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COMPLETING THE  
INTERNAL MARKET

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CURRENT STATUS 1 JANUARY 1992

**A COMMON MARKET  
FOR SERVICES**

**Banking**

**Insurance**

**Transactions in securities**

**Transport services**

**New technologies and services**

**Capital movements**

**Free movement of labour and the professions**

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COMMISSION OF THE  
EUROPEAN COMMUNITIES

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In June 1985, the Commission of the European Communities issued a White Paper on 'Completing the internal market', setting out a target for establishing a single European market in goods, services, people and capital by 1992.

The White Paper included a detailed legislative timetable containing almost 300 measures and proposals.

In June 1991, the Commission issued its 'Sixth report on the implementation of the White Paper on completing the internal market'. This updated and modified the original legislative timetable contained in the White Paper.

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# A COMMON MARKET FOR SERVICES

## How to use this booklet

### This series of booklets sets out:

- (i) to inform the interested European public about the steps which are being taken to bring about the single market;
- (ii) to summarize the approach which is being taken in individual business sectors;
- (iii) to provide an initial guide to the content and current status of each proposal which the Commission has drafted with a view to completing the internal market in 1992.

### This booklet contains:

- (i) a brief description of how the Community makes laws;
- (ii) a general introduction to the issues and problems involved in creating an internal market for services;
- (iii) specific introductions to the approach being taken in individual sectors of the services market;
- (iv) a brief summary of each measure which has been adopted or proposed with a view to establishing the internal market for services. Where a measure has been proposed but not yet adopted, the summary also gives details of the European Parliament's opinion and of the current status of the proposal. Where the measure has been adopted, the summary gives the deadline for implementing the legislation in the Member States, together with details of any follow-up work and of the implementing measures taken by the Commission.

### The reader should:

- (i) ensure he is familiar with how the Community makes laws and recommendations; if this is not the case, he should turn to page iii;
- (ii) read the general introduction to services for an overview of the issues (page 1);
- (iii) select from the contents (page vii) the section(s) which cover the sector(s) of interest.

The summaries provide references to the appropriate copies of the *Official Journal of the European Communities* for those readers wishing to examine measures in more detail. Copies of the Official Journal can be obtained from the sales offices listed inside the back cover.

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#### **Note to the reader**

This publication provides a snapshot, as at 1 January 1992, of a situation which is evolving all the time.

The reader should understand that the text is provisional, also from a linguistic and terminological point of view. It will be revised and consolidated as and when measures are adopted in their definitive form.



## HOW THE EUROPEAN COMMUNITY MAKES LAWS AN OUTLINE

It is necessary to be familiar with the procedures by which the Community passes laws in order to understand the detail contained in the summaries. Each summary relates to a specific measure intended to facilitate the creation of the single market. In broad terms:

- (i) the Commission (which has both executive and administrative roles) initiates and drafts a proposal which it submits to the Council;
- (ii) the European Parliament (which is elected by the citizens of the Community) and the Economic and Social Committee (which consists of representatives from employer organizations, trade unions and other interest groups) consider and comment on the proposal;
- (iii) the Council (whose members represent the governments of the Member States, normally at ministerial level) adopts the proposal which then becomes law. In some cases, this power can be exercised by the Commission.

This booklet contains summaries of different types of measures; their consideration and adoption can follow different procedures. These are discussed below.

### 1. LAWS AND OTHER MEASURES

#### Regulations

A regulation is a law which is binding and directly applicable in all Member States without any implementing national legislation. Both the Council and the Commission can adopt regulations.

#### Directives

A directive is an EEC law binding on the Member States as to the result to be achieved, but the choice of method is their own. In practice, national implementing legislation in the form deemed appropriate in each Member State is necessary in most cases. This is an important point as businesses affected by a directive have to take account of the national implementing legislation as well as the directive.

#### Decisions

A decision is binding entirely on those to whom it is addressed. No national implementing legislation is required. The decisions summarized in this booklet are Council Decisions although in certain cases the Commission has the power to adopt Commission Decisions.

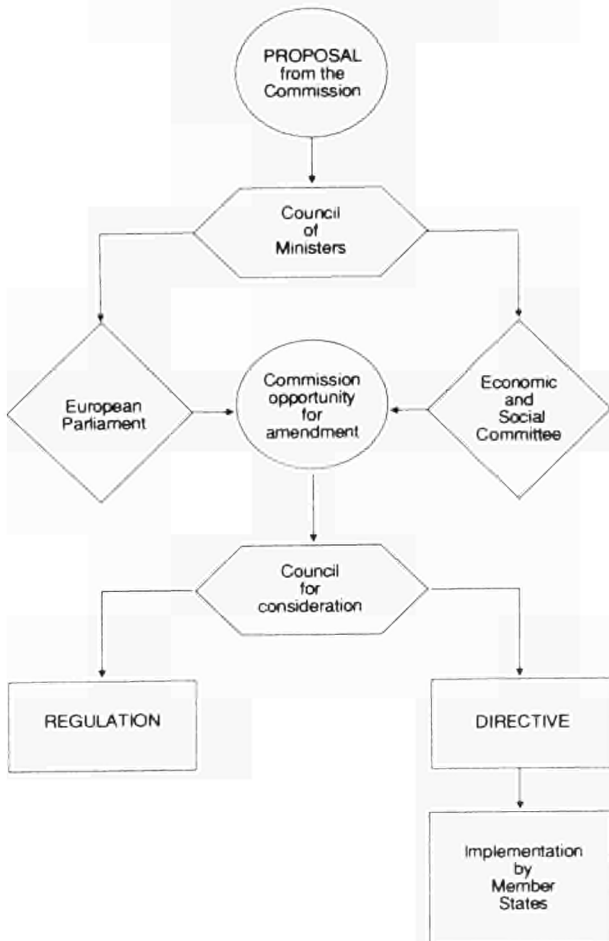
#### Recommendations

A recommendation has no binding effect (it is not a law). Recommendations can be adopted by both the Council and the Commission.

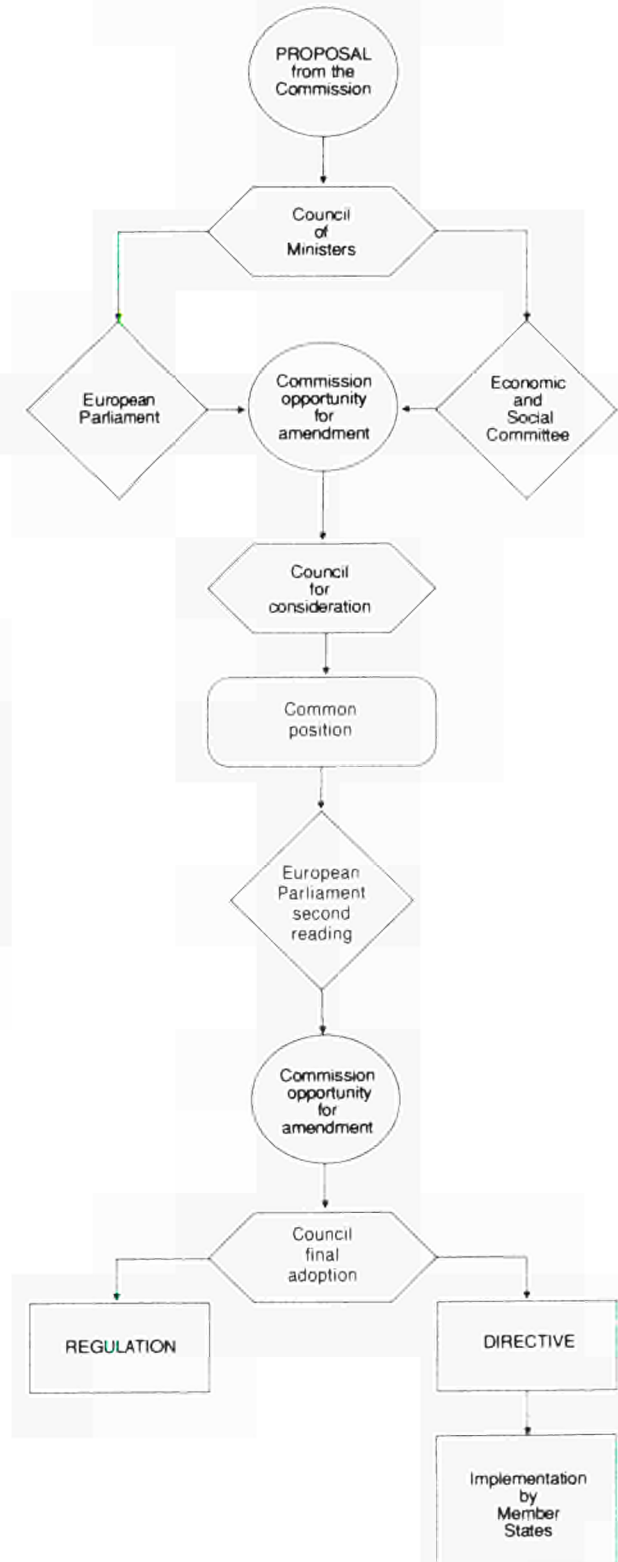
The majority of the measures included in this booklet are Council Directives.

