Review of legislation 2002–04

1. Introduction

In spite of the growing significance of other forms of EU intervention in the social sphere, legislative action at EU level remains of paramount importance. This is illustrated by the fact that, between June 2002 and the time of publication of this report, 25 legislative dossiers have either been launched by the Commission, debated by the EU institutions, or finalised. The largest number of legislative dossiers have been adopted in the field of health and safety (11) and labour law (11), followed by free movement and social security for migrant workers (4), and equal treatment (2 dossiers).

Recent years have witnessed the emergence of 'soft' instruments in the social policy area, the most innovative of which is the open method of coordination (OMC), which is used in the areas of employment, social inclusion, social security and healthcare. These non-binding processes can contribute to achieving convergence in employment standards within the EU, one of the primary goals of most legislative measures. Legislation continues, however, to be indispensable, primarily to deal with issues and realities of a transnational nature (for example, the European works councils directive, the European company directive, free movement issues), as well as to address basic fundamental rights (for example, gender equality, protection of privacy of workers, anti-discrimination issues, collective rights, etc.).

The role of EU legislation is evolving. The traditional objective of classical EU labour law instruments — creating a level-playing field through setting minimum standards — remains important, but European legally binding provisions increasingly pursue other European policy goals, such as modernising the regulatory framework, developing social dialogue at all levels, finding new balances between flexibility and security, and increasing the adaptability of workers, etc.

This interaction between 'hard' and 'soft' forms of EU intervention is positive and innovative. The legislative techniques used by the EU are being adapted to these new roles, especially by giving leeway to social partners' interventions at different stages of the legislative process (from the very start of the decision-making process, to the implementation and application phases).

Many of the instruments detailed in this chapter illustrate this positive evolution of European labour and social law.

2. Labour law

2.1. Information and consultation of workers

2.1.1. Adoption of the national information and consultation directive

On 11 March 2002, the European Parliament and the Council adopted Directive 2002/14/EC establishing a general framework for informing and consulting employees. The directive lays down minimum requirements for the information and consultation of employees in undertakings and establishments located in the Community. It includes arrangements for regular, ongoing information and consultation of workers' representatives in undertakings with at least 50 employees, or establishments with at least 20 employees. It covers the economic and financial situation of the company, the probable development of employment within the company, any anticipatory measures envisaged, and any decision affecting employment contracts.

The adoption of the new directive is a major landmark in the development of EU social policy. It brings to an end a protracted and difficult debate over the desirability of an EU-wide framework for national-level information and consultation rules. The directive has finally reached the EU statute book almost seven years after the idea of such a measure was first put forward in the European Commission's April 1995 medium-term social action programme — and nearly three and a half years after the Commission initiated the legislative process in November 1998 by formally proposing a draft directive. Throughout this period, the proposal for the directive provoked sharp differences of view between employers' organisations and trade unions, as well as between EU Member States.

The Community rules in force for more than 25 years on information and consultation of employees in the event of collective redundancies and of transfers of undertakings will thus be supplemented and covered by general and permanent procedures[110].

The impact of the directive in Member States will be uneven. For most of EU-15, it will force an adaptation of existing rules with a view to developing an anticipative approach and the strategic information and consultation provided for in the directive. The United Kingdom and Ireland, as well as the new Member States which joined the EU in 2004, will however have to introduce considerable changes to their industrial relations and labour law systems, as they do not have general and permanent mechanisms for informing and consulting employees, nor a statutory general entitlement for stable employee representation at the workplace. The directive relies on such a representation mechanism, the creation of which constitutes a significant challenge. It should also help to promote a gradual change of attitude among employers and employee representatives towards a more participatory and constructive relationship.

(110) See Chapter 5 for further information on these directives.

2.1.2. European cooperative society

Regulation (EC) No 1435/2003 and supplementing Directive 2003/72/EC concerning the European cooperative society (SCE) were adopted on 22 July 2003. The regulation lays down the rules governing the Constitution and the functioning of the SCE and the directive deals with employee involvement.

Impact of the new instruments

These legal instruments will allow cooperatives operating on the territory of more than one Member State to acquire a single legal identity in accordance with Community law. Cooperatives will be able to carry out their activities throughout the internal market with a single legal identity, regulation and structure; they will be able to expand and restructure their cross-border operations without having to set up a network of subsidiaries, which takes a great deal of time and money. Member States now have three years in which to transpose the provisions of the directive into national law. The status of the ECS will thus become operational in 2006.

The EU has 300 000 European cooperatives, which play an important part in the economy as they employ 2.3 million people and provide services to 83.5 million members. The new statute will also constitute an ideal legal instrument for companies of any kind, which hope to regroup to ensure a joint future, and will allow groups of at least five European citizens from several Member States to create an ECS. European cooperatives could be created starting from zero (but also via a merger or by converting an existing company), either by physical or legal persons.

With regard to employee involvement, the texts follow very closely the model of the European company (SE), adopted on 8 October 2001. The arrangements for workers' involvement in the SCE must be subject to a negotiation between the boards of the participating entities and their employees' transnational representation. These negotiations shall be carried on in parallel to the process of establishing the SCE. If the parties do not reach an agreement, a set of subsidiary rules modelled after the standard rules in the SE directive will apply, covering information, consultation and, in some cases, participation. A few adaptations have nevertheless been made to take into account certain ways of creating an SCE which have no equivalence in the SE statute, namely the creation *ex novo* of an SCE in which natural persons participate.

2.1.3. Revision of the European works councils directive

On 19 April 2004 the Commission launched the first stage consultation of the European social partners concerning a possible revision of the 1994 European works councils directive.

The European works councils directive was adopted in 1994 in order to give employees access to information and consultation at the transnational level at which key decisions affecting their enterprises were increasingly being taken. In spite of some shortcomings, impressive progress has been achieved under the directive.

European works councils (EWCs) have been established in some 650 major European companies and groups, thereby laying the foundation for the development of genuine transnational social dialogue at the enterprise level. EWCs have demonstrated their value, not only in securing information and consultation for employees, but, equally significantly, in providing a mechanism through which effective engagement between management and employees at the transnational level can make a significant positive contribution to company development, particularly to the successful management of change [111].

The challenge now is to ensure that this potential of EWCs is fully realised in the future. In the Commission's view, companies can best face the challenges ahead if employees are fully involved in the life of the enterprises in which they work. The proven value of EWCs as a vehicle for ensuring such involvement must, as a consequence, be developed.

The Commission therefore decided to launch the formal consultation of the Community social partners on the review of the directive. The issue is how social dialogue at the enterprise level can best be provided for in the future. The social partners themselves are best placed to determine the optimum conditions for fostering such dialogue, as they are closest to the realities of the workplace. The Commission is convinced that, perhaps more than in any other area, the social partners have a crucial role to play in securing the future successful operation of EWCs. The European social partners have also been exploring the closely related issue of managing restructuring and change, which is discussed later in this chapter.

2.2. Working time

2.2.1. Codification of existing directives

A codified version of the directives concerning certain aspects of the organisation of working time (93/104/EC and 2000/34/EC) was adopted on 4 November 2003 (Directive 2003/88/EC). There were no amendments in substance to those directives.

2.2.2. Review of the 1993 directive

On 30 December 2003, the Commission issued a communication on the re-examination of the 1993 EU working time directive, in which it invited comments from national interested parties and from the European social partners on the directive's reference periods for calculating average working time, the possibility of allowing individuals to opt out from the maximum 48-hour week, recent European Court of Justice (ECJ) case law regarding on-call working, and measures to improve work–life balance.

