occupational exposure to hard wood dust (29 April 1999).

A new proposal was made on exposure limits for chemical substances. A proposal on biological agents was also tabled.

The ETUC put musculoskeletal disorders at the top of its agenda through a large-scale awareness-building campaign. Finally, the Bilbao Agency launched a wide-ranging campaign on the same issue in connection with Health and Safety Week in October 2000.

The Dublin Foundation is planning a study on work organisation-related health and safety hazards.

32. “Seek to improve statistical data on occupational health and safety in Europe so as to identify the most significant risks.”

There are three sources of data. One is that on employment injuries harmonised by Eurostat. The second is that on occupational diseases (of which there is a non-binding list at Community level). But statistics are still not really comparable here. Finally, the Dublin Foundation for the Improvement of Living and Working Conditions carried out wide-ranging surveys in 1991 and 1995. A new survey is in hand, and processing of results will get under way in mid-2000.

33. “Promote Europe-wide dissemination of information on best practices, in particular through the European Agency for Health and Safety at Work and the social partners, especially relating to SMEs and risk management.”

The European Agency for Safety and Health at Work was established on paper in 1994, but only became operational in 1997. It is based in Bilbao. Since 1997, it has worked with “focal points” - resource centres - in each Member State. It has published a series of reports, including one in March 1999 on how economic instruments can improve health and safety at work. Its output is closer to a compilation of national data than European studies proper.

Laurent Vogel of the Trade Union Technical Bureau argues that “The quality of its work depends very much on that of the national contributions and their comparability. Some of its priorities reflect real demands (musculoskeletal disorders, stress, dangerous substances), while others are more borderline and can be side-tracked by the employers looking to put business profits before occupational health (like the debate on cost-benefit aspects)."

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116 On this, see the special report in TUTB Newsletter No. 11-12, June 1999.
117 TUTB Newsletter No. 11-12, June 1999.
118 The results can be consulted on the Foundation’s site: http://eurofound.ie
120 Full information on the Agency can be found on its website http://europe.osha.eur.int
121 Mutualité française, Santé et Travail, No. 29, October 1999, p.10.
The SAFE programme (Safety Actions For Europe) was intended to improve safety, hygiene and health at work, especially in SMEs. It was introduced in 1995 and amended by the Commission in 1997\textsuperscript{122}, but has still not been approved by the Council.

Nothing else has emerged since a brochure on risk management in 1997.

### III. An inclusive society

**III.1 Modernising and improving social protection**

| 34. “Pursue the agenda for joint reflection set out in the 1997 Communication and present, in early 1999, an evaluation of the progress made. This will include an assessment of the implementation of the 1992 Council Recommendation on convergence of social protection systems, with a view to updating it and linking the convergence process more closely with the employment strategy.” |

With the new vistas opened up by economic and monetary union, enlargement and the ageing of the population, the debate on the future of social protection in Europe has intensified each year. This is reflected in the changing nature of the reports on social protection in Europe\textsuperscript{123} which are increasingly tied into an emerging policy planning framework. The Communications of 1995\textsuperscript{124} and 1997\textsuperscript{125} were important milestones in this process.

The Commission’s most recent report on social security, adopted in July 1999, sets an agenda and common challenges (monetary union, employment strategy, enlargement), and proposes a concerted strategy for modernising it\textsuperscript{126} built around four key objectives:

- to make work pay and to provide secure income;
- to make pensions safe and pension systems sustainable;
- to promote social inclusion; and
- to ensure high quality and sustainable health care (see also C. de la Porte’s article in part one, especially for the positions of the social partners and the EP).

The method is based on that of the employment guidelines: frequent exchanges of information with discussions centred on what would become a more “policy-oriented” than academic annual report on social protection. The basic precept of the Communication is that the single currency may increase competitive pressures on labour costs, of which social security contributions make up a significant part (see article and the BEPG, point 2).

The high-level group operating under the aegis of the Council was set up with remarkable speed. The group was split in two, one for social security matters, the other for health issues. The social partners do not sit in this group which meets monthly.


\textsuperscript{124} “The future of social protection: a framework for a European debate”, COM (95) 466 of 31 October 1995.

\textsuperscript{125} “Modernising and improving social protection in the European Union”, COM (97) 102 of 12 March 1997.

Consistency between taxation, social security and employment is a recurrent theme at Community level. It has been taken further in the documents coming out of DG II (Economic and Financial Affairs) than DGV (Employment and Social Affairs). It was already included in the five Essen objectives (see article on employment).

The legislative highlights include the proposals for reducing taxation on labour-intensive jobs, which is the Ecofin Council’s remit. So, the Council adopted a Directive on the experimental charging of a reduced VAT rate on labour-intensive services 127, under which some labour-intensive services may attract a reduced VAT rate:

1. Small services of repairing: (bicycles, shoes and leather goods, clothing and household linen, including mending and alteration);
2. Renovation and repairing of private dwellings, excluding materials which form a significant part of the value of the supply;
3. Window cleaning and cleaning in private households;
4. Domestic care services (e.g. home help and care of the young, elderly, sick or disabled);
5. Hairdressing.

The Member States were authorised to choose no more than three of the five categories of services listed, and informed the Commission of their choice. It then put forward a proposal for a Council decision in December 1999128.