## EEC legislation from start to finish (directives and regulations)

The consultation procedure



The cooperation procedure



**Figure 1**

## 2. PROCEDURES FOR MAKING LAWS

The Community's decision-making procedures are best illustrated by tracing the progress of a directive. The following text should be read in conjunction with the flow chart in Figure 1.

Since the entry into force of the Single European Act on 1 July 1987 there are two distinct procedures for the adoption of a directive: the consultation procedure and the cooperation procedure. The EEC Treaty article upon which a proposal is based dictates which procedure is followed.

In both cases a directive begins with a proposal from the Commission to the Council.

Under the consultation procedure, the Council requests an opinion from the European Parliament and, in most cases, from the Economic and Social Committee. Once these have been given, the Commission then has the opportunity to amend the proposal if it so wishes. The proposal is then examined by the Council which may adopt it as proposed, adopt it in an amended form, or fail to reach agreement in which case the proposal remains 'on the table'.

Under the cooperation procedure, the Council requests opinions from the Parliament and the Economic and Social Committee in the same way. Once these opinions have been received the Council has to adopt what is called a common position, although it seems that the proposal will again remain on the table failing any common position being reached. On a common position being reached, this is transmitted to the Parliament which has three months to accept, reject, or propose amendments to it, on its second reading.

At this stage the Commission may again amend the proposal if it wishes. The proposal is then returned to the Council which has three months to take a final decision. In the absence of a decision, the proposal lapses.

Whether the Council can adopt a proposal by a qualified majority or has to reach a unanimous decision depends in the first instance upon the article of the Treaty which is the basis for the measure. However, there are certain situations where unanimity must be reached by the Council:

- (i) to introduce amendments of its own initiative to a proposal;
- (ii) to adopt amendments proposed by the Parliament but not taken up by the Commission;
- (iii) to adopt a measure when the Parliament has rejected the Council common position under the cooperation procedure.

The question of whether a directive or a regulation is subject to the cooperation procedure, the consultation procedure or neither of these depends on its legal basis.

There are a limited number of decisions summarized in this booklet. The European Parliament and the Economic and Social Committee are consulted on some of these.

There are also a limited number of recommendations in this booklet. Some Council recommendations are submitted to the European Parliament and the Economic and Social Committee for their opinion before adoption.

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### 3. PUBLICATION OF TEXTS

At certain stages in the Community decision-making procedure, texts are published in the *Official Journal of the European Communities*. There is an 'L' series which contains legislation and a 'C' series which contains other information, such as communications issued by the Commission.

This booklet contains summaries of both adopted legislation and proposals for legislation. In the case of adopted legislation, the summary gives the reference to the Official Journal 'L' series in which the text has been published. Readers interested in the legislative history of a measure will find in the text the Official Journal 'C' series references for the corresponding Commission proposal(s) and the opinions of the European Parliament and the Economic and Social Committee.

In the case of proposals for legislation, the summary gives the Official Journal 'C' series references for the Commission proposal(s) and the opinions of the European Parliament and the Economic and Social Committee, if published by 31 December 1991.

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## INTRODUCTION

### WHY A COMMON MARKET FOR SERVICES?

#### 1957 — Treaty of Rome

The Treaty sets out to create a single Community-wide market with freedom of movement for goods, persons, services and capital.

Freedom of movement for individuals basically means that nationals of a Member State and, by extension, companies registered in that Member State, are entitled to take up and pursue an occupation or business activities in other Member States. Freedom of movement for services entitles individuals, companies or firms to provide services in a Member State other than the one in which they are established. Both these freedoms affect the services sector in that persons may provide services in a Member State other than their own either directly (services within the meaning of the Treaty) or through branches or subsidiaries (establishment within the meaning of the Treaty).

Although a customs union was soon established (1 July 1968), many administrative barriers which limit freedom to provide services and freedom of establishment still remain as a result of national regulations governing banking, insurance, transport and the professions, or more general measures dealing, for example, with capital movements, standards, public contracts and frontier formalities.

#### 1985 — White Paper

The costs and disadvantages associated with the existence of separate national markets are being perpetuated by the remaining internal obstacles to trade.

The Commission published a White Paper on 'the completion of the internal market' which listed 282 proposals for laws together with a timetable for their implementation; the White Paper was approved by the Heads of State or Government. One of the innovations of the White Paper was the emphasis (15% of the measures proposed) placed on liberalizing the provision of services — mutual recognition of national regulations following on from the prior harmonization of basic principles where necessary (e.g. financial services).

#### 1987 — Single European Act

This Act, which came into force on 1 July 1987 and which amends the EEC Treaty, restates the objective of completing an internal market by 1992 in line with the timetable contained in the 1985 White Paper, and adjusts the decision-making procedures in the Community; the power of decision is strengthened by extending the scope of qualified majority (as opposed to unanimous) voting within the Council of Ministers. The Single European Act has therefore facilitated the adoption of the measures in the White Paper.

#### 1991 — Current situation

Progress was made in the services sector generally during the year. In banking, with the bulk of the work having been completed in 1989, the few proposals still on the table progressed satisfactorily. The same applies to the insurance sector despite the hold-up in Parliament on the third Directive on direct insurance other than life assurance. In the securities field, the work accompanying the liberalization of capital movements has been completed. This still leaves, however, a problem with the proposal for a Directive on investment services.

In the air transport sector, real progress was made, particularly in the case of civil aviation. Difficulties remain in the sea transport sector (cabotage), whereas work on inland waterway

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transport was completed during the course of the year. Finally, the proposals relating to road passenger transport are still not progressing satisfactorily.

## 1992 — Single market

This is the deadline fixed by the Single European Act for the total elimination of all obstacles to the free provision of services.

### Services

The measures and proposals which are summarized in this leaflet and which cover financial services, telecommunications and transport services, and the free movement of workers, are intended to promote competition, increase competitiveness and widen choice.

According to the Cecchini Report, which was the result of a research project on the cost of non-Europe, the three main categories of financial services will benefit from integration to the tune of some ECU 22 billion. To take another example, the telecommunications sector could benefit by around ECU 2 billion, provided that the minimum liberalization requirements as set out in the Commission's Green Paper are met.

The field of services is an essential area in the economic and industrial development of the Community; the objective associated with completion of the internal market is not only to ensure development in this sector (in itself a source of employment) but primarily to ensure that industry has access to services which are cheaper, more efficient and better suited to their needs.

The Community has thus taken on a programme of work designed to adapt the rules governing financial services, transport, information technology, capital movements and the free movement of workers and members of the professions. These are the areas in which the provision of cross-border services is entirely in the genuine interests of all Member States and of all businesses whose competitiveness also depends on the cost of services.

### Financial services and capital movements

Financial services form an important element in the economy of all Community countries as a source of employment and of net exports. They are important both in terms of volume (7% of Community GDP) and because of their role in oiling the wheels of the market economy. Financial services have not benefited to the same extent as manufactured goods from the headway made in dismantling barriers to trade between the Member States, but it is clear that the benefits of the integrated market will have to apply in the financial services sector as much as any other sector.

In such an increasingly global financial market, it is essential that Europe becomes an efficient and open financial centre if it is not to lose its market share and the employment that goes with it. Furthermore, it is important that consumers should have access to a wide range of financial products, and it is important too for the well-being of the manufacturing sector that the financial sector should be as competitive as possible.

The programme in the financial services sector aims to break down national regulatory barriers which obstruct freedom of establishment and free trade in services and which could be left untouched even after exchange controls are fully removed. Common rules for the supervision of financial operators are being drawn up to ensure that capital does not flow to centres where monitoring arrangements are least efficient. Finally, broadly equivalent standards for investor protection are being drawn up. The aim is to bring about by 1992 a single banking market in which a bank can establish branches anywhere in the Community and offer its services throughout the Community; an insurance market where insurance can be bought on the most competitive terms and provide Community-wide cover and a securities

and capital market with enough capacity to meet European industry's financial needs and capable of attracting investors from all over the world.

The general approach adopted to financial services is closely linked to the programme for liberalizing capital movements; such liberalization has become a reality for eight Member States since 1 July 1990. The remaining four Member States (Ireland, Greece, Spain and Portugal) were authorized by Directive 88/361/EEC to retain certain restrictions on short-term capital movements until the end of 1992. However, the liberalization of capital movements is progressing in these countries too; in some, notably Ireland and Spain, the pace of liberalization is exceeding their obligations.

This liberalization of capital movements is contributing to economic and monetary integration. Capital mobility is essential, particularly for freedom to provide cross-border financial services; it is creating the foundations for a single financial area. Residents of any Member State thus now have access to the financial systems in other Member States and to all the financial products on offer in those countries. Similarly, there is no longer any restriction on capital transfers or any discrimination, particularly of a tax nature.

The date of 1 July 1990 therefore also marked the starting point for the first stage of economic and monetary union.

## Transport

The Community has adopted a two-phase approach for the main transport sectors: road, sea and air. In the first phase, the objective is to liberalize transport services between Member States. In the second, to be completed by 1992, the objective is to liberalize transport within Member States by opening up the national markets to non-resident carriers (cabotage).