Following the outcome of this consultation, on 19 May 2004, the Commission adopted a second stage consultation of the social partners at Community level. In this document, the Commission strongly encourages the European social partners to undertake negotiations with a view to reaching an agreement. The document anticipated the possible content of a Commission proposal in the event that the social partners decided not to negotiate. The social partners were asked to give their

(111) See Chapter 5 for further information on the development of European works councils.

views or communicate their intention to negotiate by 6 July 2004.

In response to the Commission's consultation document, the social partners declined the invitation to enter into negotiations in this field with a view to reaching a European agreement, and asked the Commission to adopt a proposal for a directive.

As a consequence, on 22 September 2004, the Commission adopted a proposal amending the working time directive.

The 1993 EU Directive 93/104/EC on certain aspects of the organisation of working time aims to ensure a better level of health and safety protection for workers by limiting excessive working hours, providing for sufficient rest breaks, and regular organisation of work. Its main provisions include:

- a minimum rest period of 11 consecutive hours for each 24-hour period;
- a rest break where the working day is longer than six hours;
  a minimum rest period of one day per week;
- maximum weekly working hours of 48 hours on average, including overtime, over a reference period not exceeding four months;
- four weeks of paid annual leave;
- an average of no more than 8 hours of work at night in any 24-hour period.

The text of the directive states that two of its provisions are to be reviewed before 23 November 2003. These are:

- derogations from the four-month reference period for the application of Article 6 of the directive (the maximum 48-hour working week), whereby Member States may allow the reference period to be extended to six months or, by collective agreement, to 12 months;
- an option for Member States of not applying Article 6 if the individual worker consents to this (i.e. the 'opt-out' from the 48-hour maximum working week).

There have also been important recent ECJ rulings regarding the definition of working time with regard to on-call working, notably the judgments in the *Simap* case on 3 October 2000 and the *Jaeger* case on 9 October 2003. These rulings essentially stated that on-call working should be considered to be working time, even where the employee is provided with a bed to sleep in on the employer's premises during periods of non-working. The Commission therefore believes that in the light of these cases the time has come to review the directive.

The proposal adopted by the Commission on 22 September 2004 therefore covers three issues: on-call time, reference periods and the individual opt-out.

Concerning on-call time, the proposal inserts two new definitions: "on-call time" and the "inactive part of on-call time", and a new article defines that the inactive part of on-call time shall not be regarded as working time, unless national law or, in accordance with national law and/or practice, a collective agreement or an agreement between the two sides of industry determines otherwise.

With regard to the reference period, the proposal leaves the current four-month reference period for the application of maximum weekly working time, but allows Member States to extend the reference period to twelve months. The proposal also leaves unchanged the possibility of extending the reference period to twelve months by collective agreement and specifies that whenever the duration of the employment contract is less than one year, the reference period cannot be longer than the duration of the employment contract.

Finally, concerning the individual opt-out, the proposal establishes that the implementation of the individual opt-out must be expressly foreseen by a collective agreement or an agreement between the two sides of industry, in accordance with national law and/or practice. In cases where there is no collective agreement in force and there is no workers' representation within the undertaking or the business that is empowered, in accordance with national law and/or practice, to conclude a collective agreement or an agreement between the two sides of industry on the issue, the individual opt-out remains possible.

The conditions for the application of the opt-out are, however, tightened: a prohibition of the consent to be given at the time of signature of the employment contract or during any probation period; a maximum limit of 65-hours of weekly working time in any one week; and an obligation to keep a record of the effective number of hours worked.

2.3. Employee protection in the event of the employer's insolvency

In 23 September 2002 a directive was adopted amending Directive 80/987/EEC relating to the protection of employees in the event of the insolvency of their employer (Directive 2002/74/EC).

Directive 80/987/EEC seeks to provide employees with a minimum degree of protection under Community law in the event of their employer becoming insolvent. To this end, it requires each Member State to put in place an institution to guarantee employees, whose employer has become insolvent, the payment of their outstanding claims to remuneration for a specific period.

The rules for the organisation, financing and operation of the guarantee institutions are decided by each Member State, but they must comply with certain principles laid down in the directive.

The directive also contains provisions concerning the protection of certain social security entitlements.

The amendments introduced in 2002 take account of changes to insolvency law in the Member States, the dynamism of the internal market, the need for consistency with other Community directives on labour law, and the case law of the Court of Justice.

The most important amendments are:

- a new concept of insolvency, based on that used in Council Regulation (EC) No 1346/2000, henceforth covers all procedures, whether or not those procedures have been instituted with a view to the liquidation of the assets (the original directive was limited to liquidation procedures);
- a simplification of several core articles;
- a new provision specifying the competent guarantee institution in cases with a cross-border dimension;
- a new provision providing for administrative collaboration between the Member States in cross-border situations.

Directive 80/987/EEC will have to be transposed by the Member States before 8 October 2005.

2.4. Temporary work

Following the breakdown of negotiations between the European social partners in 2001 on the topic of temporary work, the Commission presented a proposal for a directive establishing a general principle of non-discrimination of temporary workers on 20 March 2002.

Content of the proposal and state-of-play

According to this principle, a temporary worker shall not be treated in a less favourable manner regarding working conditions, than a comparable worker of the user undertaking. Derogation can be made if the worker has an open-ended contract with the temporary work agency as well as if the social partners conclude a collective agreement with equivalent protection.

Following the opinion of the European Parliament at its first reading, the Commission modified the proposal to take on board some of the amendments proposed by Parliament. In the modified proposal of 28 November 2002, the Commission introduced various clarifications, as well as substantive changes to the content of some of the provisions. The main one is as follows: for the purposes of applying the equality principle, the comparison shall be made with the working conditions which the temporary worker would have been entitled to had he or she been recruited directly by the user undertaking, rather than with a comparable worker in the user undertaking.

The debates in the Council have proved to be extremely difficult and progress has been slow. At the time of publication, the Council had not yet reached a common position.

2.5. Restructuring

In January 2002, the European Commission launched a consultation with the European social partners concerning the anticipation and management of the social effects of corporate restructuring.

Content of the consultation and state-of-play

For the Commission, developing a positive approach to corporate restructuring 'implies combining in an effective and balanced manner the interests of businesses, faced with changes in the conditions governing their activity, and those of employees, threatened with the loss of their jobs'. The consultation document noted that a range of existing EU policies are relevant to restructuring, including:

- EU legislation requiring the information and consultation of employees;
- EU-level social dialogue;
- the observation and analysis of industrial change, through the establishment of the new European Monitoring Centre on Change;
- the EU Structural Funds;
- competition policy;
- the promotion of corporate social responsibility.

In addition to these policies, the Commission wanted to examine the scope for establishing Community-level principles of good practice during restructuring based on procedures already developed in the Member States and experience within companies operating in the EU. The consultation document identified four main areas for consideration:

- measures to promote employability and adaptability, and restructuring on the basis of 'lowest social cost';
- the effectiveness of regulatory approaches, including the identification of obstacles to restructuring in a socially positive way;
- responsibility for the impact on localities and commercial networks (subcontractors etc.);
- the 'modalities of implementation', including the involvement of employees, fair compensation where job losses cannot be avoided, whether EU-level dispute resolution machinery would be useful, and good practice within small and medium-sized enterprises.