In a study of the national action plans on employment 1999 (NAPs), with special reference to the implementation of guideline 14, we reached the following conclusions129:

- there is a consensus at both Community and Member States level on targeting employment policies on reducing the tax burden on labour, especially the low-paid and/or specific groups;
- these measures are generally offset financially by the levying of taxes on polluting activities and energy, notwithstanding that the Community-level debate on the issue is not far-advanced. Taxation of savings do not feature in most cases. Last year (1998), however, trade-off measures were rarely mentioned;
- the tax cuts announced are a fairly significant percentage of GDP. They have ceased being cosmetic measures, and the return to growth plus budgetary leeway gives credence to the implementation of these intentions;
- however, it is unclear from the NAPs whether or not the proposed measures cover the entire cut in the tax burden and whether they are parallel to or dependent on it. Some governments also seem in reality to be wagering on growth and related job creation to offset the tax cuts.

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128 Proposal for a Council Decision authorising Member States to apply a reduced rate of VAT to certain labour-intensive services in accordance with the procedure provided for in Article 28(6) of Directive 1977/388/EEC, COM (99) 705 of 20 December 1999.
In its opinion on employment, UNICE argues that “offsetting cuts in non-wage labour costs by increasing the tax burden on other factors of production would run counter to the aim (...)

36. “Present proposals for the reform and simplification of Regulation 1408/71 on the co-ordination of social security schemes.”

Regulation No 1408/71 coordinates social security schemes to ensure that all Community workers and members of their families receive equal treatment and entitlement to social security benefits, regardless of the place of their employment or residence. It has been repeatedly amended since. Various changes have been made to the Regulation and in the wake of the December 1992 Edinburgh European Council’s demands for it to be simplified, the Commission published an action plan for free movement of workers130 explaining the need to bring the coordination rules up to date, and proposing to simplify the Regulation in the light of changes in national laws and ECJ (Court of Justice of the European Communities) rulings131. It makes three major changes over the basic Regulation:

- an extension of the personal scope of co-ordination rules to all persons covered by national social security systems (including the self-employed, family members, refugees, students, third country nationals),
- an integration of pre-retirement schemes and an open-ended extension of the material scope through a non-exhaustive list to ensure that new benefits can be included in the future
- it extends the period for which an unemployed person may seek work abroad from three to six months.

The different EU Presidencies are deciding how to go about examining these simplification proposals. For the time being, they are being taken article by article, so it likely to be at least another two years before the various issues raised can be looked at as a whole.

The special session of the Tampere European Council of October 1999 on the creation of an area of freedom, security and justice called for the Commission to draw up a scoreboard with a timetable and the measures required over the next five years. Among the proposals already put forward, that to extend the social security Regulation to third country nationals has run into difficulties over a failure to agree on its legal basis since the Amsterdam Treaty entered into force. The Commission is suggesting article 42 of the EC Treaty (social security, co-decision) while the Council is proposing a legal basis which does not apply to all Member States - article 63.4 (rights of third country nationals, unanimity and consultation of the European Parliament). In preliminary substantive discussions in the Council, moreover, some Member States have been noticeably reluctant to address this issue and a gradual restriction of the scope (from everyone to specified categories).

On the issue of third country nationals, UNICE called for “an in-depth study of the complex questions which it would inevitably raise”132. On an extension to economically non-active persons,

UNICE “feels that the link between work and social benefits should be maintained”. Likewise, it believes that the rules should not be extended to pre-retirement schemes. “Extending such

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rights is inappropriate at a time when these schemes are under discussion and likely to be abolished or replaced by flexible retirement arrangements”. It believes that no changes should be made to the position of the unemployed.

In December 1999, moreover, the Commission put forward proposals for a limited coordination of social security systems with accession countries under the European agreements.133

37. “Present a proposal to update and complete the legislative framework for equal treatment in social security schemes between women and men taking into account, in particular, the case law of the European Court of Justice.”

The Court of Justice has given a series of rulings on this, in particular on the right of part-time workers not to be discriminated against as regards access to occupational pension schemes.134 As regards general schemes, the Court’s judgement in De Vriendt and others135 clarified the scope of the exception to the principle of equal treatment still permitted under article 7.1. of Directive 79/7 of 19 December 1979.

The Commission’s first proposal on equal treatment dates back to 1987:136 it refused to take the EP’s amendments into account and has been deadlocked ever since. An unsuccessful attempt was made in 1998. In September 1999, Parliament called on the Commission to submit to it a revised proposal for a Directive taking into account the political commitments into which the Commission had entered and developments in the areas concerned.137

38. “Provide further analysis of demographic trends and deepen the debate on their implications for economic, social and employment policies, in particular at a major European Symposium on demographic change.”

Two reports on population trends have been published, in 1995 and 1997. A report on demographic change and the labour market was published in 1999.138 But the impact of these trends provides the undercurrent to the debates on social security (point 34), the ageing of the population (point 44) and the need to increase labour force participation rates (point 1).

39. “Follow-up the 1997 Green Paper on supplementary pensions.”

Supplementary pensions are a hotly-debated issue. Obviously, it is a politically live issue with clear economic interests at stake.

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133 Proposal for a Council Decision on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and (individual accession countries) on the other part, with regard to the adoption of provisions for the co-ordination of social security schemes, COM (99) 675 to 684 of 20 December 1999.