Adoption of these measures has already led to the elimination of border controls by customs of the current bilateral quotas in transport.

## New technologies and services

In this field, the challenge confronting the Community is that of creating a single market for those services which are linked to rapidly changing innovative technology.

The fragmentation of the Community into separate national markets and the ensuing proliferation of differing technical requirements reduce the scope for economies of scale, multiply the costs of obtaining type-approvals, and render less attractive the large-scale research which alone is capable of sustaining Europe's competitiveness in international markets.

The Commission, therefore, has focused on three areas: services, standards and networks.

## Labour and the professions

The Community has already achieved a great deal in this field, particularly in the case of employees. However, there remain a number of problems to be solved if the internal market in goods and services is to be matched by efficiency in the allocation of labour and competition in professional services.

In the case of the recognition of qualifications, a major advance was made at the end of 1988, when the Council adopted a Directive introducing a first general system for the mutual recognition of diplomas awarded on completion of higher-education, professional education and training lasting at least three years.

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This first step will be followed by the adoption of a second general system relating to other diplomas awarded on completion of a course of post-secondary studies of less than three years and to certificates awarded on completion of a course of secondary studies.



## 1. BANKING

### Current problems and 1992 objectives

All Member States regulate access to this crucial sector and supervise its operations, but controls differ from one Member State to another. The first banking Directive adopted in 1977 represented an initial step towards liberalization of the right of establishment in the banking sector.

A bank based in one Member State wishing to establish branches in the others currently needs authorization from 11 different supervisory authorities, each with its own conditions for granting authorization and for subsequent supervision.

To overcome these obstacles the Commission has adopted a three-pronged approach:

- essential harmonization in all Member States of the laws and practices governing capital requirements, standards of managerial experience and repute, solvency ratios, prevention of over-lending to individual borrowers, form and content of published accounts;
- home-country control, through coordination between national supervisory activities, will mean that a bank operating in other Member States will be supervised by the authorities in the country in which it has its registered office;
- mutual recognition by the national supervisory authorities of the rules and regulations governing controls in other Member States.

The granting of licences for subsidiaries of banks with registered offices outside the Community will in principle be left to the discretion of the Member State concerned within the framework of the international agreements entered into by the Community. However, Member States may be required to suspend authorization in respect of subsidiaries set up by banks with registered offices in countries which do not grant national treatment or effective market access to Community banks wishing to establish themselves on their territory.

Such suspension is intended to enable the Commission to negotiate an agreement with the third country concerned on the removal of the obstacles in question. However, once authorized a subsidiary of a bank with its registered office in a third country will enjoy the same rights within the Community as have been granted to Community banks.

In this field, the Community has been active in the following areas:

- right of establishment of credit institutions (summaries 1.1 to 1.3);
- freedom to provide banking services (summary 1.4);
- annual accounts of banks and other financial institutions (summary 1.5);
- accounts of branches of foreign credit and financial institutions (summary 1.6);
- own funds (summary 1.7);
- deposit-guarantee schemes (summary 1.8);
- monitoring of large exposures (summaries 1.9 and 1.10);
- mortgage credit (summary 1.11);
- solvency ratios (summary 1.12);
- money laundering (summary 1.13);
- supervision on a consolidated basis (summary 1.3).

The prospect of economic and monetary union underlines the urgent need to improve payment systems in such a way that transfrontier payments within the Community's internal market are as rapid, as cheap and as reliable as those within a Member State.

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The discussion paper on payment systems in the internal market, adopted on 26 September 1990 by the Commission, describes the existing methods of effecting transfrontier payments and proposes a framework for examining the improvements to be made. It considers in particular small or medium-sized payments, for which very high costs, frequently out of all proportion to the amount transferred, are incurred owing to the lack of a true integrated payments system.

It also examines the directions in which improvements might be sought, in particular through the interlinking of national settlement systems.

The increase in competition within the financial sector will help promote the establishment of transfrontier payment systems but such progress will also necessitate cooperation from the banks, the central banks and the supervisory authorities in each Member State (COM(90) 447 final).

Following the adoption of this discussion paper, the Commission has received the reactions of interested parties, including those of the Economic and Social Committee.

The Commission has also set out the next stages of the programme it has embarked on to facilitate, speed up and reduce the cost of money transfers in the Community and has decided to set up two working parties to assist it in its work. The first of these is made up of representatives of the banks and central banks, while the second, whose aim is to provide a link between financial institutions and their customers, is composed of representatives of small and medium-sized firms, the distributive trades and consumers.



## 1. BANKING

### 1.1. Credit institutions: credit institutions excluded from Community coordinating legislation

- (1) *Objective* To update the list of credit institutions excluded from Community coordinating legislation concerned with their operation. The list is contained in Council Directive 77/780/EEC (Official Journal L 322, 17.12.1977).
- (2) *Community measures* Council Directive 86/524/EEC of 27 October 1986 amending Directive 77/780/EEC in respect of the list of permanent exclusions of certain credit institutions.
- (3) *Contents* The central banks of the Member States, the post office, giro institutions and other specified credit institutions are excluded from the scope of Council Directive 77/780/EEC, the first Directive on the taking up and pursuit of the business of credit institutions. The institutions in question are excluded because they are generally supervised in a different manner from banks generally.
- (4) *Deadline for implementation of the legislation in the Member States* 31.12.1986
- (5) *Date of entry into force (if different from the above)*
- (6) *References* Official Journal L 309, 4.11.1986
- (7) *Follow-up work*
- (8) *Commission implementing measures*

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## 1. BANKING

### 1.2. Credit institutions: reorganization and winding up

#### (1) Objective

To lay down measures concerning the reorganization and winding-up of credit institutions (e.g. banks) operating in several Member States. This is entrusted to the competent authorities of the Member State in which the credit institution has its head office. In the case of credit institutions having their head office outside the EEC the authorities of the host Member State would be responsible, unless there is a bilateral agreement with the home country. To lay down transitional measures concerning deposit-guarantee schemes in order to extend their coverage. Deposit-guarantee schemes provide protection for a depositor if the credit institution becomes bankrupt.

#### (2) Proposal

Proposal for a Council Directive on the coordination of laws, regulations and administrative provisions relating to the reorganization and the winding-up of credit institutions and deposit-guarantee schemes.

#### (3) Contents

1. Definition of 'reorganization measures' as those measures which are intended to safeguard or restore the financial situation of a credit institution, e.g. total or partial suspension of activities, the power to appoint an official to investigate the state and conduct of an authorized institution.
2. Rules for the application of reorganization measures to credit institutions having their head office within the Community, e.g. respective roles of home and host country regulatory authorities.
3. Corresponding rules for the application of reorganization measures to credit institutions having their head office outside the Community.
4. Rules for the winding-up of credit institutions having their head office within the Community, e.g. role of the regulatory authorities, effect on banking authorization, cross-frontier powers of liquidators.
5. Corresponding rules for winding-up credit institutions having their head office outside the Community.
6. Existing Member State deposit-guarantee schemes should cover deposits in branches of institutions having their head office in other Member States. Pending the introduction of schemes in all Member States, Member States with schemes should extend the cover to deposits in branches of their institutions in other Member States with no scheme, and do so under the same conditions as apply to domestic deposits.
7. Annex of reorganization measures in each Member State.

#### (4) Opinion of the European Parliament

First reading: The European Parliament approved the Commission's proposal subject to a number of recommendations for amendment. One recommendation concerned the publication in the Official Journal of extracts from the decision ordering the reorganization measure, when an appeal against this decision is possible. The Commission had proposed that publication was only necessary when the rights of creditors were affected. Parliament recommended that shareholders and employees be added to this list. The Commission accepted the inclusion of shareholders in its amended proposal, but not employees. The Commission also accepted another recommendation that a second





annex be added defining the winding-up procedures referred to in the Directive.

*(5) Current status*

An amended proposal taking account of the comments of the European Parliament and the Economic and Social Committee is before the Council. The cooperation procedure will apply giving the European Parliament the opportunity of a second reading once it has received the view of the Council at the end of its common position.