The consultation document sought the views of the social partners on the usefulness of establishing at EU level 'a number of principles for action which would support business good practice in restructuring situations', and asked 'whether they consider that agreements between the social partners at cross-industry or sectoral level represent the appropriate way of proceeding', as favoured by the Commission.

Following three joint seminars organised in 2003 on good practices in the field of restructuring, the European-level social partners agreed on a text in October 2003 entitled 'Orientations for reference in managing change and its social consequences'. They also included the issue in their joint work programme for 2003–05 [112].

2.6. Protection of workers' personal data

The second stage of the Commission's consultation of the social partners on the question of personal data protection in the employment context, launched on 30 October 2002, was concluded in January 2003.

The majority of the consulted employers' organisations did not see any need for a Community directive on this subject. As regards the trade unions, they were strongly in favour of a Community directive aiming at improving the working conditions within the EU.

Since there was no agreement between the social partners to engage in negotiations, the Commission services undertook further consultation with interested stakeholders (Member States, independent experts, etc.). As legally prescribed, the Commission formally requested the opinion of the Article 29 working party on the envisaged framework of principles and rules in this area. The Article 29 working party's opinion of 24 September 2003 noted that the issue of workers' data protection can be addressed by a new legal Community framework, which would provide the opportunity for the desirable development of the existing general principles.

The Commission has still to decide on what follow-up should be given to the above-mentioned consultation of the social partners.

(112) See Chapter 3 for a general discussion of European social partners' activities in the area of restructuring, and Chapter 5 for a more in-depth discussion of the cross-industry social partners' Orientations and case studies.

3. Implementation of Community labour law

3.1. Transposition reports

In accordance with Article 211 of the Treaty, the Commission monitors the Member States' implementation of Community law and regularly prepares reports for the Parliament and Council. The social partners are consulted during the preparation of the reports. During the period 2002–03, reports have been issued on the implementation of Directive 97/81/EC concerning the framework agreement on part-time work and on the implementation of Directive 96/71/EC on the posting of workers.

3.2. Coordination of the implementation of directives

The work of the Commission is not restricted to the preparation of reports. It also provides support for the Member States in the transposition of directives. During 2002–03, an ad hoc group of national experts was set up in order to coordinate the implementation of the European Company statute (SE) of 2001 [113].

Implementation of the SE directive

At the request of the Council, the Commission set up an expert group composed of national experts and social affairs counsellors in order to provide a forum for discussing the arrangements for the transposition of directive 2001/86/EC into national legislation. Since the transposition involves provisions with a transnational dimension, the expert group has endeavoured to seek ways of avoiding any contradictions between the various national systems by exchanging information and coordinating the transposition work.

The expert group had an informal status, and the role of the Commission was limited to providing it with logistical support and helping to develop its ideas. The Commission has not sought to interfere with the transposition of the directive at national level in any way, nor to intervene in the right of interpretation of the ECJ, or other courts concerned. The same applies to the experts in the expert group who, in their countries, are responsible, either for producing draft legislation or monitoring discussions between the social partners as part of agreement-based transposition.

The expert group had an extremely productive exchange of views in a remarkable spirit of cooperation on the basis of 21 working documents presented by the Commission and the delegations. Ten days of meetings were held, during which the main issues arising from the implementation of the directive were extensively discussed. The consensual approach with the objective of simplifying what, in any event, will be a complex corpus of legal provisions allowed the expert group to draw up a series of conclusions on the most problematic provisions of the directive.

These conclusions are, in fact, simple reminders to all who are or will be involved in the legislative work leading to the implementation of the directive in all countries concerned by it. They are by no means binding and do not in any way exonerate Member States from the responsibility of ensuring its correct transposition and application, and they do not exempt the Commission from its obligation to monitor that work.

Following this exhaustive work, a five-day seminar was held in Brussels in May and June 2003 with experts from the new Member States and candidate countries. A similar seminar was held in October for the social partners and experts from these countries.

3.3. The challenge of enlargement

The year 2003 was crucial for all acceding countries in terms of completing the transposition of the EU labour law *acquis*. With the aim of enforcing the implementation procedure and offering the support of the Commission's services, the Director-General of the Employment and Social Affairs DG visited all the candidate countries. As a follow-up to these visits, and at the specific request of the various countries, bilateral meetings were organised to discuss and offer assistance on questions arising during the transposition of the labour law directives into national law.

The directors-general from the acceding countries were invited to the two meetings of directors-general for industrial relations in May and in November 2003 to discuss new developments in the field of industrial relations with their colleagues from EU-15.

In December 2002, in cooperation with the TAIEX office, the Employment and Social Affairs DG organised a seminar on information and consultation with the acceding countries. The objective of the seminar was to provide a discussion forum for the exchange of information and experience between the existing and future Member States. The seminar was organised with experts from acceding countries.

4. Health and safety of workers

4.1. A new Community strategy on workers' health and safety for the period 2002–06

On 11 March 2002 the Commission adopted a communication entitled 'Adapting to change in work and society: a new Community strategy on health and safety at work 2002–06' [114].

In this new strategy, which seeks to respond to the EU's aim, as agreed at the Lisbon European Council, of improving both the quantity and quality of employment, the Commission adopts a broad approach to well-being in the workplace. This approach takes into account changes in the world of work and the emergence of new, particularly psychosocial, risks aiming thereby to improve the quality of work, one of the essential elements of which is a healthy and safe working environment.

(113) OJ L 294, 10.11.2001, p. 22
(114) COM(2002) 118 final, 11 March 2002.

The Commission is basing this strategy on a consolidation of the culture of risk-prevention (including psychological and social risks such as stress, harassment and violence), on a combination of different policy tools (such as social dialogue or corporate social responsibility), and on the creation of partnerships between all interested parties in the field of health and safety. The new strategy thus shows that an ambitious social policy is a factor contributing to competitiveness and that, conversely, the absence of policy ('non-policy') gives rise to costs which weigh heavily on the economy and society as a whole.

On 3 June 2002, the Council adopted a resolution on the new strategy for 2002–06, in which it welcomed the Commission's communication and called on the Member States, the social partners and the Commission to actively promote health and safety at work. In a resolution of 23 October 2002, the European Parliament also welcomed the Commission's initiative, but called on it to draw up a detailed action plan with financial commitments and a timetable for each major proposal. The Committee of the Regions and the European Economic and Social Committee also endorsed this new strategy on 3 and 17 July respectively.

4.2. Risks from exposure to physical agents

The Commission's initial proposal, which is based on Article 118a (now Article 137) of the Treaty, takes the form of an individual directive within the meaning of Article 16(1) of the framework Directive 89/391/EEC.

The proposal seeks to protect the health and safety of workers against the risks arising from exposure to physical agents. It applies to four agents: noise (risks to hearing); vibrations (risks to the hand, arm and whole body); electromagnetic fields and optical radiation (risks to health from induced currents in the body, shock and burn hazards and from absorption of thermal energy).

The provisions concerning vibrations, electromagnetic fields and optical radiation are new, whereas those dealing with noise already existed in Council Directive 86/188/EEC.

In general terms, the Council has chosen to concentrate on one agent at a time, starting with vibrations. All the delegations as well as the Commission accepted this approach, which consists of negotiating single components of the Commission's proposal on an individual basis, but without dispensing with the other elements, which remain on the Council's agenda.

4.3. Mechanical vibrations

On 25 June 2002, the European Parliament and the Council adopted Directive 2002/44/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (the first element in the Commission proposal).