137 Legislative Resolution A5-0007/1999 on legislative procedures in progress as at 1 May 1999 in the sphere of women’s rights and equal opportunities, of 16 September 1999.

138 In DGV’s Employment and Social Affairs series.
Supplementary pensions first appeared on the free movement agenda. The thorny issue of portability of supplementary pension rights which in countries like the United Kingdom and the Netherlands make up the bulk of workers' pensions, was dealt with in a Directive\(^{139}\) which guarantees the preservation of vested rights, cross-border payments, and specific measures for posted workers.

The Green Paper pointed out two things\(^ {140}\). One was demographic: by 2025, 40% of the population will be aged 65 years or older, compared to about 23% today. The second is that an efficient stock market could provide higher returns for lower contributions from earnings. For example, assume the target is a fixed supplementary pension of 35% of salary on the basis of a 40 year working life and the real rate of return on assets is 2%, the cost of pension contributions is 19% of salary. If the real rate of return is 4%, the cost is 10% of salary, and at a 6% rate of return, falls to just 5% of salary.

This scenario has moved from free movement to the economic performance of firms, and hence their efficiency, to justify an increase in the second pillar.

The Commission has published the results of its consultations\(^ {141}\). The Communication lays down three main principles for coordination of supplementary pensions rules: framing a proposal for a Directive on prudential rules for supplementary pension funds (2\(^{nd}\) pillar); the removal of obstacles to the free movement of workers; and coordination of Member States' tax systems.

### III.2 Promoting social inclusion

#### 40. “Present a Communication on social inclusion.”

The new objectives written into the Amsterdam Treaty include strengthening economic and social cohesion, and combating social exclusion (article 2). In the first half of 1999, the Commission put out a discussion paper entitled “Towards a Europe for all: how should the Community support Member States in their efforts to promote social inclusion?” to clarify what Community action was possible in this area. It contained a “possible outline” Community action programme and an interesting annex on the development of poverty in the EU. In the run-up to the Lisbon European Council on employment, economic reforms and social cohesion, the Commission drew its thinking together in a Communication on building an inclusive Europe\(^ {142}\) which foreshadows the presentation of a new action programme against social exclusion. EAPN - the European Anti-Poverty Network - proposed a three pillar strategy: a) promoting the effective exercise of fundamental rights by all, b) promoting an integrated approach and action, c) promoting participation and partnership\(^ {143}\).

#### 41. “Present a report on the implementation of the 1992 Recommendation on minimum income.”


\(^{140}\) Green Paper on Supplementary Pensions in the Single Market, COM (97) 283 of 10 June 1997

\(^{141}\) “Towards a single market for supplementary pensions - Results of the consultations on the Green Paper on supplementary pensions in the single market”, COM (99) 134 of 11 May 1999.


\(^{143}\) EAPN, A Europe for all: For a European strategy against social exclusion, 6-7 May 1999, for more details: http://www.eapn.org
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For reference, the Recommendation itself came out of the action programme relating to the implementation of the European Charter of Fundamental Social Rights of Workers and formed a pair with a Recommendation on the convergence of social protection objectives and policies.

A descriptive report was drawn up\textsuperscript{144} with an annexed table listing the national minimum income schemes, main associated benefits and services. The Commission believes that the Recommendation has helped to stimulate Member States’ discussions and debates and that the schemes that it covers are continuously evolving and need to do so in a holistic way, in terms of general social policy action and, particularly, employment policy. The debate should be developed and prepare the ground for implementing the new article 137 of the EC Treaty.

\textbf{42. “Examine the possibility of presenting a proposal setting out a framework to promote the integration of those excluded from the labour market and of proposing incentive measures to combat social exclusion, once the Treaty is ratified.”}

Point 3 of the concerted strategy for social security provides for promoting social inclusion. The Commission Communication on building an inclusive Europe (see point 40) foreshadows the multiannual programme of action against social exclusion to be brought forward in May 2000.

\textbf{43. “Develop at EU level statistical indicators on poverty and social exclusion.”}

Technical work has started and a special Eurostat group has been set up to work on harmonising statistics. For want of any clear powers in the matter, and pending ratification of the Amsterdam Treaty, the Commission has sought to address this in various invitations to tender. The forthcoming programme on tackling social exclusion is likely to include a major “statistical indicators” aspect (see also point 42).

\textbf{44. “Present a Communication on issues affecting older people.”}

The question of older people is a political issue in the different Member States as regards pensions (and health care). At European level, increasing the number of people over 50 still in the labour market has also become a Commission priority\textsuperscript{145}.

The Commission published a Communication on issues affecting older people as its contribution to the UN International Year of Older Persons\textsuperscript{146}. It examines the challenges posed by ageing, which the Commission believes has four dimensions, namely: the relative decline of the population of working age and the ageing of the workforce; the pressure on pension systems and public finances stemming from a growing number of retired people and a decline in the working age population; the growing need for old age care and health care; and the funding of pension systems which have left insufficient pension cover for many older women.


\textsuperscript{145} Draft Recommendation on the implementation of Member States’ employment policies, COM (99) 445 of 8 September 1999.