*(6) References*

Commission proposal COM(85) 788 final	Official Journal C 356, 31.12.1985
Amended proposal COM(88) 4 final	Official Journal C 36, 8.2.1988
European Parliament opinion First reading	Official Journal C 99, 13.4.1987
Economic and Social Committee opinion	Official Journal C 236, 20.10.1986

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## 1. BANKING

### 1.3. Credit institutions: supervision

- (1) *Objective* To reinforce supervision of credit institutions belonging to a group, particularly by extending the scope of supervision on a consolidated basis to banking groups whose parent undertaking is not a credit institution.
- (2) *Proposal* Proposal for a Council Directive relating to the supervision of credit institutions on a consolidated basis.
- (3) *Contents*
1. Definitions of the terms 'credit institution', 'financial institution', 'financial holding company', 'mixed-activity holding company', 'ancillary banking services undertaking', 'participation', 'parent undertaking', 'subsidiary' and 'competent authorities'.
  2. In order to ensure uniform application of the banking Directives, the scope is the same as in the other Directives, and in particular Council Directive 89/646/EEC (summary 1.4). Furthermore, as the Directive includes provisions applicable to financial holding companies and mixed-activity holding companies, these enterprises are also covered in the scope.
  3. The requirement that supervision of a credit institution whose parent company is a financial holding company should be carried out on the basis of its consolidated financial position constitutes the main innovation in this proposal.
  4. The proposal details the circumstances in which an individual enterprise may be excluded from consolidation.
  5. The arrangements introduced set out to identify closely, according to the various practical situations possible, a means of pinpointing the competent authorities responsible for exercising supervision on a consolidated basis. Where this proves impossible, subsidiary criteria are envisaged for cases in which the authorities concerned are unable to agree among themselves. Where there is more than one competent authority responsible for the prudential supervision of credit and financial institutions, Member States would be required to take the requisite measures to organize coordination between those authorities.
  6. The competent authorities responsible for exercising supervision on a consolidated basis must, for the purposes of supervision, require full consolidation of all the credit and financial institutions which are subsidiaries of a parent undertaking. A single exception is provided for, which covers the case where the responsibility of the parent undertaking is clearly limited to its part of the capital because of the subsidiary responsibility of other shareholders or members.
  7. Pending further coordination of the consolidation methods, Member States must ensure that, where the parent undertaking of one or more credit institutions is a mixed-activity holding company, the competent authorities responsible for the authorization and supervision of those credit institutions require the mixed-activity holding company and its subsidiaries to supply any information necessary for supervision on a consolidated basis to be exercised. In the case of groups headed by a financial holding company or mixed-activity holding company, the competent authorities in the country in which the parent undertaking is situated do not themselves exercise supervision on a consolidated basis where that group does not include a credit institution established



in the same country. However, they must obtain from that parent undertaking the necessary information for supervision on a consolidated basis to be exercised and must transmit it to the competent authorities charged with carrying out that supervision.

8. Supervision on a consolidated basis is all the more effective if it can be exercised on a world basis or at any rate on the widest possible geographical basis. It is therefore necessary to ensure that there are no impediments in third countries to the transfer of the necessary information and, where such impediments do exist, to endeavour to remove them for the purposes of consolidated supervision by means of agreements with the countries in question.

*(4) Opinion of the European Parliament*

First reading: Parliament approved the Commission's proposal subject to certain amendments. The Commission accepted some of these amendments.

*(5) Current status*

The Council adopted a common position on the amended proposal on 16 December 1991.

*(6) References*

Commission proposal COM(90) 451 final	Official Journal C 315, 14.12.1990
Amended proposal COM(91) 491 final	Official Journal C 332, 21.12.1991
European Parliament opinion First reading	Not yet published
Economic and Social Committee opinion	Official Journal C 102, 18.4.1991

## 1. BANKING

### 1.4. Freedom to provide banking services: second Directive

#### (1) Objective

To ensure freedom of establishment for, and freedom to provide, banking services with a view to establishment of a single market by extending the harmonization of banking rules and regulations introduced by Council Directive 77/780/EEC (Official Journal L 322, 17.12.1977). In addition, to achieve mutual recognition of authorizations for credit institutions and of prudential rules in order to pave the way for the granting of a single banking licence recognized throughout the Community and for the application of the principle of supervision by the Member State of origin.

#### (2) Community measures

Second Council Directive 89/646/EEC of 15 December 1989 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of credit institutions and amending Directive 77/780/EEC.

#### (3) Contents

1. Definitions of the terms 'credit institution', 'authorization', 'branch', 'qualifying holding', 'subsidiary', 'solvency ratio', etc.
2. The competent authorities may not grant authorization where initial capital is less than ECU 5 million. However, Member States are free to grant authorization to particular categories of credit institution (cooperatives, building societies, etc.) whose initial capital is not less than ECU 1 million.
3. The competent authorities may not grant authorization for the taking-up of the business of credit institutions until they have been informed of the identities of the shareholders or members that have qualifying holdings and of the amounts of those holdings. They must refuse authorization if they are not satisfied as to the suitability of the above-mentioned shareholders or members.
4. Introduction of a single banking licence. This will allow a branch of an institution authorized in another Member State to be opened without authorization from the host Member State and the need for separate endowment capital. As a transitional measure covering the period 1991 to the end of 1992, the required initial endowment capital for the branch will not exceed 50% of the initial capital required by national rules for the authorization of credit institutions of the same nature.
5. There must be prior consultation with the competent authorities of the other Member State involved on the authorization of a credit institution which is a subsidiary of a credit institution authorized in another Member State or a subsidiary of the parent undertaking of a credit institution authorized in another Member State or controlled by the same persons, whether natural or legal, as control a credit institution authorized in another Member State.
6. Relations with third countries:
  - Member States are to inform the Commission of any authorization they grant to a direct or indirect subsidiary of a parent undertaking which is governed by the laws of a third country and of any holding acquired by such a parent undertaking in a Community credit institution such that the latter would become its subsidiary;
  - Member States are to inform the Commission of any general difficulties encountered by their credit institutions in establishing themselves or carrying on banking activities in a third country; the

Commission is to draw up periodically a report examining the treatment accorded to Community credit institutions in third countries and to transmit it to the Council;

- where the Commission finds that a third country is not granting Community credit institutions effective market access comparable to that granted by the Community to credit institutions from that third country, it may ask the Council for the appropriate mandate for negotiation with a view to obtaining comparable competitive opportunities for Community credit institutions (the Council to decide by a qualified majority);
- where the Commission finds that Community credit institutions in a third country do not receive national treatment and that the conditions of effective market access are not fulfilled, it may initiate negotiations; this may also entail the limitation or suspension of decisions regarding requests for authorization from the third country in question for a maximum period of three months; any extension of that initial three-month period requires a qualified-majority decision by the Council.

7. Harmonization of the conditions relating to the pursuit of banking activities: maintenance of initial capital; control powers in respect of the acquisition of qualifying holdings in credit institutions; existence of sound administrative and accounting procedures and adequate internal control mechanisms.

8. Prohibition on credit institutions investing more than 15% of their own funds in an undertaking which is neither a credit institution, nor a financial institution, nor an undertaking carrying on an activity which is an extension of, or ancillary to, banking. Prohibition on such investments cumulatively exceeding 60% of a credit institution's own funds. Member States may allow these limits to be exceeded if they provide for 100% of the amounts by which qualifying holdings exceed those limits to be covered by own funds and for the latter not to be included in the calculation of the solvency ratio. Existing credit institutions with holdings exceeding the limits on the date of entry into force of the Directive have 10 years from that date in which to reduce those holdings.

9. Requirement that credit institutions have a fixed establishment in the host country. Introduction of the principle of home-country control. When a credit institution is authorized by its home-country authorities to perform the core banking activities listed in the Directive, it may perform those activities in any Member State through branches or by providing services without a branch. Core banking activities falling within the scope of mutual recognition comprise:

- acceptance of deposits and other repayable funds;
- lending;
- financial leasing;
- money-transmission services;
- issuing and administering means of payment (credit cards, etc.);
- guarantees and commitments;
- trading for own account or for account of customers;
- participation in securities issues;
- advice to undertakings on capital structure, industrial strategy and related questions, and advice and services relating to mergers and the purchase of undertakings;
- money broking;
- portfolio management and advice;

- safekeeping and administration of securities;
- credit reference services;
- safe-custody services.

Similar rights are also accorded to financial institutions (i.e. institutions which are not banks) which satisfy the following conditions:

- they must be at least 90% owned by one or more credit institutions authorized in the same Member State and must, together with the owners, be subject to consolidated supervision;
- their commitments must be jointly and severally guaranteed by the owners.

10. Allocation of supervisory functions between home-country and host-country authorities. The home country has responsibility for overall solvency, while the host country supervises liquidity of branches on its territory. Exchanges of information and coordination in cases where the institution ceases to comply with one of the authorization conditions.

11. List of the areas in which technical adaptations may be made by the Commission under the regulatory committee procedure.

*(4) Deadline for implementation of the legislation in the Member States*

- 1.1.1993 at the latest
- 1.1.1990 for Article 6(2) relative to the cancellation of capital endowment.