The directive aims to protect workers from risks to their health and safety, particularly musculoskeletal, neurological and vascular disorders, resulting or likely to result from exposure to mechanical vibrations. It applies to vibrations transmitted to the hands and arms as well as to the entire body. Specific prevention measures must be taken to ensure that the exposure limit values applying to vibrations cannot be exceeded.

To take account of the technical difficulties involved, the directive provides for a transition period of six years for equipment made available to workers three years after the targeted date of transposal in respect of which the exposure limit values cannot be observed, taking account of technical progress and/or the implementation of organisational measures. This transition period can be extended to nine years for equipment in the agricultural and forestry sectors.

Finally, Member States have the option, under duly justified conditions, of allowing for derogations from application of the exposure limit value for the airline industry and shipping only.

4.4. Noise

On 6 February 2003, the European Parliament and the Council adopted Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (the second element in the Commission proposal).

This directive, which reduces the exposure limit value from 90 to 87 decibels and lays down two exposure action values, will replace Directive 86/188/EEC on the protection of workers from the risks related to exposure to noise at work.

It imposes certain obligations on employers, such as risk assessment, reduction of exposure, training, information and consultation of workers. Some of these obligations must be met when one of the action values is reached or exceeded.

All fields of activity are now covered by the provisions of the directive (the airline industry and shipping were excluded from the scope of Directive 86/188/EEC). However, in order to take account of the particular features of the music and entertainment sectors, and to enable the directive's provisions to be applied correctly and effectively, a specific code of conduct setting out practical guidelines will have to be drawn up by the Member States in consultation with the social partners, and in line with national laws and practices, with a view to helping workers and employers in these sectors to achieve the levels of protection laid down in the directive.

4.5. Electromagnetic fields

On 17 December 2003, the Council adopted its common position on the proposal for a directive of the European Parliament and of the Council on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields).

The present proposal constitutes the third phase of the general approach adopted by the Council, namely to introduce a separate, individual directive for each physical agent.

The common position on the proposal for a directive, which applies to all areas of activity without exception, lays down limit values for exposure to electrical, magnetic and electromagnetic fields which are static or magnetic or vary in time, with frequencies of up to 300 GHz.

The common position also sets action values which require employers to take pre-

ventive measures as provided for in the directive. Employers are also required to adequately inform workers likely to be exposed to these particular risks.

4.6. Asbestos

On 27 March 2003, the European Parliament and the Council adopted Directive 2003/18/EC amending Directive 83/477/EEC.

The directive introduces a single exposure limit for workers (i.e. 0.1 fibres/cm^3 over an eight-hour period), whereas the initial directive provided for two limits. The new directive broadens the scope to cover the airline industry and shipping.

The directive also provides for the simplification of certain administrative procedures in the event of low-intensity and sporadic exposure, sets out a reference method for determining the airborne concentration of asbestos, and contains more detailed requirements concerning the training of workers.

Furthermore, and without prejudice to the application of other Community provisions on the marketing and use of asbestos, the new directive prohibits activities which expose workers to asbestos fibres during the extraction of asbestos or the manufacture and processing of asbestos products (including products containing intentionally added asbestos), with the exception of the treatment and disposal of products resulting from demolition and asbestos removal.

4.7. Carcinogens

On 20 March 2003, the Commission adopted a modified proposal (COM(2003) 127) concerning the codified version of Directive 90/394/EEC and of its two amendments (Directives 97/42/EC and 1999/38/EC) on the protection of workers from the risks related to exposure to carcinogens or mutagens at work.

This modified proposal takes account of the work already carried out in the Council, and the formal or editorial amendments proposed by the Consultative Working Party of Legal Services, where justified.

The European Parliament endorsed the proposal on 2 September 2003.

4.8. Stress and its effects

In December 2002, the Commission launched, in accordance with Article 138 of the EC Treaty, the first phase of the Community-level consultation of the social partners with regard to stress and its effects on health and safety at work.

On 17 September 2003, UNICE/UEAPME, CEEP and the ETUC confirmed to the Commission that negotiations had begun with a view to reaching an agreement on stress at work. The negotiations reached a successful conclusion on 27 May 2004, and the agreement was formally adopted in October 2004. The agreement is to be implemented via the first implementation option in Article 139(2), namely in accordance with the procedures and practices specific to management and labour in the Member States. The agreement is to be implemented within three years of the signature of the agreement. A yearly table will be prepared by the Social Dialogue Committee summarising the ongoing implementation of the agreement. During the fourth year, a full report on the implementation actions taken will be prepared (see also Chapter 3).

The agreement states that its aim is to increase the awareness and understanding of employers, workers and their representatives of work-related stress, and to draw their attention to signs that could indicate problems of work-related stress. Its objective is to provide employers and workers with a framework to identify and prevent or manage problems of work-related stress.

Stress is defined as 'a state, which is accompanied by physical, psychological or social complaints or dysfunctions and which results from individuals feeling unable to bridge a gap with the requirements or expectations placed on them'. The agreement stresses the complexity of the phenomenon and therefore deliberately does not provide an exhaustive list of potential stress indicators. It states, however, that high absenteeism or staff turnover, frequent interpersonal conflicts or complaints by workers are some of the signs that may indicate a problem of work-related stress.

The agreement refers to the Framework Directive 89/391/EEC according to which all employers have a legal obligation to protect the occupational health and safety of workers. This duty applies to problems of work-related stress in so far as they entail a risk to health and safety.

Measures for preventing, eliminating or reducing problems of work-related stress include:

- management and communication measures such as clarifying the company's objectives and the role of individual workers, ensuring adequate management support for individuals and teams, matching responsibility and control over work, improving work organisation and processes, working conditions and the environment;
- training managers and workers to raise awareness and understanding of stress, its possible causes and how to deal with it, and/or to adapt to change;
- provision of information to and consultation with workers and/or their representatives in accordance with EU and national legislation, collective agreements and practices.

4.9. Self-employed workers

On 18 February 2003, the Council adopted Recommendation (EC) No 2003/134 concerning the improvement of the protection of the health and safety at work of self-employed workers.

The recommendation calls on the Member States to promote all measures aimed at preventing the risks of accidents or occupational diseases to which self-employed workers are exposed. To the extent that the essential provisions of current Community legislation on health and safety, based on Article 137 of the EC Treaty, apply only to employed persons and hence exclude self-employed workers, the Council calls on the Member States to encourage prevention and promote measures aimed at safeguarding the health and safety of self-employed workers, particularly awareness-raising campaigns, training and health surveillance.

4.10. Explosive atmospheres

On 25 August 2003, the Commission issued, in accordance with Directive 1999/92/EC, a non-binding guide of good practice to assist the Member States in drawing up their national policies on the protection of workers at risk from explosive atmospheres [115].

This guide covers explosion prevention and protection, assessment of explosion risks, the employer's duties to safeguard the safety and health of workers, the duty of the employer responsible for the workplace to coordinate all measures where workers of several undertakings are present at the same workplace, the zoning of places where explosive atmospheres may occur, and the way in which the employer must produce the explosion protection document.

4.11. Schedule of occupational diseases

On 19 September 2003 (COM(2003) 3297 final), the Commission adopted a recommendation concerning the European schedule of occupational diseases.

In particular, this recommendation calls on the Member States to introduce the European schedule set out in Annex I as soon as possible into their national laws, regulations or administrative provisions concerning scientifically recognised occupational diseases liable for compensation and subject to preventive measures.