\textsuperscript{146} Communication from the Commission, “Towards a Europe for All Ages - Promoting Prosperity and Intergenerational Solidarity”, COM (99) 221 of 21 May 1999.
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Under the European Employment Strategy, Member States have been invited to develop measures aimed at maintaining workers’ capacities. The Commission believes that to maintain an increasing number of older people at work it will be vital to strengthen their employability, which includes investing in their skills, their motivation and their mobility. It also stresses that the new versions of the Socrates and Leonardo programmes for the period 2000-2006 are putting more emphasis on lifelong learning. The social partners are invited to play a special role in how to pay further attention to the age dimension in human resources management.

The Commission believes that to address the ageing challenge it will be vital to look for ways to reverse the trend towards early retirement, to explore new forms of gradual retirement and to make pension schemes more sustainable and flexible. In all Member States, the pension benefits provided by the basic public schemes (1st pillar) can be added to by contributing to two main forms of supplementary scheme: company or industry occupational schemes, generally run by the social partners (2nd pillar), and individual schemes, normally taken out with life insurance companies (3rd pillar). The Commission considers that one solution for making pension systems sustainable may involve finding an appropriate balance between funded and PAYG (pay-as-you-go) systems. In another Communication, it notes that in some Member States, supplementary schemes account for half of all pension payouts and that the value of assets held by occupational pension funds established in the Fifteen is equivalent to approximately 23% of the Union’s annual GDP (see also point 39).

On the health front, the Communication on the development of public health policy put a particular focus on the health implications of ageing, which are also the subject of medical and social research under the fifth Community framework programme for research. Employment discrimination on the grounds of age, among other things, is dealt with in the proposal for a Directive based on article 13 of the EC Treaty (see also point 49).

The FERPA in particular has been highly critical of the Commission’s active ageing approach as opening the door to an obligation to remain in the workforce.

45. “Propose a programme for the integration of refugees.”

Reflecting the areas to which these matters were allocated in the European Treaties before the entry into force of the Amsterdam Treaty, the European Commission adopted two further proposals in December 1998 on refugees, asylum seekers and displaced persons. The first of these proposals takes the form of a joint action (third pillar) to share responsibility for

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150 Proposal for a Council Decision on a Joint Action establishing measures to provide practical support in relation to the reception and the voluntary repatriation of refugees, displaced persons and asylum applicants, COM (98) 733 of 16 December 1998; proposal for a Council Decision establishing a Community action programme to promote the integration of refugees, COM (98) 731 of 16 December 1998; amended proposal for a Council Decision on a Joint Action adopted by the Council on the basis of Article K.3 of the Treaty on European Union establishing measures to provide practical support in relation to the reception and the voluntary repatriation of refugees, displaced persons and asylum applicants, including emergency assistance to persons who have fled as a result of recent events in Kosovo, COM (1999) 181.
the temporary protection of a mass influx of displaced persons. It would have an annual budget of 14 million euros. The other proposal is for a European Community action programme to promote the integration of refugees in the European Union (1999-2000). It would have total funding of 15 million euros over two years. Between them, the joint action and action programme cover the entire process from the application for asylum up to integration into society of those with refugee status or other forms of protection in a Member State. In September 1999, the European Parliament asked the Commission to submit a proposal for a European Refugee Fund, covering structural measures for the reception, integration and repatriation of refugees. 

Following the Tampere European Council (October 1999), the Commission put forward a proposal to create a European Refugee Fund which would replace joint action 1999/290/JAI. It draws together in a single, five-year instrument all actions relating to the reception of asylum seekers, integration of refugees and voluntary repatriation. As a result of the Kosovo crisis, a distinction is made between funding for “structural” measures and emergency assistance in the event of a mass influx of refugees or displaced persons into the territory of one or more Member States. The budget allocation for 2000 is 26 million euros, with a reserve of 10 million euros for emergency measures.

III.3 Achieving equality and fighting discrimination

46. “Promote equality between women and men through a dual strategy: ensuring that equal opportunities is mainstreamed into all relevant Community policies, and developing specific actions to improve the situation of women, including actions to combat the problem of sexual harassment in the workplace, in support of gender-balanced participation in decision-making, and focusing on the problem of violence against women.”

The Commission Recommendation of November 1991 on the protection of the dignity of women and men at work defined sexual harassment and recommended that the Member States take action to promote awareness that conduct of a sexual nature, or other conduct based on sex affecting dignity at work is unacceptable. Social partner consultations revealed differences over methods: the employers’ organisations thought measures should be decided at national level, while the trade unions did not see the situation changing without a binding Community instrument. In a second consultation paper the Commission put forward avenues for discussion on a comprehensive prevention policy include workplace-specific rules and procedures. The social partners thought this was not a matter for negotiation, and asked for it to be dealt with by legislation. The Commission subsequently published two studies in 1998 on workplace sexual harassment in the Member States.

The issue of balanced participation had already been addressed in a 1996 Council Recommendation. On 22 October 1999, the Labour and Social Affairs Council adopted

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151 Legislative resolution A5-0012/1999 on the legislative procedures in progress in the sphere of citizens’ freedoms and rights, justice and home affairs (....), of 16 September 1999
152 Proposal for a Council Decision creating a European Refugee Fund, COM (99) 686 of 14 December 1999 based on article 63.2.b TEC.
154 Communication of the Commission on consultation of management and labour on the prevention of sexual harassment at work, COM (96) 373 of 24 July 1996.
conclusions on the implementation of the Beijing Platform for Action in which it “urges Governments and encourages the political parties and social partners to adopt further active measures and strategies to reach the goal of equal participation”\textsuperscript{157}.