*(5) Date of entry into force (if different from the above)*

*(6) References*

Corrected opinion

Official Journal L 386, 30.12.1989  
Official Journal L 296, 27.10.1990

*(7) Follow-up work*

*(8) Commission implementing measures*



## 1. BANKING

### 1.5. Annual accounts of banks and other financial institutions

<i>(1) Objective</i>	To harmonize the format and contents of the annual accounts of banks and other financial institutions. As more financial institutions operate across national borders within the Community, it is becoming increasingly necessary to be able to compare their annual and consolidated accounts.
<i>(2) Community measures</i>	Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. The Directive applies to most credit institutions (e.g. banks) and other financial institutions with a few exceptions such as:             <ul style="list-style-type: none"> <li>— Greece: Eteba (National Investment Bank for Industrial Development);</li> <li>— Ireland: industrial and provident societies.</li> </ul> </li> <li>2. Standard balance sheet layout. Assets and liabilities are presented in decreasing order of liquidity.</li> <li>3. Special provisions for certain balance sheet items such as cash in hand, treasury bills, loans and advances to credit institutions amounts owed to credit institutions, etc.</li> <li>4. Two standard profit-and-loss account layouts: there is a vertical layout and a horizontal layout.</li> <li>5. Special provisions on certain items in the profit-and-loss account such as interest receivable, income from securities, net profit or loss on financial operations, etc.</li> <li>6. Valuation rules for assets, financial fixed assets, securities held by credit institutions, transferable securities, loans and advances, variable-yield securities, and assets and liabilities denominated in foreign currency.</li> <li>7. Detailed list of the required contents of the notes on the accounts.</li> <li>8. Separate provisions relating to the drawing up of consolidated accounts.</li> <li>9. Publication of annual accounts as laid down by national law. Where the annual report is not published, copies must be available at a price which does not exceed their administrative cost.</li> <li>10. Special concessions for public savings banks. Where statutory auditing is reserved for an existing supervisory body a separate audit requirement need not be imposed.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	31.12.1990
<i>(5) Date of entry into force (if different from the above)</i>	Banks must apply the Directive, at the latest, for the financial year beginning on 1 January 1993 or during the calendar year 1993.

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(6) *References*

Official Journal L 372, 31.12.1986

(7) *Follow-up work*

(8) *Commission  
implementing  
measures*





## 1. BANKING

### 1.6. Accounting documents of branches of foreign credit and financial institutions

*(1) Objective*

To remove the need for branches of foreign banks and other financial institutions having their head office in another Member State or in a non-member country to publish separate annual accounts, so that they are treated in the same way as branches of domestic financial institutions.

*(2) Community measures*

Council Directive 89/117/EEC of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents.

*(3) Contents*

1. The Directive applies to all EC branches of banks and other financial institutions which have their head offices outside the Member State where the branch is established.
2. The Directive abolishes present requirements of Member States to publish separate branch accounts. Documents which are to be published by branches of credit institutions and financial institutions having their head office in another Member State include their annual accounts, consolidated accounts, annual report, etc. These must be published and audited as required by the law of the Member State in which the head office is located. Pending further coordination, Member States may require branches to publish additional information such as income and costs, and the total claims and liabilities attributable to the branch. Five years after 1 January 1993, the Council will examine and, if need be, revise this provision with a view to eliminating such additional information.
3. Documents to be published by branches of credit institutions and financial institutions having their head office in a non-member country are the same as point 2 and are to be drawn up and audited as required by the non-member country. However, if the rules in question are not in conformity with EC accounting requirements, Member States may require branches to publish annual accounts relating to their own activities.
4. Member States may require that the documents be published in their official language(s) and that the translation of such documents be certified.

*(4) Deadline for implementation of the legislation in the Member States*

1.1.1991

*(5) Date of entry into force (if different from the above)*

1 January 1993 or during the calendar year 1993, under the same conditions as for Council Directive 86/635/EEC (summary 1.5).

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*(6) References*

Official Journal L 44, 16.2.1989

*(7) Follow-up work*

*(8) Commission  
implementing  
measures*



## 1. BANKING

### 1.7. Own funds

#### *(1) Objective*

To lay down common standards for the own funds of credit institutions authorized to do business in the Community. The size of own funds is an important criterion for the regulatory authorities in calculating the solvency of credit institutions and other prudential measures. Standardization of these calculations throughout the Community is essential for mutual recognition of home-country control.

#### *(2) Community measures*

Council Directive 89/299/EEC of 17 April 1989 on the own funds of credit institutions.

#### *(3) Contents*

1. The Directive provides a definition of own funds that divides the items which may be included into two categories:
  - core capital (original own funds) consists of the highest-quality items (capital and disclosed reserves);
  - supplementary capital (additional own funds) consists of such items as revaluation reserves, securities of indeterminate duration, hidden reserves, commitments of members of cooperative societies and subordinated loans.
2. The supplementary capital included in the original own funds may not exceed 100% of the core capital. In addition, commitments of members of cooperative societies and subordinated loans may not exceed 50% of the core capital.
3. One item (funds for general banking risks) is provisionally excluded from both categories; it is therefore included in own funds without limit but is not used in determining the limit for the items in the second category.
4. The Directive also lists the items which must be deducted from own funds and specifies how own funds are to be calculated on a consolidated basis.
5. Member States remain free to apply stricter rules.
6. There is a procedure for the Council to amend the Directive (technical and terminological adaptations).

#### *(4) Deadline for implementation of the legislation in the Member States*

1.1.1991

#### *(5) Date of entry into force (if different from the above)*

#### *(6) References*

Official Journal L 124, 5.5.1989

#### *(7) Follow-up work*

On 6 June 1991 the Commission presented a proposal for a Council Directive amending Directive 89/299/EEC (COM(91) 188 final, published in Official Journal C 172, 3.7.1991).

The proposal aims to introduce a temporary derogation in favour of Danish mortgage credit institutions and to set up a regulatory committee that will assist the Commission with future technical adaptations.

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On 3 December 1991, the Council adopted a Directive for the application of Directive 89/299/EEC (Directive 91/633/EEC, published in Official Journal L 339, 11.12.1991).

This Directive includes the 'Fund for general banking risks' (FGBR) definitively in the category of 'original own funds' alongside 'capital' and 'disclosed reserves'.

An examination of the definition of own funds with a view to uniform application of the common definition is planned for not later than 1 January 1998.

*(8) Commission  
implementing  
measures*



## 1. BANKING

### 1.8. Deposit guarantee schemes

<i>(1) Objective</i>	To lay down harmonized minimum requirements for deposit-guarantee schemes and to encourage the introduction of such schemes by all Member States. These schemes provide protection for the depositor if the credit institution becomes bankrupt. To stimulate Member States without deposit-guarantee schemes to set them up. The scope of deposit-guarantee schemes is extended by the Directive on the winding-up of credit institutions (summary 1.2) to give cross-border cover.
<i>(2) Community measures</i>	Commission Recommendation 87/63/EEC of 22 December 1986 concerning the introduction of deposit-guarantee schemes in the Community.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. In the event of the winding-up of a credit institution revealing insufficient assets, conditions applicable to deposit-guarantee schemes already operational in some Member States.</li> <li>2. Member States with plans for introducing schemes should check that the minimum requirements are met and should adopt such schemes by 31 December 1988.</li> <li>3. Member States which do not have deposit-guarantee schemes covering all their credit institutions and which have no plans for such schemes should draw up plans for such a scheme or schemes meeting the minimum requirements and should ensure that it or they are in force by 1 January 1990.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	No deadline as this measure is only a recommendation. Member States must inform the Commission of any changes made to their deposit-guarantee schemes and of all measures or plans adopted in connection with the Recommendation.
<i>(5) Date of entry into force (if different from the above)</i>	Not applicable.
<i>(6) References</i>	Official Journal L 33, 4.2.1987
<i>(7) Follow-up work</i>	A proposal for a Directive will be drawn up by the Commission.
<i>(8) Commission implementing measures</i>	

## 1. BANKING

### 1.9. Monitoring of large exposures

<i>(1) Objective</i>	To introduce common rules for the monitoring of large exposures, i.e. where a large proportion of the loans of a credit institution (e.g. a bank) is made to a single client or group of related clients.
<i>(2) Community measures</i>	Commission Recommendation 87/62/EEC of 22 December 1986 on monitoring and controlling large exposures of credit institutions.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. A large exposure to a client or group of connected clients is defined as 15% or more of a credit institution's own funds.</li><li>2. Credit institutions may not incur an exposure to a single client or group of clients that exceeds 40% of own funds.</li><li>3. Aggregate large exposures may not exceed 80% of own funds.</li><li>4. Large exposures must be reported to the regulatory authorities at least once a year.</li><li>5. Special provisions for EEC branches of third-country banks when they are covered by bilateral agreements.</li><li>6. Exchanges of information between Member States.</li><li>7. Provisions concerning supply of information for controlling large exposures. Member States must ensure that there are no legal barriers to the supply of relevant information by a credit or financial institution to an institution which has a participation in it.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	No deadline as this is only a recommendation. Member States must inform the Commission by the end of 1988 of the main laws, regulations and administrative provisions they have adopted with respect to the Recommendation.
<i>(5) Date of entry into force (if different from the above)</i>	Not applicable.
<i>(6) References</i>	Official Journal L 33, 4.2.1987
<i>(7) Follow-up work</i>	A proposal for a Directive was presented by the Commission on 20 March 1991. It contains stricter standards than those in the Recommendation (summary 1.10)
<i>(8) Commission implementing measures</i>	