This new schedule updates the existing schedule, dating from 1990, in order to take account of scientific and technical progress which has enabled a better understanding to be gained of how certain occupational diseases arise. It also responds to the need to prevent occupational diseases, as set out in the Community strategy on health and safety at work 2002–06. The Member States are called on to draw up quantified national objectives, with a view to reducing the rates of recognised occupational diseases, and promoting an active role for national healthcare systems, particularly by improving diagnosis.

4.12. Advisory committee for safety and health at work

On 22 July 2003, the Council adopted a decision setting up an advisory committee for safety and health at work.

The aim of this new advisory committee, which merges the two existing advisory committees (namely the Advisory Committee on Safety, Hygiene and Health Protection at Work (ACSHH) and the Safety and Health Commission for the Mining and Other Extractive Industries), is to assist the Commission in the preparation and implementation of activities in the fields of safety and health at work, and to facilitate cooperation between national administrations, employers' organisations and trade unions. The Committee's remit covers all public and private sectors of the economy.

5. Equality for women and men

5.1. Revision of the 1976 directive

On 23 September 2002, the European Parliament and the Council adopted the directive 2002/73/EC amending Council 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 [116].

The directive incorporates a number of the developments made in this field by the jurisprudence of the Court in recent years, and updates the legislation so that key provisions and definitions are consistent with those used in the recent anti-discrimination legislation adopted under Article 13 of the Treaty (Directives 2000/43/EC and 2000/78/EC).

5.2. Equal treatment in the access to and supply of goods and services

On 5 November 2003, the Commission adopted a proposal for a directive implementing the principle of equal treatment for women and men in the access to and supply of goods and services [117].

The proposal is made under Article 13 of the Treaty for adoption by the Council following consultation with the Parliament. It is the first time that legislation has been proposed to combat discrimination based on gender outside the employment field, and it follows on from Directive 2000/43/EC adopted by the Council in 2000, which prohibits race discrimination in a number of fields, including employment and goods and services. At the time of publication, the Council has reached a common position.

6. Free movement and social security for migrant workers

6.1. Proposal for a directive of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

The Commission submitted its proposal to the Council on 2 July 2001. The proposal is based on Articles 12, 18(2), 40, 44 and 52 of the EC Treaty [118]. After reaching political agreement on 22 September 2003, the common position was adopted on 5 December 2003.

The aim of this directive is to combine in one piece of legislation, all the rules concerning the residence rights of EU citizens wishing to live in another Member State of

(115) COM(2003) 515 final, 25 August 2003.
(116) OJ L 269, 5.10.2002, p. 15.
(117) COM(2003) 657 final, 5 November 2003.
(118) OJ C 270, 25.9.2001, p. 150.

the EU (workers, self-employed persons, pensioners, students, the non-active, etc.). The directive will result in changes to Regulation (EEC) No 1612/68 concerning the free movement of workers, and will revoke Directive 68/360/EEC on the residence rights of workers and their family members.

The new directive will in general incorporate the *acquis* concerning the residence rights of workers and their family members; although in some places the adopted text grants fewer rights to citizens in comparison to the original proposal of the Commission (e.g. in relation to protection against expulsion on the grounds of public policy, public security or public health). It also provides for big steps forward, especially the granting of a permanent residence right for all EU citizens after five years of residence in a Member State.

6.2. The coordination of social security schemes

On 21 December 1998, the Commission presented a proposal for a regulation to simplify and modernise the coordination rules contained in Regulation (EEC) No 1408/71. The Council and the European Parliament formally adopted the regulation on 29 April 2004 through the co-decision procedure.

Regulation (EEC) No 1408/71 provides for the coordination of national social security schemes in order to ensure that the application of the different national legislations does not adversely affect persons exercising their rights to free movement within the EU.

Since its adoption in 1971, the regulation has undergone a considerable number of amendments in order to take account of changes to national legislation, improve certain provisions, remedy deficiencies or cover the situation of particular categories of persons. The goal pursued by coordination must also be adapted to changes in the EU as a whole.

The new Regulation (EEC) No 883/2004 on the coordination of social security systems, contains a fundamental reform and simplification of the rules for coordination in the field of social security improving the protection for the citizen. The regulation will only be applicable once the necessary implementing provisions are adopted, i.e. probably not before the end of 2006.

6.3. Extension of Regulation (EEC) No 1408/71 to third-country nationals

Regulation (EC) No 859/2003 which extends the provisions of Regulation (EEC) No 1408/71 to legally resident third-country nationals was adopted by the Council on 14 May 2003.

6.4. European health insurance card

Further to the decision of the Barcelona European Council to create a European health insurance card, the Commission adopted on 17 February 2003 a communication which includes a roadmap and timetable for the gradual introduction of a European health insurance card. On 1 June 2004, the European health insurance card was launched in 13 Member States. It replaces the current E-forms needed for healthcare during a temporary stay in a Member State other than the one of insurance (E111, E110, E128 and E119). The 12 other Member States which do not use national health insurance cards, have been granted transitional periods which may not extend beyond 31 December 2005. In order to facilitate the introduction of the European health insurance card, a regulation amending Regulation (EEC) No 1408/71 in respect of the alignment of rights and the simplification of procedures was adopted on 31 March 2004. A special website on the European health insurance card has been created: *http://europa.eu.int/comm/employment_social/healthcard/index_en.htm*.

7. The European Convention and Intergovernmental Conference on the Future of Europe

Following Declaration 23 to the Treaty of Nice and in accordance with the arrangements of the Laeken Declaration on the Future of the EU, adopted on 15 December 2001 by the Heads of State or Government, the Convention on the Future of Europe submitted a comprehensive draft Treaty establishing a Constitution for Europe in July 2003. This document, which has been elaborated during the 18 months of work of the Convention, presided by former French President Valéry Giscard d'Estaing, has been welcomed by the European Council of Thessaloniki in June 2003 as a 'good basis for starting the intergovernmental conference', which subsequently opened on 4 October 2003.

The intergovernmental conference made a series of adaptations to the text of the Convention and took final decisions on the ultimate version of the Constitutional Treaty. After temporary suspension following the December 2003 Brussels European Council, which failed to bring about an overall compromise, the intergovernmental conference finally reached agreement on the future Constitution on 18 June 2004. The Treaty establishing a Constitution for Europe was signed in Rome on 29 October 2004.

The Treaty provides for a series of significant changes in the field of employment and social affairs. It contains a progressive formulation of the Union's values and objectives, including the principles of justice, solidarity, non-discrimination and equality between women and men among its basic values. The important objectives of the Union comprise the promotion of the well-being of its peoples, full employ-

ment and social progress, a social market economy, sustainable development, the fight against social exclusion and discrimination, social justice and protection, equality between women and men, solidarity between generations, the protection of children's rights and the promotion of economic, social and territorial cohesion, and solidarity among Member States.

The Constitution makes it clear that the social policy competences attributed by the Constitutional Treaty belong to the category of shared competences, which empower the Union to legislate and adopt legally binding acts in this area. Member States continue to have the power to act in this domain to the extent that the Union has not exercised its competences. The draft Constitution emphasises the importance of participative democracy and instructs the Union's institutions to promote the role of the social partners at Union level and to facilitate their dialogue, while respecting their autonomy.

The text fully integrates the Charter of Fundamental Rights — solemnly proclaimed at the margins of the European Council of Nice on 7 December 2000 by the presidents of the European Parliament, the European Council and of the Commission — into the future Constitution. This means that it becomes a direct source of Community law, which is another important reform with considerable positive implications for the field of employment and social affairs.