A series of initiatives were taken to address violence against women. Following on from the STOP programme\textsuperscript{158} and the Daphné initiative\textsuperscript{159}, the Commission put forward a series of measures to tackle violence against children, young persons and women\textsuperscript{160}, to extend the Daphné initiative under a Community action programme. The programme is still in the pipeline and is likely to have a budget of 20 million euros.

\begin{quote}
47. “Present a proposal for legislation to combat racial discrimination once the new Treaty is ratified, and launch a broad debate on the use of Article 13, including the possibility of a framework programme to combat all forms of discrimination.”
\end{quote}

The Commission has also adopted a Communication\textsuperscript{161} and three proposals to tackle discrimination in the EU. The idea is to make use of one of the new Amsterdam Treaty provisions (article 13) which gives the Community new powers in this area in order to support and strengthen existing national provisions. The Commission believes that these three proposals will constitute a comprehensive basis for action, providing a minimum level of legal rights not to be discriminated against, supported by practical action to promote the effective application of those rights on the ground\textsuperscript{162}.

The Directive outlawing discrimination in employment makes discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation illegal\textsuperscript{163}; the other Directive prohibits discrimination on the grounds of racial or ethnic origin in a wider range of fields: employment, education, access to goods and services, social protection\textsuperscript{164}. The action programme aims to support and add to the implementation of the Directives through the exchange of information and experiences and by the dissemination of good practice in legislation and other fields\textsuperscript{165} (see also the Community programme on equal opportunities for men and women, and an action programme to combat social exclusion).

The European Commission is proposing a new initiative, EQUAL, to support “transnational co-operation to promote new means of combating all forms of discrimination and inequalities

\textsuperscript{157} Adopted by the Labour and Social Affairs Council, 22 October 1999.
\textsuperscript{159} Joint Action 97/154/JAI, concerning action to combat trafficking in human beings and sexual exploitation of children, (Daphné initiative), OJ L 63 of 4 March 1997.
\textsuperscript{161} Communication from the Commission (...) on certain Community measures to combat discrimination, COM (99) 564 of 25 November 1999.
\textsuperscript{162} For a recent analysis, see Olivier de Schutter, “La mise en oeuvre de l'article 13”, Notabene 113, February 2000.
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in connection with the labour market”

EQUAL will also take due account of the vocational integration of asylum seekers. The programme offers a set of two alternative actions in each of the four pillars of the Luxembourg procedures. It states that “each Member State will be expected to choose at least one thematic field in each pillar (...) taking into account the recommendations issued by the Commission in the context of the European employment strategy”.

The ETUC broadly welcomed the programme, but suggested some areas might be improved. It thought the entrepreneurship aspect should focus not just on upgrading jobs in the social economy, but skills levels, too. A new theme on innovative forms of work organisation should be added to adaptability. The gender equality aspect should include closing pay gaps and provision to improve the work/life balance. It also wanted the role of the social partners to be clarified.

UNICE, by contrast, took a critical stance. It supported the EQUAL programme, but thought it should concentrate on its key-objective of fighting discrimination rather than trying to bring together – under a single initiative – all the previous programmes (i.e. Adapt, Employment). It also claimed that the draft guidelines lacked clarity and that the implementation procedures were far too complicated and bureaucratic.

48. “Pursue the strategy set out in its 1996 Communication on equality of opportunity for people with disabilities to take account of the needs of people with disabilities in measures taken under Article 95.”

The publication of the evaluation report on the Helios II programme in favour of people with disabilities, which ended in 1996, was an opportunity for Parliament to call on the Commission to draw up specific measures under the new opportunities offered by the Amsterdam Treaty. Parliament has also called for official recognition of sign language and for measures to ensure universal design in multimedia applications to accommodate sign language. Finally, a Council Recommendation established a standardised model parking card for people with disabilities.

A conference on employment for people with disabilities was also held in Dresden in February 1999 in connection with the employment guidelines. It aimed to build on the ways forward mapped out by the Commission in 1998 to further inform the debate on employment for people with disabilities. The conference was followed up by a Council Resolution in June 1999, on equal employment opportunities for people with disabilities.

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166 Draft communication from the Commission to the Member States establishing the guidelines for Community Initiative Programmes (CIPs) for which the Member States are invited to submit proposals for support under the EQUAL initiative, COM (99) 476 of 13 October 1999.

167 ETUC comments, 12 November 1999.

168 UNICE comments on the draft guidelines for the EQUAL Community Initiative, 5 January 2000.


170 Resolution A4-0471/98 on the report from the Commission on the evaluation of the Third Community Action Programme to assist disabled people (Helios II), of 15 December 1998.

171 Resolution B4-0985/98 on sign languages, of 18 November 1998.


In their Resolution, the Fifteen’s Ministers stress the importance of the national action plans on employment in favour of people with disabilities. They call for them to be strengthened within the framework of the national employment policies and in cooperation with the social partners and non-governmental organisations for people with disabilities.

The Resolution also stresses the need to make full use of the existing and future possibilities of the European Structural Funds, in particular the European Social Fund, and relevant Community initiatives, to promote equal employment opportunities for people with disabilities. It also calls on the Member States to attach particular attention to the possibilities offered by the development of the information society in terms of employment opportunities and responding to the challenges to which the disabled people are confronted.

