

Chapter 1

The EC Social Agenda

‘The construction of a dynamic and strong Europe depends on the recognition of a foundation of social rights.’ This basic tenet was articulated by the EC’s Social Affairs Commissioner, Vasso Papandreou, in introducing the so-called Social Charter – the Community’s *blueprint for social policy* in the new barrier-free Single Market of the 1990s. The approach of the Single Market, due for completion by the end of 1992, has proved a catalyst for a new and accelerated stage in the development of EC social policy and social law.

From the very inception of the European Community, the basic *EEC Treaty* provided for the development of a Community social policy, by emphasising the need ‘to promote improved working conditions and an improved standard of living for workers’, and to make possible harmonisation across the Community while maintaining such improvements. The Treaty also dealt specifically with the need to secure equal pay for men and women working in the Community, and to establish the principle of free movement for workers within the European Community.

In 1972, the Heads of State and Government of the Community countries, meeting in Paris, agreed to affirm the ‘social dimension’ of the construction of Europe. Two years later, this was given tangible form in the Community’s first *Social Action Programme*. This brought together social policy objectives across a wide range of areas, and provided for specific actions to be taken at Community and national levels to secure improved living and working conditions across the Community. Following on from this Action Programme, and from later programmes specifically aimed at developing strategies in the equality and health and safety fields, a body of EC-level social legislation was gradually developed over the 1970s and 1980s.

This *social legislation* largely took the form of binding Directives adopted by the EC’s Council of Ministers and subject to developing interpretation by the Luxembourg-based European Court of Justice. The issues covered by this first body of EC social legislation included equal treatment for men and women in pay, working conditions and social security; employment protection for workers affected by redundancy, transfer and insolvency situations; and protective measures linked to aspects of health and safety at the workplace.

Many other social measures were also discussed during this period, but all proved too controversial for the necessary unanimity to be achieved which would have enabled the legislative proposals to be adopted by the EC’s Council of Ministers. Most notable

among these *controversial issues* were proposals concerning worker participation, and the organisation of working time. (For a fuller discussion of the issues dealt with in the early development of a legal framework for EC social policies, see *Human Rights at the Workplace* by Angela Byre, PSI, 1988.)

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With the approach of the Community's Single Market, attention turned to the measures necessary to secure completion of the Single Market process and to ways of accelerating their progress. The 1987 *Single European Act* contained provisions, inter alia, enabling legislative proposals directly linked to the 'establishment and functioning of the internal market', or concerned with 'improvements, especially in the working environment, as regards the health and safety of workers', to be approved by qualified majority voting and without unanimity being required in the EC's Council of Ministers.

The effect of these provisions, so far as EC social legislation is concerned, has been to clear the way for certain measures to proceed to adoption by the *majority voting* route and to avoid some of the problems which beset many social law proposals in the 1980s (when such proposals required unanimity in the Council of Ministers, and were effectively blocked by minority objections). The qualified majority voting procedures have also served to give the European Parliament greater involvement in the law-making process – the Parliament being able to put forward amendments to legislative proposals which, especially when backed by the European Commission, may form part of the legislative text which is ultimately adopted by the EC's Council of Ministers. However, while the qualified majority voting procedures have served to secure the progress of some relatively uncontroversial measures towards final adoption – most notably measures which fall squarely within the health and safety sphere – the procedures have themselves aroused new controversy over the extent to which they can or should be utilised for mainstream social legislation relating to working conditions in a broad sense. As yet, these issues have not been referred to or tested in the European Court.

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The process of defining the content of a '*social dimension*' to the Community's Single Market began, somewhat later than preparations for other aspects of the internal market, in the year after the introduction of the Single European Act with its majority voting possibilities. In May 1988, the President of the European Commission, Mr Jacques Delors, made a commitment to the European Trade Union Confederation that the social aspects of a new barrier-free Community would be specifically addressed.

The result, at the end of the following year, was the adoption by Heads of State and Government of 11 of the 12 EC Member States (the United Kingdom declining to sign) of a non-binding 'Community Charter of the Fundamental Social Rights of Workers' – hereafter referred to as the *Social Charter*. As the European Commission President has affirmed, the Charter is intended to 'form a keystone of the social dimension in the construction of Europe, in the spirit of the Treaty of Rome supplemented by the Single European Act. It is a solemn declaration and lays down the broad principles underlying

our European model of labour law and, more generally, the place of work in our societies.’

The Social Charter’s declaration of social policy aims and principles is based to some extent on principles already enunciated in other international texts, such as the Council of Europe’s Social Charter and the various Conventions of the International Labour Organisation. It also brings together a wide range of principles developed by the European Community itself in the course of evolving social policy since the mid-1970s. The importance of the Charter, which has no binding legal force, is that it clearly spells out the whole range of the Community’s *social policy objectives for the 1990s*, and enunciates these in terms of a series of fundamental principles in a single EC-level text. The Charter also envisages the formulation of an *Action Programme*, to be drawn up by the European Commission, detailing specific legislative and other measures to be taken at Community and national levels to give effect to the Charter’s basic principles.

The full text of the Social Charter appears in an Appendix to this Report. Its basic provisions, and those of the implementing Action Programme, are elaborated on and discussed in the following sections of this Report on a subject by subject basis, with reference to the illustrative fieldwork carried out among UK employers and trade unions.