The charter largely does away with the often arbitrary distinction between economic, social and cultural rights on the one hand, and civil and political rights on the other. By recognising the specific rights of the elderly, of young people and of persons with disabilities, as well as rights to education, the right to seek work, the right to information and consultation of workers, the right of collective bargaining and action, the right of access to placement services, the right to protection in the event of unfair dismissal, the right to fair and just working conditions, or the rights to access to healthcare and to services of general economic interest, it will reinforce the social dimension of the integration process and serve as a driving force for measures which seek to give practical effect to these principles.

As far as the more technical Part III of the draft Constitution is concerned, the explicit recognition of several principles of general application should be highlighted, some of which are of the greatest relevance for employment and social affairs. New 'mainstreaming' provisions stipulate that in all its activities, the Union 'shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.' It shall also aim 'to eliminate inequalities, and to promote equality, between men and women' and 'combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'.

With regard to services of general economic interest, 'to which all in the Union attribute value as well as their role in promoting social and territorial cohesion', the draft Constitution calls upon the Union and its Member States to 'take care that such services operate on the basis of principles and conditions, in particular economic and financial, which enable them to fulfil their missions.' As another major innovation, it confers powers upon the Union to define these principles and conditions on the basis of which the services of general economic interest should operate.

The open method of coordination (OMC) is introduced formally in several policy domains, including employment policy, with the draft Constitution stipulating that European laws or framework laws — the convention provided for a completely new typology of legal acts — 'may establish incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects.'

Finally, it should also be noted that the legislative procedures have been modified with regard to the coordination of social security systems — the scope of which has been formally extended to the self-employed, migrant workers and their dependants — and to non-discrimination. As far as the latter is concerned, the European Parliament will have to give its consent to any measure the Council intends to adopt (Parliament is at present only consulted). With regard to the former, the normal co-decision procedure (which is simplified and henceforth called the 'legislative procedure') will in principle apply. However, where a member of the Council considers that a draft European law or framework law in this field would affect fundamental aspects of its social security system or the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the procedure is suspended. After discussion, the European Council, within four months of this suspension, either refers the draft back to the Council, which terminates the suspension, or requests the Commission to submit a new draft.

The Treaty establishing the Constitution will enter into force on 1 November 2006, provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the second month following the deposit of the instrument of ratification by the last signatory State to take this step.

ANNEX (A)

Main social provisions of the draft Treaty establishing a Constitution for Europe, as elaborated by the European Convention (with the exception of Part II: the Charter of Fundamental Rights)

The Union's values

Article I-2

The Union is founded on the values of respect for human dignity, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

The Union's objectives

Article I-3

1. The Union's aim is to promote peace, its values and the well-being of its peoples.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, and an internal market where competition is free and undistorted.
3. The Union shall work for sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and with a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance. It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child. It shall promote economic, social and territorial cohesion, and solidarity among Member States. The Union shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.
4. In its relations with the wider world, the Union shall uphold and promote its values and interests. It shall contribute to peace, security, the sustainable development of the earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and protection of human rights, in particular the rights of the child, as well as to strict observance and the development of international law, including respect for the principles of the United Nations Charter.
5. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Constitution.

Categories of competence

Article I-12

(…)

3. The Member States shall coordinate their economic and employment policies within arrangements as determined by Part III, which the Union shall have competence to provide.

(…)

Areas of shared competence

Article I-14

(…)

2. Shared competence applies in the following principal areas:

(…)

(b) social policy, for the aspects defined in Part III,

(c) economic, social and territorial cohesion,

(…)

The coordination of economic and employment policies

Article I-15

(…)

2. The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.

3. The Union may take initiatives to ensure coordination of Member States' social policies.

The social partners and autonomous social dialogue

Article I-48

The Union recognises and promotes the role of the social partners at Union level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy. The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.

Equality between women and men

Article III-116

In all the activities referred to in this part, the Union shall aim to eliminate inequalities, and to promote equality, between women and men.

Social clause and social dialogue

Article III-117

In defining and implementing the policies and actions referred to in this part, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

Anti-discrimination

Article III-118

In defining and implementing the policies and activities referred to in this part, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Services of general economic interest

Article III-122

Without prejudice to Articles I-5, III-166, III-167 and III-238, and given the place occupied by services of general economic interest as services to which all in the Union attribute value as well as their role in promoting its social and territorial cohesion, the Union and the Member States, each within their respective competences and within the scope of application of the Constitution, shall take care that such services operate on the basis of principles and conditions, in particular economic and financial conditions, which enable them to fulfil their missions. European laws shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Constitution, to commission and to fund such services.

Non-discrimination

Article III-124

1. Without prejudice to the other provisions of the Constitution and within the limits of the powers assigned by it to the Union, a European law or framework law of the Council may establish the measures needed to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council shall act unanimously after obtaining the consent of the European Parliament.

2. By way of derogation from paragraph 1, European laws or framework laws may establish basic principles for Union incentive measures and define such measures, to support action taken by Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, excluding any harmonisation of their laws and regulations.

Free movement of workers

Article III-133

1. Workers shall have the right to move freely within the Union.
2. Any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment shall be prohibited.
3 Workers shall have the right, subject to limitations justified on grounds of public policy, public security or public health:

(a) to accept offers of employment actually made;

(b) to move freely within the territory of Member States for this purpose;

(c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;

(d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in European regulations adopted by the Commission.

4. This article shall not apply to employment in the public service.

Article III-134

European laws or framework laws shall establish the measures needed to bring about freedom of movement for workers, as defined in Article III-18. They shall be adopted after consultation of the Economic and Social Committee. Such European laws or framework laws shall aim, in particular, to:

(a) ensure close cooperation between national employment services;

(b) abolish those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers;

(c) abolish all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as impose on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;

(d) set up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.

Article III-135

Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

Article III-136

1 In the field of social security, European laws or framework laws shall establish such measures as are necessary to bring about freedom of movement for workers by making arrangements to secure for employed and self-employed migrant workers and their dependants:

(a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the different countries;

(b) payment of benefits to persons resident in the territories of Member States.

2 Where a member of the Council considers that a draft European law or framework law referred to in paragraph 1 would affect fundamental aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the procedure referred to in Article III-396 shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

(a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396, or

(b) request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted.

Employment

Article III-203

The Union and the Member States shall, in accordance with this section, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in Article I-3.

Article III-204

1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article III-203 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Union adopted pursuant to Article III-179(2).
2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with Article III-206.

Article III-205

1. The Union shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.
2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Union policies and activities.

Article III-206

1. The European Council shall each year consider the employment situation in the Union and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.
2. On the basis of the conclusions of the European Council, the Council, on a proposal from the Commission, shall each year adopt guidelines which the Member States shall take into account in their employment policies. It shall act after consulting the European Parliament, the Committee of the Regions, the Economic and Social Committee and the Employment Committee. These guidelines shall be consistent with the broad guidelines adopted pursuant to Article III-179(2).
3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.
4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, on a recommendation from the Commission, may adopt recommendations which it shall address to Member States.
5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Union and on the implementation of the guidelines for employment.

Article III-207

European laws or framework laws may establish incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects. They shall be adopted after consultation with the Committee of the Regions and the Economic and Social Committee. Such European laws or framework laws shall not include harmonisation of the laws and regulations of the Member States.