49. “Implement the Action Plan against racism and ensure the successful start-up of the European Monitoring Centre on Racism and Xenophobia.”

Following a European Parliament Resolution on racism, xenophobia and anti-Semitism and the results of the European Year against Racism, the Commission published an action plan against racism focused on four strands: paving the way for legislative initiatives based on new article 13 TEC (see point 47); mainstreaming the fight against racism and discrimination across all Community policies and programmes; developing and exchanging new models; strengthening information and communication action by raising awareness of the dangers of racism.

The European Monitoring Centre on Racism and Xenophobia held its first meeting in Vienna on 21 and 22 January 1998. Its tasks are to study the extent and development of the phenomena and manifestations of racism, xenophobia and anti-Semitism, analyse their causes, consequences and effects and examine examples of good practice in dealing with them. To that end, it collects, records and analyses information and data from research centres, Member States, Community institutions, international organisations and non-governmental organisations. It is also responsible for setting up and co-ordinating a European Racism and Xenophobia Information Network (Raxen).

To ensure that the activities of the two bodies complement each other, the Commission also put forward a draft cooperation agreement between the European Monitoring Centre on Racism and Xenophobia and the Council of Europe. The agreement provides for regular contacts to be established between the Director of the Monitoring Centre and the General Secretariat of the Council of Europe, in particular, the Secretariat of the European Commission against Racism and Intolerance (ECRI).

The European Monitoring Centre on Racism and Xenophobia published its first annual report (1998) in early December 1999 describing the situation regarding racism in the EU Member States.

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176 Action plan against racism, COM (98) 183 of 25 March 1998
179 The annual report falls into two parts: “Giving Europe a soul” describes the process of setting up the Monitoring Centre, and “Looking reality in the face”, which examines the situation regarding racism and xenophobia in the European Community.
The Commission published a report on the aims and actions carried out in the European Year against Racism (1997)\textsuperscript{180}. Finally, the Commission also produced a Communication on countering racism, xenophobia and anti-semitism in accession countries\textsuperscript{181} suggesting future paths for the development of strategies implemented in the accession countries.

50. "Carry forward the debate on fundamental rights, building on the report of the Comité des Sages."

The need to recognise a series of fundamental civil and social rights, and incorporate them into the Amsterdam Treaty, was originally aired at the first Social Policy Forum in March 1996 and given more substance by the work of the Comité des Sages\textsuperscript{182}. Although it did not lead to the inclusion of a Bill of Rights in the Amsterdam Treaty, the work was taken forward in 1998 by an expert group on fundamental rights, chaired by Prof. Simitis. Their report, published in February 1999, deals with the status of fundamental rights in the Amsterdam Treaty, and then addresses the factors and conditions that ought to be considered in promoting the explicit recognition of fundamental rights. Their recommendations include a proposal for reformulating fundamental rights adapted to the exigencies of the European Union. All rights should be set out in a single text, which should itself be inserted into a special part, or a particular Title of the Treaties. The place chosen “should clearly illustrate the paramount importance of fundamental rights and unmistakably indicate that the activities of the European Union must at all times, and under all circumstances, be guided by respect for these rights”\textsuperscript{183}.

In its resolution on the area of freedom, security and justice, adopted in April 1999, the European Parliament welcomed the German Presidency’s intention of initiating an EU Charter of Fundamental Rights\textsuperscript{184}. The next stage is to draw up an EU Charter of Fundamental Rights in accordance with the decision of the Cologne European Council. The procedural details were settled at the Tampere Special European Council (October 1999): the Charter will be drafted by a body (now “Convention”) of 62 people\textsuperscript{185}. Contrary to the Commission’s wishes, the secretariat for the Convention’s activities will be provided by the Council\textsuperscript{186}. The Charter is being drafted under the chairmanship of former German President Mr Herzog\textsuperscript{187} and is meant to be finished in time for the European Council being held under the French Presidency in December 2000. The next intergovernmental conference (IGC) is

\begin{itemize}
\item \textsuperscript{180} Report from the Commission on the implementation of the European Year against Racism (1997), COM (99) 268 of 3 June 1999.
\item \textsuperscript{181} Communication from the Commission - Countering racism, xenophobia and anti-semitism in the candidate countries, COM (99) 256 of 26 May 1999.
\item \textsuperscript{182} For a Europe of civic and social rights, Report by the Comité des Sages, chaired by Ms. Maria de Lourdes Pintasilgo, March 1995.
\item \textsuperscript{184} Resolution A4-0133/99 on the area of freedom, security and justice - Combating child pornography on the Internet, of 13 April 1999, OJ C 219/65 of 30 July 1999.
\item \textsuperscript{185} Fifteen representatives of the Heads of State or Government of Member States, one representative of the President of the European Commission, sixteen members of the European Parliament, and thirty representatives of national Parliaments. Two representatives of the European Court of Justice, one representative of the Council of Europe and one from the European Court of Human Rights, may also attend as observers. The Ombudsman, members of the Economic and Social Committee and Committee of the Regions, along with social groups and experts, are to be invited to give their views.
\item \textsuperscript{186} All the documents will be posted on the Council’s website: http://db.consilium.eu.int/df/default.asp?lang=en
\item \textsuperscript{187} First meeting of the body responsible for drawing up a draft EU Charter of Fundamental Rights, Brussels, 17 December 1999.
\end{itemize}
also due to complete its work at the end of the same year. It will then have to be considered, as the Cologne European Council decided, “whether and, if so, how the Charter should be integrated into the treaties”.