## 1. BANKING

### 1.10. Monitoring of large exposures: new standards

(1) <i>Objective</i>	To harmonize essential supervisory rules in order to prevent distortion of competition.
(2) <i>Proposal</i>	Proposal for a Council Directive on monitoring and controlling large exposures of credit institutions.
(3) <i>Contents</i>	<p>1. Definitions of the terms 'credit institution', 'competent authorities', 'parent undertaking', 'subsidiary undertaking', 'financial holding company', 'financial institution', etc.</p> <p>2. The Directive applies to all Community credit institutions which have obtained the authorization referred to in Article 3 of Council Directive 77/780/EEC (Official Journal L 322, 17.12.1977) on the coordination of the laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of credit institutions. However, Member States need not apply the Directive to institutions permanently excluded from the scope of Directive 77/780/EEC, such as central banks, post office giro institutions and certain particular institutions in each Member State, or to credit institutions permanently affiliated to a central body which supervises them and which is established in the same Member State.</p> <p>3. Credit institutions must report all large exposures to the competent authorities. Such notification is compulsory, either at least once a year or at least four times a year. In the former case, however, notification is backed up by communication during the year of any modifications to the annual notification. A large exposure to a client or group of connected clients is defined as one whose value is equal to or exceeds 10% of the lending institution's own funds.</p> <p>4. A credit institution may not incur an exposure to a client or group of connected clients where its value exceeds 25% of own funds. This limit is 20% in the case of exposures incurred to the parent undertaking of the lending institution and/or one or more subsidiaries of that parent undertaking. A credit institution may not incur large exposures which, in the aggregate, exceed 800% of own funds.</p> <p>5. The Directive provides for derogations from the abovementioned limits as follows:</p> <ul style="list-style-type: none"> <li>— Member States may impose more stringent rules than those laid down in the Directive;</li> <li>— Member States may fully or partially exempt from application of the limits laid down by the Directive: (a) credit institutions whose parent undertakings, together with any other subsidiaries of those parent undertakings, are financial holding companies, credit institutions, financial institutions or undertakings providing ancillary banking services, provided that all of those undertakings are included in the consolidated supervision of the credit institution, and (b) certain specific exposures.</li> </ul> <p>6. It will be prohibited to exceed the limits laid down in the Directive as from the date of its publication in the Official Journal. The period laid down for bringing exposures into line with the level authorized may not exceed five years starting from 1 January 1993. The competent</p>

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	authorities must inform the Commission and the Banking Advisory Committee of the schedule for the general process adopted.	
<i>(4) Opinion of the European Parliament</i>	Not yet delivered.	
<i>(5) Current status</i>	The proposal is currently being examined by Parliament.	
<i>(6) References</i>	Commission proposal COM(91) 68 final Economic and Social Committee opinion	Official Journal C 123, 9.5.1991  Official Journal C 339, 31.12.1991





## 1. BANKING

### 1.11. Mortgage credit

<i>(1) Objective</i>	To remove obstacles to the provision of mortgage credit across frontiers and to improve the cooperation between supervisory bodies in the Member States.								
<i>(2) Proposal</i>	Proposal for a Council Directive on the freedom of establishment and the free supply of services in the field of mortgage credit.								
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Definition of mortgage credit institutions. Their activities consist of: receiving funds from the public collected in the form of deposits or the proceeds from mortgage bonds or reimbursable shares; granting loans to the public secured on real property.</li> <li>2. Obligation on each Member State to authorize domestic mortgage institutions to make loans in other Member States in respect of land and buildings situated anywhere in the Community.</li> <li>3. Obligation on each Member State to authorize mortgage institutions based elsewhere in the Community to operate in its territory in accordance with financial techniques authorized in the home country.</li> <li>4. Obligation on Member States to supervise mortgage institutions from other Member States operating on their territory in close cooperation with the supervisory authorities of the home Member State. The home Member State must first confirm that the institution is financially sound. Supervision is then performed by the host Member State.</li> </ol>								
<i>(4) Opinion of the European Parliament</i>	First reading: The Parliament approved the Commission's proposal subject to a number of amendments. The Commission adopted many but not all of these recommendations in its amended proposal.								
<i>(5) Current status</i>	The amended proposal is now before the Council; part of this proposal has been taken over by the proposal for a second banking coordination Directive (summary 1.4). Discussions are proceeding on the problem of the mutual recognition of financial techniques. The cooperation procedure will apply giving the European Parliament the opportunity of a second reading once the Council has notified it of its common position.								
<i>(6) References</i>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Commission proposal COM(84) 730 final</td> <td style="width: 50%;">Official Journal C 42, 14.2.1985</td> </tr> <tr> <td>Amended proposal COM(87) 255 final</td> <td>Official Journal C 161, 19.6.1987</td> </tr> <tr> <td>European Parliament opinion First reading</td> <td>Official Journal C 76, 23.3.1987</td> </tr> <tr> <td>Economic and Social Committee opinion</td> <td>Official Journal C 344, 31.12.1985</td> </tr> </table>	Commission proposal COM(84) 730 final	Official Journal C 42, 14.2.1985	Amended proposal COM(87) 255 final	Official Journal C 161, 19.6.1987	European Parliament opinion First reading	Official Journal C 76, 23.3.1987	Economic and Social Committee opinion	Official Journal C 344, 31.12.1985
Commission proposal COM(84) 730 final	Official Journal C 42, 14.2.1985								
Amended proposal COM(87) 255 final	Official Journal C 161, 19.6.1987								
European Parliament opinion First reading	Official Journal C 76, 23.3.1987								
Economic and Social Committee opinion	Official Journal C 344, 31.12.1985								

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## 1. BANKING

### 1.12. Solvency ratios

*(1) Objective*

To contribute to the harmonization of prudential supervision and to strengthen solvency standards among Community credit institutions, thereby protecting both depositors and investors as well as maintaining banking stability.

*(2) Community measures*

Council Directive 89/647/EEC of 18 December 1989 on a solvency ratio for credit institutions.

*(3) Contents*

1. The ratio proposed by the Commission applies to credit institutions defined in Directive 77/780/EEC. The own funds of each credit institution are expressed as a proportion of the risk-adjusted value of its assets and off-balance-sheet business. This relates primarily to the credit risks associated with counterparty default, and a distinction is made between the degrees of risk associated with particular assets and off-balance-sheet items, and with particular categories of borrower.

Distinctions are also made both between the nature and origin of borrowers, for example:

- central banks, governments, credit institutions and non-bank sectors;
- borrowers in the EC and in the OECD, and foreign, (i.e. non-EC and non-OECD) borrowers.

2. Weightings vary from 0%, for such low-risk items as claims on EC Member State's central governments and central banks, to 100% for such high-risk items as those representing claims on the non-bank sector. The minimum weightings may be increased by Member States if they deem it expedient.

3. Special treatment of off-balance-sheet items, e.g. the credit equivalent value of low to high-risk items is taken into account and multiplied by the weighting attributable to the relevant counterparties.

4. System of mutual recognition of weightings of asset items representing claims on Member States' regional governments and local authorities and of off-balance-sheet items subscribed to on behalf of these bodies.

5. The prescribed minimum ratio is 8%. The Directive does not prevent Member States independently setting a higher ratio. After 1 January 1993, credit institutions will be required to maintain at all times a ratio of at least 8%. If a credit institution's ratio should fall below 8% (or below the higher national requirement), the appropriate supervisory authorities must ensure that the situation is restored.

6. Common definitions and techniques for verification and control are established.

7. Technical adaptations to the Directive are made by a simplified procedure involving a committee composed of representatives from the Member States and chaired by the Commission. Such adaptations include the extension to branches of third-country banks of the same weightings as those applicable to institutions in the Community where the risks are considered to be equivalent.



(4) *Deadline for implementation of the legislation in the Member States*

1.1.1991

(5) *Date of entry into force (if different from the above)*

(6) *References*

Official Journal L 386, 30.12.1989

(7) *Follow-up work*

(8) *Commission implementing measures*

Directive 91/31/EEC — Official Journal L 17, 23.1.1991  
 Commission Directive of 19 December 1990 adopting a Directive adapting the technical definition of 'multilateral development banks', mentioned in Council Directive 89/647/EEC of 18 December 1989 on a solvency ratio for credit institutions.

This Directive includes the technical definition of the European Bank for Reconstruction and Development.