Article III-208

The Council shall, by a simple majority, adopt a European decision establishing an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. It shall act after consulting the European Parliament. The tasks of the Committee shall be:

(a) to monitor the employment situation and employment policies in the Union and the Member States;

(b) without prejudice to Article III-344, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article III-206.

In fulfilling its mandate, the Committee shall consult the social partners. Each Member State and the Commission shall appoint two members of the Committee.

Social policy

Article III-209

The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. To this end the Union and the Member States shall act taking account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.

They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Constitution and from the approximation of provisions laid down by law, regulation or administrative action of the Member States.

Article III-210

1 With a view to achieving the objectives of Article III-209, the Union shall support and complement the activities of the Member States in the following fields:

(a) improvement in particular of the working environment to protect workers' health and safety;

(b) working conditions;

(c) social security and social protection of workers;

(d) protection of workers where their employment contract is terminated;

(e) the information and consultation of workers;

(f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 6;

(g) conditions of employment for third-country nationals legally residing in Union territory;

(h) the integration of persons excluded from the labour market, without prejudice to Article III-283;

(i) equality between women and men with regard to labour market opportunities and treatment at work;

(j) the combating of social exclusion;

(k) the modernisation of social protection systems without prejudice to point (c).

2. For the purposes of paragraph 1:

(a) European laws or framework laws may establish measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;

(b) in the fields referred to in paragraph 1(a) to (i), European framework laws may establish minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such European framework laws shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings. In all cases, such European laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

3. By way of derogation from paragraph 2, in the fields referred to in paragraph 1(c), (d), (f) and (g), European laws or framework laws shall be adopted by the Council acting unanimously after consulting the European Parliament, the Committee of the Regions and the Economic and Social Committee. The Council may, on a proposal from the Commission, adopt a European decision making the ordinary legislative procedure applicable to paragraph 1(d), (f) and (g). It shall act unanimously after consulting the European Parliament.

4. A Member State may entrust management and labour, at their joint request, with the implementation of European framework laws adopted pursuant to paragraphs 2 and 3 or, where appropriate, with the implementation of European regulations or decisions adopted in accordance with Article III-212.

In this case, it shall ensure that, no later than the date on which a European framework law must be transposed, or a European regulation or decision implemented, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that framework law, regulation or decision.

5. The European laws and framework laws adopted pursuant to this article:

(a) shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium of such systems;

(b) shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Constitution.

6. This article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Article III-211

1. The Commission shall promote the consultation of management and labour at Union level and shall adopt any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.
2. For the purposes of paragraph 1, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Union action.
3. If, after the consultation referred to in paragraph 2, the Commission considers Union action desirable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.
4. On the occasion of the consultation referred to in paragraph 2 and 3, management and labour may inform the Commission of their wish to initiate the process provided for in Article III-212(1). The duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

Article III-212

1. Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.
2. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article III-210, at the joint request of the signatory parties, by European regulations or decisions adopted by the Council on a proposal from the Commission. The European Parliament shall be informed. Where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article III-210(3), the Council shall act unanimously.

Article III-213

With a view to achieving the objectives of Article III-209 and without prejudice to the other provisions of the Constitution, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this section, particularly in matters relating to:

(a) employment;

(b) labour law and working conditions;

(c) basic and advanced vocational training;

(d) social security;

(e) prevention of occupational accidents and diseases;

(f) occupational hygiene;

(g) the right of association and collective bargaining between employers and workers.

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed. Before delivering the opinions provided for in this article, the Commission shall consult the Economic and Social Committee.

Article III-214

1 Each Member State shall ensure that the principle of equal pay for female and male workers for equal work or work of equal value is applied.

2. For the purpose of this article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer. Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. European laws or framework laws shall establish measures to ensure the application of the principle of equal opportunities and equal treatment of women and men in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value. They shall be adopted after consultation of the Economic and Social Committee.

4. With a view to ensuring full equality in practice between women and men in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

Article III-215

Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.

Article III-216

The Commission shall draw up a report each year on progress in achieving the objectives of Article III-209, including the demographic situation in the Union. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.

Article III-217

The Council shall, by a simple majority, adopt a European decision establishing a Social Protection Committee with advisory status to promote cooperation on social protection policies between Member States and with the Commission. The Council shall act after consulting the European Parliament. The tasks of the Committee shall be:

(a) to monitor the social situation and the development of social protection policies in the Member States and within the Union;

(b) to promote exchanges of information, experience and good practice between Member States and with the Commission;

(c) without prejudice to Article III-344, to prepare reports, formulate opinions or undertake other work within the scope of its powers, at the request of either the Council or the Commission or on its own initiative.

In fulfilling its mandate, the Committee shall establish appropriate contacts with management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

Article III-218

The Commission shall include a separate chapter on social developments within the Union in its annual report to the European Parliament.

The European Parliament may invite the Commission to draw up reports on any particular problems concerning social conditions.

Article III-219

1. In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Union, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.

2. The Commission shall administer the Fund. It shall be assisted in this task by a Committee presided over by a Member of the Commission and composed of representatives of Member States, trade unions and employers' organisations.

3. European laws shall establish implementing measures relating to the Fund. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

ANNEX (B)

Main social provisions of Part II of the draft Treaty establishing a Constitution for Europe (Charter of Fundamental Rights of the European Union)

Protection of personal data

Article II-68

1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.
3. Compliance with these rules shall be subject to control by an independent authority.

Right to education

Article II-71

1. Everyone has the right to education and to have access to vocational and continuing training.

(…)

Freedom to choose an occupation and right to engage in work

Article II-75

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.
2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State.
3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

Non-discrimination

Article II-81

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Constitution and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.

Equality between women and men

Article II-83

Equality between women and men must be ensured in all areas, including employment, work and pay.

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

Integration of persons with disabilities

Article II-86

The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

Workers' right to information and consultation within their undertaking

Article II-87

Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices.

Right of collective bargaining and action

Article II-88

Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

Right of access to placement services

Article II-89

Everyone has the right of access to a free placement service.

Protection in the event of unjustified dismissal

Article II-90

Every worker has the right to protection against unjustified dismissal, in accordance with Union law and national laws and practices.

Fair and just working conditions

Article II-91

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.
2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

Prohibition of child labour and protection of young people at work

Article II-92

The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations.

Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.

Family and professional life

Article II-93

1. The family shall enjoy legal, economic and social protection.
2. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.

Social security and social assistance

Article II-94

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices.
2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices.
3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices.

Healthcare

Article II-95

Everyone has the right of access to preventive healthcare and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

Access to services of general economic interest

Article II-96

The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the constitution, in order to promote the social and territorial cohesion of the Union.