It is a priority for the ETUC, whose September 1999 Executive Committee took a position on the matter. The ETUC believes that the Tampere process must lead to the inclusion in the Treaty of:

- a binding Treaty obligation for the Member States (and the Union) to adhere to international instruments (Universal Declaration of Human Rights, European Convention on Human Rights, ILO Declaration on Fundamental Principles and Rights at Work, Community Charter of the Fundamental Social Rights of Workers, Revised European Social Charter, UN Convention on the Rights of the Child), combined with a sanction procedure (political and/or legal), and
- selected individual and collective universal core rights directly enshrined in the Treaty and with priority to EU-specific cross-border and transnational trade union and workers’ rights:
  - national and transnational trade union rights of association, collective bargaining and trade union action, including the right to cross-border sympathy action and strike;
  - national and transnational rights for workers to information, consultation and participation;
  - the right of equal treatment and equal opportunities for men and women;
  - prohibition of all forms of discrimination, racism and xenophobia;
  - ban on child labour;
  - the right of occupational health and safety protection;
  - the right to a minimum income including social protection in case of unemployment;
  - freedom of movement within the EU, including for third country nationals who are legally resident in the EU.

Close cooperation has been established between the European trade union movement and civil society. The ETUC and Platform of European Social NGO plan to take their joint campaign forward.

III.4 Encouraging a healthy society

51. “Take forward the debate on the development of public health policy and addressing the emerging demographic challenges and new threats such as communicable diseases.”

Cf. points 44 and 55.

52. “Pursue the strategy on combating tobacco consumption.”

The main legislative highlight was the adoption, after nearly ten years in the making, of the Directive banning the advertising of tobacco products. It permits limited exceptions for

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188 The incorporation of fundamental civic, social and trade union rights into the European Union Treaties, 16-17 September 1999.
transitional periods of up to five years, after which all direct advertising will be illegal and the scope for indirect advertising and sponsorship strictly limited\textsuperscript{190}.

For the record: European Union subsidies to tobacco growing, chiefly in Italy and Greece, amount to 900 million euros, or 2.4\% of the EU’s total budget.

\begin{quote}
53. “\textit{Implement the existing health programmes (AIDS, communicable diseases, cancer, drug dependence, health monitoring and health promotion) and press for the adoption of the outstanding proposals (rare diseases, pollution-related diseases and accidents and injuries).}”
\end{quote}

A detailed description and analysis of EU health care measures was recently produced for the Dutch Council for Health and Social Service\textsuperscript{191}. The three programmes in the pipeline - rare diseases\textsuperscript{192}, pollution-related diseases\textsuperscript{193}, and accidents and injuries\textsuperscript{194} - have now been adopted.

\begin{quote}
54. “\textit{Deepen the exchange of experience on efforts to improve the efficiency, cost-effectiveness and quality of health systems.”}
\end{quote}

In 1998, the Commission published a stocktaking and forward study of possible new EU public health measures\textsuperscript{195}. It maps out three strands of action for the future: improving information for the development of public health, reacting rapidly to threats to health, tackling health determinants through health promotion and disease prevention. Also of note is a Commission staff working paper on public health and enlargement which asks questions about the risks of a two-tier health status\textsuperscript{196}. Health forms one of the four pillars of the concerted strategy for modernising social protection (see point 34 and article by C. de la Porte in part one).

\section*{IV. The external dimension of social policy}

\subsection*{IV.1 Enlargement}

\begin{quote}
55. “\textit{Work to ensure the gradual involvement of accession countries in social policy programmes and activities - and in particular the employment strategy - while promoting the social and civil dialogue as essential pillars of the European social model.”}
\end{quote}

\begin{footnotesize}
\textsuperscript{190} Report from the Commission (…) on progress achieved in relation to public health protection from the harmful effects of tobacco consumption, COM (99) 407 of 8 September 1999.
\textsuperscript{196} http://www.europa.eu.int/comm/dg24/health/ph/key_doc/index_en.html
\end{footnotesize}
On top of Community programmes in areas like education, training, youth, culture, SMEs, the environment and energy, the Commission has also laid down practical arrangements for **accession countries** to take part in **health and social policy** programmes\textsuperscript{197, 198}.

Under the Europe Agreements or their Additional Protocols, accession countries pay the costs of participation in the programmes themselves, but may top up their own budget contribution from their annual PHARE Programme allocation.

The ETUC, UNICE/UEAPME and CEEP published a joint declaration on the Warsaw Conference of 18 and 19 March on the **role of the social partners in EU enlargement**, given added importance by the Helsinki European Council’s approval of an enlargement to 13 applicant countries. In it, the social partners acknowledge that\textsuperscript{199} “Enlargement of the European Union to the East and South is a process of historic importance. (...) It confronts the candidate countries and the European Union with the double challenge of profound economic and social reform currently taking place in almost all candidate countries, and of taking over the Community acquis. The tasks to be fulfilled require the active participation of the social partners who must fully live up to their responsibilities by contributing to the enlargement process, both at the national and the European level. (...) ETUC, UNICE/UEAPME, and CEEP invite the European Union and the governments of candidate countries to involve the social partners, in an appropriate way, in the enlargement process”.