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## 1. BANKING

### 1.13. Money laundering

<i>(1) Objective</i>	To eliminate the dangers associated with the laundering of the proceeds of criminal activities. This measure is designed to safeguard the integrity of the European financial market.
<i>(2) Community measures</i>	Council Directive 91/308/EEC of 10 June 1991 on prevention of use of the financial system for the purpose of money laundering.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Definitions of the terms 'credit institution', 'financial institution', 'money laundering', 'property', 'serious crime' and 'competent authorities'.</li><li>2. The Directive applies to credit institutions, financial institutions including life assurance companies, and professions and undertakings whose activities are particularly likely to be used for money-laundering purposes.</li><li>3. Member States must prohibit money laundering and introduce appropriate penalties.</li><li>4. Credit and financial institutions must require identification of all their customers by means of supporting evidence:<ul style="list-style-type: none"><li>— when entering into business relations, particularly when opening an account or savings accounts, or when offering safe-custody facilities;</li><li>— for any transaction involving a sum amounting to ECU 15 000 or more, whether the transaction is carried out in a single operation or in several operations which seem to be linked.</li></ul></li><li>5. Identification is not required in the case of:<ul style="list-style-type: none"><li>— life assurance policies where it is established that the amount of the periodic premiums to be paid in any given year do not exceed ECU 1 000 or where a single premium is paid amounting to ECU 2 500 or less;</li><li>— insurance policies in respect of pension schemes taken out by virtue of a contract of employment or the insured person's occupation, provided that such policies contain no surrender clause and may not be used as collateral for a loan;</li><li>— insurance policies in respect of the transactions referred to above, where it is established that the payment for the transaction is to be debited from an account opened in the customer's name with a credit institution subject to the identification requirement.</li></ul></li><li>6. Where necessary, credit and financial institutions must take reasonable measures to obtain information as to the real identity of the persons on whose behalf those customers are acting.</li><li>7. However, where credit and financial institutions suspect that money laundering is involved, they must identify such customers even where the amount of the transaction is lower than the threshold laid down. The identification requirement does not apply where the customer is also a credit or financial institution covered by this Directive.</li><li>8. Credit and financial institutions are required to keep evidence of identity for at least five years after the relationship with their customer has ended, as well as supporting evidence and records of all types of transaction.</li></ol>



9. Credit and financial institutions must examine with special attention any transaction which they regard as particularly likely, by its nature, to be related to money laundering. They must refrain from carrying out suspect transactions until they have informed the authorities responsible for combating money laundering. Where to refrain in such a manner is impossible or is likely to frustrate efforts to pursue the beneficiaries of the operation, the institutions concerned must report the matter immediately afterwards.

10. These establishments must cooperate with the authorities responsible for combating money laundering by:

- informing them, on their own initiative, of any fact which might be an indication of money laundering;
- furnishing them, at their request, with all necessary information.

11. The disclosure of such information to the authorities responsible for combating money laundering will not involve the institution, its directors or employees in liability of any kind and may be used only in connection with the combating of money laundering. However, Member States may also, if they have adopted the necessary provisions, use such information in investigating other offences connected with money laundering or for other purposes under national law.

12. A contact committee has been set up to improve coordination of national implementing measures.

*(4) Deadline for implementation of the legislation in the Member States*

1.1.1993

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 166, 28.6.1991

*(7) Follow-up work*

*(8) Commission implementing measures*

## 1. BANKING

### 1.14. Security given by credit institutions or insurance undertakings

<i>(1) Objective</i>	To impose on public authorities in the Community the obligation to accept security given by credit institutions and insurance undertakings established in the Community in order to exemplify observance of the principle of freedom to supply services (the principle of non-discrimination being already dealt with by the Treaty).	
<i>(2) Proposal</i>	Proposal for a Council Regulation on securities given by credit institutions or insurance undertakings.	
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. A public authority requiring secondary or independent security must accept security given by any credit institution or insurance undertaking complying with the Community licensing and supervisory system.</li><li>2. The obligation does not apply where the public authority has reason to doubt the financial soundness of the guarantor or where the offer does not meet the conditions normally required by it. The Regulation will not apply to central banks in the context of their implementation of monetary policy.</li><li>3. The legal system applicable to the security will be that of the Member State in which the debt is secured.</li></ol>	
<i>(4) Opinion of the European Parliament</i>	First reading: Parliament approved the Commission's proposal subject to amendments. The Commission has accepted all the amendments.	
<i>(5) Current status</i>	The Council is currently examining the amended proposal with a view to adopting a common position.	
<i>(6) References</i>	Commission proposal COM(88) 805 final	Official Journal C 51, 28.2.1989
	Amended proposal COM(90) 567 final	Official Journal C 53, 28.2.1991
	European Parliament opinion First reading	Official Journal C 68, 19.3.1990
	Economic and Social Committee opinion	Official Journal C 159, 26.6.1989



## 2. INSURANCE

### Current problems and 1992 objectives

In the insurance sector, as in other areas of financial services, the overall strategy employed with a view to achieving complete freedom of establishment and of services can be summarized as follows:

- harmonization of the basic principles of supervision;
- mutual recognition by national supervisory authorities of the monitoring arrangements in each Member State; and
- home-country control based on coordination between national supervisory authorities, that is to say any insurance company doing business in more than one Member State will be monitored by the authorities in its home country, except in certain clearly defined circumstances for reasons of consumer protection.

The Community already has a body of legislation coordinating national laws on the establishment and operation of insurance companies. These coordination measures cover such matters as the formation of an insurance company, the opening of branches and agencies and subsequent supervision of technical reserves, assets, solvency margins and minimum guarantee funds.

The Council began by adopting a first Directive, Directive 73/239/EEC, on the taking-up and pursuit of the business of direct insurance other than life assurance (Official Journal L 228, 16.8.1973). The Directive's purpose is to coordinate provisions on the formation of non-life insurance undertakings and certain provisions on the financial guarantees required of such undertakings (solvency margin, minimum guarantee fund). The Directive classifies risks by class of business, distinguishing between mass risks and large risks. The transaction of each class of business is subject to official authorization.

This was followed by a second Council Directive, Directive 88/357/EEC, which is designed to facilitate the effective exercise of freedom to provide non-life insurance services by laying down rules on the cross-border writing of business (summary 2.10). It supplements the first Directive in that it:

- clarifies the powers and means of supervision vested in supervisory authorities;
- lays down specific rules on the taking-up, pursuit and supervision of business by way of cross-border services;
- reinforces the first Directive's provisions on the transfer of portfolios, and adds provisions specifically covering the transfer to another undertaking of the portfolio of contracts concluded on a services basis.

As far as direct life assurance is concerned, the Council has likewise adopted two Directives, the first of which, Directive 79/267/EEC (Official Journal L 63, 13.3.1979), is modelled on the first non-life Directive. Directive 79/267/EEC coordinates provisions on the formation of life assurance undertakings (official authorization requirement) and on the practice of life assurance by way of establishment, and certain provisions on the financial guarantees required of life assurance undertakings (solvency margin, minimum guarantee fund). It lays down the principle of specialization by life assurance undertakings, such undertakings being prohibited from carrying on life and non-life business simultaneously, the aim being to prevent financial obligations in respect of one of the activities from being borne by the other activity, thereby safeguarding the respective interests of life policy-holders and non-life policy-holders. Composite undertakings existing in the EEC at the time of notification of the Directive must adopt separate management for each activity. A classification by class of business is also included.

The second Directive in this field, Council Directive 90/619/EEC on freedom to provide services in life assurance (summary 2.8), adopts a slightly different approach,

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distinguishing between contracts where the prospective policy-holder seeks to take out life assurance in another Member State on his own initiative, and all other life assurance contracts.

It is felt that where a person enters into an assurance contract in another Member State on his own initiative, consumer protection ceases to be a prime consideration, and hence home-country control should apply in such cases.

In the sphere of motor vehicle liability insurance, a major step has been taken with the adoption of the third in a series of Directives, Council Directive 90/232/EEC, which deals with a number of outstanding problems relating to the coverage of passengers throughout the Community (summary 2.7).

The proposal for a Council Directive presented by the Commission in 1988 and designed to secure the inclusion of motor vehicle liability insurance in the scope of Council Directive 88/357/EEC (summary 2.10) was adopted on 8 November 1990 (summary 2.6). When it enters into force on 20 May 1992, a national of one Member State will be able to take out motor insurance in any other Member State, a process which is at present problematic owing to differences in the coverage of compulsory vehicle liability insurance in the Member States.

Nevertheless, there are still a number of obstacles in the way of an insurance company established in one Member State covering, in complete freedom, risks situated in other Member States.

Work therefore needs to be completed in a number of areas.

On 19 December 1991 the Council adopted a Directive implementing the setting-up of an Insurance Committee (summary 2.12). This is to assist the Commission in its work on insurance (both life and non-life).

A proposal for a third Council Directive on non-life insurance was also presented by the Commission in July 1990 (summary 2.11). The proposal's aim is twofold: firstly, to enable insurance companies authorized in one of the Member States to establish branches and provide services on the basis of a single licence, subject to supervision by, and in accordance with the rules of, the authorities in the Member State which issued the licence, and secondly, to afford persons seeking insurance access to the widest possible range of insurance products on offer in the Community so that they can choose that which both offers the best value for money and is best suited to their needs.

On 20 February 1991 the Commission presented a proposal for a third Council Directive on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (summary 2.9).

On 21 December 1989 the Commission presented a proposal for a Council Regulation on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector (COM(89) 641 final, Official Journal C 16, 23.1.1990).

The purpose of the Regulation is to authorize certain agreements and concerted practices between insurance companies, e.g. those involving the joint fixing of premium rates on the basis of pooled statistics or claims experience.