TABLE 4.1: TRANSPOSITION OF EUROPEAN DIRECTIVES, JULY 2004

DIRECTIVES	BE	DK	DE	EL	ES	FR	IE	IT	LU	NL	AT	PT	FI	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SK	SI
1. LABOUR LAW																									
Directives in force:																									
80/987 – Insolvency employer	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
91/383 – Temporary employment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
91/533 – Written statement	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
93/104 – Working time	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C
94/33 – Protecting young people at work	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
94/45 – European works councils (97/74 - UK)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	NR	C	C	C	C	C	C	C	C	C	C
96/71 – Posting of workers (deadline: 16.12.1999)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	N	C	C	C	C
97/74 – Extension 94/45 to UK (deadline: 15.12.1999)	C	-	C	-	C	-	-	-	C	-	-	-	C	-	C	-	-	-	-	-	-	-	-	-	-
97/81 – Part-time work (deadline: 20.1.2000) (98/23-UK)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	NR	C	C	C	C	C	C	C	C	C	C
98/23 – Extension 97/81 to UK (deadline: 7.4.2000)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-
98/50 – Transfers of undertakings 2 (deadline: 17.7.2001)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
98/59 – Collective redundancies – codification – OJ 98.225 16-21	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
99/63 – Working time of seafarers (deadline: 30.6.2002)	C	C	C	C	C	N	C	N	C	C	N	C	C	C	C	C	C	C	C	C	C	C	C	C	C
99/70 – Fixed-term work (deadline: 10.7.2001)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
00/34 – Excluded sectors 93/104 (date transposition: 1.8.2003)	IC	C	C	N	C	IC	N	C	N	IC	C	C	C	C	IC	C	C	N	C	C	C	C	C	C	C
00/79 – Agreement on working time civil aviation (1.12.2003)	C	C	IC	N	C	IC	N	N	IC	N	N	N	C	N	IC	C	C	C	C	N	C	N	C	C	C
01/23 – Transfer of undertakings (codification 77/187 et 98/50)																									
Directives for which the transposition deadline has not yet expired:																									
01/86 – Involvement employees - European company statute (8.10.2004)																									
02/14 – Information and consultation of employees (23.3.2005)																									
02/74 – Insolvency employer (modif. 80/987) (8.10.2005)																									
DIRECTIVES	**BE**	**DK**	**DE**	**EL**	**ES**	**FR**	**IE**	**IT**	**LU**	**NL**	**AT**	**PT**	**FI**	**SE**	**UK**	**CY**	**CZ**	**EE**	**HU**	**LV**	**LT**	**MT**	**PL**	**SK**	**SI**
2. EQUAL TREATMENT MEN AND WOMEN																									
Directives in force:																									
75/117 – Equal pay	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
76/207 – Access to employment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
79/7 – Social security	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
86/378 – Occupational social security schemes	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	N	C	C	C
92/85 – Pregnant workers	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
96/34 – Parental leave (97/75 - UK)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	NR	C	C	C	C	C	C	C	C	C	C
96/97 – Occupational social security schemes (modification 86/378)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	N	C	N	N	C	C	C
97/75 – Extension 96/34 au RU (deadline: 15.12.1999)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	
97/80 – Burden of proof (deadline: 1.1.2001) (UK: 98/52)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	NR	C	C	C	C	C	C	C	C	C	C
98/52 – Extension 97/80 to UK (22.07.2001)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	
Directives for which the transposition deadline has not yet expired:																									
02/73 – Modification Dir 76/207 (deadline: 5.10.2005)																									
DIRECTIVES	**BE**	**DK**	**DE**	**EL**	**ES**	**FR**	**IE**	**IT**	**LU**	**NL**	**AT**	**PT**	**FI**	**SE**	**UK**	**CY**	**CZ**	**EE**	**HU**	**LV**	**LT**	**MT**	**PL**	**SK**	**SI**
3. NON-DISCRIMINATION/EQUAL TREATMENT ARTICLE 13 EC																									
Directives in force:																									
00/43 – Race - (deadline: 19.7.2003)	IC	C	N	N	C	C	N	C	N	C	N	N	IC	C	C	N	C	N	C	N	C	C	C	C	C
00/78 – General framework equal treatment in employment & occupation (2.12.2003)	IC	C	N	N	C	C	N	C	N	C	N	C	IC	C	C	N	C	N	C	C	C	C	C	C	C
DIRECTIVES	**BE**	**DK**	**DE**	**EL**	**ES**	**FR**	**IE**	**IT**	**LU**	**NL**	**AT**	**PT**	**FI**	**SE**	**UK**	**CY**	**CZ**	**EE**	**HU**	**LV**	**LT**	**MT**	**PL**	**SK**	**SI**
4. FREE MOVEMENT OF WORKERS																									
Directives in force:																									
68/360 – Restrictions on movement and residence	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
98/49 – Supplementary pensions rights (deadline: 25.1.2002)	C	C	C	N	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
DIRECTIVES	**BE**	**DK**	**DE**	**EL**	**ES**	**FR**	**IE**	**IT**	**LU**	**NL**	**AT**	**PT**	**FI**	**SE**	**UK**	**CY**	**CZ**	**EE**	**HU**	**LV**	**LT**	**MT**	**PL**	**SK**	**SI**
5. HEALTH AND SAFETY AT WORK																									
Directives in force:																									
83/477 – Asbestos	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
86/188 – Noise	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
89/391 – Framework	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
89/654 – Workplaces	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
89/655 – Work equipment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
89/656 – Personal protective equipment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
90/269 – Manual handling of loads	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
90/270 – Display screen equipment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
90/394 – Carcinogens	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C
91/322 – Indicative limit values	C	C	C	NR	NR	NR	C	C	C	NR	C	NR	C	C	C	C	C	C	C	C	C	C	C	C	C
91/382 – Asbestos	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
92/29 – Medical assistance on board of vessels	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
92/57 – Construction	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
92/58 – Health and safety signs	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
92/91 – Drilling	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C
92/104 – Mining	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C
93/103 – Fishing vessels	C	C	C	C	C	C	C	C	NR	C	NR	C	C	C	C	C	N	C	C	C	C	C	N	NR	C
95/63 – Amendment of work equipment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
97/42 – Amendment of carcinogens	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C
98/24 – Chemical agents 5 (deadline: 5.5.2001)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	N	C	C
99/38 – Amendment of carcinogens (29.4.2003)	C	N	N	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C	C	C	C	N	C	C

DIRECTIVES	BE	DK	DE	EL	ES	FR	IE	IT	LU	NL	AT	PT	FI	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SK	SI
HEALTH AND SAFETY AT WORK																									
Directives in force (continued):																									
99/92 – Explosive atmospheres (deadline 30.6.2003)	C	C	C	C	C	C	C	C	N	C	N	C	C	C	C	C	N	C	C	C	C	C	C	C	C
00/39 – First list of indicative occupation exposure limit values chemical agents Commission directive (deadline: 31.12.2001)	C	C	C	C	C	N	C	C	C	C	N	C	C	C	C	C	C	C	C	N	C	C	C	C	C
00/54 – Biological agents (7th - 89.391) [codification]	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C
Directives for which the transposition deadline has not yet expired:																									
2001/45 Second amendment of work equipment (19.7.2004)								C	C				C					C	C	C		C	C	C	
02/44 – Vibration (deadline: 06.7.2005)																									
03/10 – Noise (15.2.2006)																				C					
2003/18 Second amendment of asbestos (15.04.06)																									
DIRECTIVES	**BE**	**DK**	**DE**	**EL**	**ES**	**FR**	**IE**	**IT**	**LU**	**NL**	**AT**	**PT**	**FI**	**SE**	**UK**	**CY**	**CZ**	**EE**	**HU**	**LV**	**LT**	**MT**	**PL**	**SK**	**SI**
% national legislation communicated (1.1.2004)	91.8	91.8	89.8	89.8	93.9	87.8	91.8	91.8	87.8	91.8	81.6	91.8	93.9	93.9	89.8										
% transposition lacking (1.1.2004)	8.2	8.2	10.2	10.2	6.1	12.2	8.2	8.2	12.2	8.2	18.4	8.2	6.1	6.1	10.2										

C = Communication of national legislation
D = Derogation
IC = Incomplete/partial communication
NR = Directive not relevant to a particular country
N = No communication of national legislation