The **enlargement** process set moving in March 1998 with the calling of bilateral conferences with Cyprus, Hungary, Poland, Estonia, the Czech Republic and Slovenia will be extended in 2000 to the other applicant countries, namely Bulgaria, Latvia, Lithuania, Malta, Romania and Slovakia. This will involve both sides stepping up their reforms (institutional for the Union, chiefly economic and administrative for the applicant countries). For the EU, this depends on the next round of Treaty revision being completed and its results being ratified before the new members join. The intergovernmental conference (IGC) which got under way in February 2000 is supposed to have completed its work by year-end.

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\textsuperscript{197} Proposal for a Council Decision concerning the Community position within the Association Council on the participation of the Czech Republic in the Community programmes in the fields of health and social policy, COM (99) 97 of 8 March 1999; Proposal for a Council Decision concerning the Community position within the Association Council on the participation of Republic of Slovenia in the Community programmes in the fields of health and social policy, COM (99) 199 of 20 May 1999.


\textsuperscript{199} Abstract of joint declaration of social partners, Warsaw, 19 March 1999.
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For applicant countries, membership of the Union means taking over all the rights and obligations of the EU’s system and institutional framework known as the *acquis communautaire* (established body of Community laws and Regulations). The social and employment *acquis* makes up a particularly long head of the accession negotiations due to the volume of Community legislation and Regulations concerned, embracing everything from employment policy through equal opportunities, anti-racism to health and safety at work. One underlying issue of enlargement for the applicant countries is the impact of adapting their social systems to a market economy environment. Although not a feature of the accession negotiations as such, one pillar of the “European social model” is the agglomeration of national social protection systems, linked together but differing widely as to funding and operation from country to country.

The applicant countries of Central and Eastern Europe are being given practical help in preparing for membership partly through aid to agriculture and rural development under a pre-accession instrument for agriculture (SAPARD), and partly through regional policy instruments, under a newly-established financial mechanism, the Instrument for Structural Policies for Pre-accession (ISPA). Both instruments will provide support, to the accession strategy from 2000 onward. The latter will add to measures already taken under the current PHARE Community programme.

**PHARE** provides economic assistance to support economic and social reforms in Central and Eastern European countries. It was initially limited to Poland and Hungary, but was soon extended to the other CEEC. It forms part of the broader package of assistance given by the Group of 24 industrialised countries (G-24). It is tied to progress on political and economic reform. Since 1993, the three Baltic countries, the former republic of Macedonia and Albania have been brought within the PHARE Programme.

In 1995, PHARE was supplemented with the CONSENSUS programme which aims to promote cooperation with the Central and Eastern European countries in social protection taken as meaning all social services systems, including health care. CONSENSUS is the social aspect of the Europe Agreements. The ETUC has published its own detailed analysis of social security systems in the CEEC.

**TEMPUS**, a trans-European mobility programme for university students, was set up under the economic assistance scheme for Central and Eastern Europe.

An **Economic and Social Committee** report on the employment and social situation in the applicant countries pointed out that, like that of the European Parliament, its demand for a

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200 Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, Czech Republic, Romania, Slovakia, Slovenia.
204 Bringing the number of participating countries to 12 (Albania, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Macedonia, Poland, Slovak Republic, Czech Republic, Slovenia and Romania).
White Paper to be drawn up on the social situation and social policy in the applicant countries had not yet met with a response207. The ESC again called on the Commission to do so, and stressed the need for involvement by the social partners in the applicant countries.

UNICE had also recognised the need to take over the full social policy acquis and for the necessary measures to be implemented before enlargement, not just after208.

IV.2 Promoting social progress on the world stage

57. “Present a Communication on the development of the external dimension of European social policy.”

No such Communication has yet been presented.

58. “Maintain support in particular in the ILO for the promotion of internationally recognised core labour standards, and seek to enhance co-operation between the ILO and the WTO in this respect.”

The European Union argued for a comprehensive round of trade negotiations which would help the WTO keep up with rapid and far reaching economic change, and meet the concerns expressed by civil society209. The EU Council adopted its position on the Millennium Round of multilateral trade negotiations in the WTO only at the end of October210. On the social front, the Council suggested establishing a substantive dialogue with its partners in a Joint ILO/WTO Standing Working Forum on trade, globalisation and labour issues. The developing countries objected to working conditions being put on the WTO agenda. In November, the European Parliament welcomed the Council’s position, and called for a joint WTO and ILO working programme to implement the ILO’s 1998 conference Declaration on Fundamental Principles and Rights at Work211. Wherever the blame is to be laid between the representatives of civil society and the US government’s flawed final negotiating position, the Seattle conference’s failure to call a new round of WTO talks threw the need for world trade to take more account of social and environmental aspects into stark relief.

59. “Maintain an emphasis on co-operation in the field of social policy in bilateral relations.”

207 Information Report of the Economic and Social Committee on employment and the social situation in the applicant countries, of 7 July 1999, OJ C 258 of 10 September 1999.
208 UNICE position on the commercial implications of EU enlargement in the Central and Eastern European countries, 2 December 1997.
210 Conclusions of the Council of 26 October 1999 on preparations for the Third Ministerial Conference of the WTO.