## 2. INSURANCE

### 2.1. Insurance companies: annual accounts

<i>(1) Objective</i>	To adapt for insurance company accounts the fourth Directive of 25 July 1978 on the annual accounts of companies and the seventh Directive of 13 June 1983 on consolidated accounts. This will make the accounts of insurance companies in different Member States comparable.
<i>(2) Community measures</i>	Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. The Directive applies to all insurance companies or firms except small mutual associations.</li> <li>2. A precise layout for the balance sheet is prescribed. There are special provisions relating to certain balance-sheet items.</li> <li>3. A precise layout for the profit-and-loss account is prescribed. There are special provisions relating to certain items in the profit-and-loss account.</li> <li>4. Valuation rules. Pending further coordination, Member States may either impose a specific set of rules or leave companies a choice between alternative rules stated in the Directive.</li> <li>5. Required contents of the notes on the accounts, e.g. gross premiums broken down into categories of activity (accident and health, motor, fire, etc.) and into geographical markets.</li> <li>6. A number of provisions are included on the presentation of consolidated accounts.</li> <li>7. Publication of accounts and annual reports. It must be possible to obtain a copy of these documents upon request. Its price shall not exceed its administrative cost.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1994
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 374, 31.12.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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## 2. INSURANCE

### 2.2. Insurance companies: the winding-up of insurance companies

- (1) *Objective* To harmonize Member State provisions concerning the compulsory winding-up of insurance companies.
- (2) *Proposal* Proposal for a Council Directive on the coordination of laws, regulations and administrative provisions relating to the compulsory winding-up of direct insurance undertakings.
- (3) *Contents*
1. Concerns insurance companies which fall within the scope of the first non-life coordination Council Directive 73/239/EEC (Official Journal L 228, 16.8.1973), as amended by the second Council Directive 88/357 (summary 2.10), or of the first 'life coordination' Council Directive 79/267/EEC (Official Journal L 63, 13.3.1979).
  2. Obligation on direct insurance companies to keep registers of assets representing technical reserves corresponding to direct insurance transactions and to reinsurance acceptances.
  3. Two types of compulsory winding-up are envisaged, depending on the company's situation with regard to assets: normal compulsory winding-up and special compulsory winding-up. A company will be wound up according to the principles of unity of procedure and universality of effects.
  4. Normal compulsory winding-up procedure: this must be carried out by the company except where this task is not performed satisfactorily, in which case the supervisory authority in the home Member State may appoint an administrator or propose such an appointment. The grounds for such a decision must be clearly and precisely stated. In order to protect insurance creditors, notice of withdrawal of authorization will be published in the *Official Journal of the European Communities* and in two nationally distributed newspapers in the Member States in which there are creditors. Similarly, Member States must take the necessary steps to ensure that the winding-up is carried out as rapidly as possible. The normal compulsory winding-up procedure is applicable to all Member States.
  5. Special compulsory winding-up in the event of insolvency: this will be carried out by appointed liquidators under supervision of the competent authorities of the Member State in which the company's head office is situated. As with normal compulsory winding-up, Member States must take the necessary steps to ensure that the special compulsory winding-up is effective and is publicized. The liquidators may not transfer a portfolio without the prior authorization of the supervisory authority of the courts.
  6. Rules governing the treatment of insurance creditors when winding-up takes place and the settlement of claims. This Directive is applicable to branches of direct insurance companies from third countries doing business in the Community.
- (4) *Opinion of the European Parliament* First reading: The proposal for a Directive was approved by Parliament, subject to three amendments seeking to improve consumer information that were acceptable to the Commission.
- (5) *Current status* The amended proposal is currently before the Council in view of a common position.

*(6) References*

Commission proposal COM(86) 768 final	Official Journal C 71, 19.3.1987
Amended proposal COM(89) 394 final	Official Journal C 253, 6.10.1989
European Parliament opinion First reading	Official Journal C 96, 17.4.1989
Economic and Social Committee opinion	Official Journal C 319, 30.11.1987

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## 2. INSURANCE

### 2.3. Insurance contracts

<i>(1) Objective</i>	To promote the cross-frontier provision of non-life insurance by coordinating laws concerning information on policies, cover, premiums and the obligations of policy-holders and insurers.						
<i>(2) Proposal</i>	Proposal for a Council Directive on the coordination of laws, regulations and administrative provisions relating to insurance contracts.						
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Required contents of the insurance contract document, e.g. name and address of the contracting parties, subject-matter of the insurance, the amount insured. The contracts shall be drafted in the language of the Member State whose law is applicable.</li><li>2. Existence of cover will depend on the payment of the premium, the duration of the contract, and the position of insured persons who are not policy-holders.</li><li>3. The insurer may request notification of any changes in circumstances in the contract. These must be provided by the policy-holder as they occur during the cover period.</li><li>4. Time-limits and obligations relating to amendments to the insurance contract, e.g. the policy-holder is allowed 15 days to decide whether he will accept a proposed amendment.</li><li>5. In the event of an increase in risk the contract shall be amended; in the event of decrease in risk there shall be a reduction in premium.</li><li>6. Obligations of the policy-holder and insurer in the event of a claim, e.g. the policy-holder shall take all reasonable steps to minimize the loss.</li><li>7. Circumstances and conditions in which the contract may be renounced or terminated, e.g. when one of the parties has failed to fulfil an obligation.</li></ol>						
<i>(4) Opinion of the European Parliament</i>	First reading: Parliament approved the Commission's proposal subject to a number of recommendations for amendment. The Commission adopted certain of these proposals but not others.						
<i>(5) Current status</i>	The amended proposal is now before the Council. The cooperation procedure will apply giving Parliament the opportunity of a second reading once it has received the Council's common position.						
<i>(6) References</i>	<table><tr><td>Commission proposal COM(79) 355 final</td><td>Official Journal C 190, 28.7.1979</td></tr><tr><td>Amended proposal COM(80) 854 final</td><td>Official Journal C 355, 31.12.1980</td></tr><tr><td>European Parliament opinion First reading Economic and Social Committee opinion</td><td>Official Journal C 265, 13.10.1980  Official Journal C 146, 16.6.1980</td></tr></table>	Commission proposal COM(79) 355 final	Official Journal C 190, 28.7.1979	Amended proposal COM(80) 854 final	Official Journal C 355, 31.12.1980	European Parliament opinion First reading Economic and Social Committee opinion	Official Journal C 265, 13.10.1980  Official Journal C 146, 16.6.1980
Commission proposal COM(79) 355 final	Official Journal C 190, 28.7.1979						
Amended proposal COM(80) 854 final	Official Journal C 355, 31.12.1980						
European Parliament opinion First reading Economic and Social Committee opinion	Official Journal C 265, 13.10.1980  Official Journal C 146, 16.6.1980						



## 2. INSURANCE

### 2.4. Legal-expenses insurance

<i>(1) Objective</i>	To coordinate national requirements for insurance against legal costs. When the Directive was adopted, Germany only permitted specialist legal insurers to provide cover for legal costs. This Directive requires Germany to abolish that requirement.
<i>(2) Community measures</i>	Council Directive 87/344/EEC of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to legal-expenses insurance.
<i>(3) Contents</i>	<p>1. Legal-expenses insurance covers the costs of legal proceedings and other services relating to settlement of the claim. This Directive does not apply to risks in connection with sea-going vessels.</p> <p>2. Obligation on insurance undertakings to provide for a separate contract or a separate section of a single policy for legal-expenses insurance.</p> <p>3. Obligation on insurance undertakings either:</p> <ul style="list-style-type: none"> <li>— to have separate management for legal-expenses insurance;</li> <li>— to entrust the management of claims in respect of legal-expenses insurance to an undertaking having separate legal identity; or</li> <li>— to afford the insured person the right to entrust the defence of his interests, from the moment that he has the right to claim from his insurer under the policy, to a lawyer of his choice. In all cases the insured must have the right to choose his lawyer where recourse is had to a lawyer.</li> </ul> <p>4. In the event of a conflict of interest or a disagreement over settlement of the dispute, the insurer must inform the insured person of his right to choose his lawyer freely and of the possibility of using the arbitration procedure.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1990
<i>(5) Date of entry into force (if different from the above)</i>	1.7.1990
<i>(6) References</i>	Official Journal L 185, 4.7.1987
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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## 2. INSURANCE

### 2.5. Credit and suretyship insurance

<i>(1) Objective</i>	To remove the German requirement that these two classes of insurance have to be carried out by specialist firms and to provide additional financial guarantees for credit insurance.
<i>(2) Community measures</i>	Council Directive 87/343/EEC of 22 June 1987 amending, as regards credit insurance and suretyship insurance, first Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Removal of German specialization requirements.</li><li>2. Obligation on Member States to require of underwriters additional financial guarantees for credit insurance. This will be achieved by setting up an equalization reserve which will offset any technical deficit or above-average claims ratio arising for a particular financial year.</li><li>3. Obligation on insurance companies to increase their reserves within a set period of time as a result of these amendments.</li><li>4. Annex containing the four permitted methods of calculating the equalization reserve for credit insurance.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1990
<i>(5) Date of entry into force (if different from the above)</i>	1.7.1990
<i>(6) References</i>	Official Journal L 185, 4.7.1987
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	



## 2. INSURANCE

### 2.6. Motor vehicle liability insurance: freedom to provide services

*(1) Objective*

The primary aim of the Directive is to bring compulsory third-party motor vehicle insurance within the scope of second non-life insurance Council Directive 88/357/EEC (see summary 2.10), thereby enabling the exercise of freedom to provide services in this class of insurance.

*(2) Community measures*

Council Directive 90/618/EEC of 8 November 1990, amending, particularly as regards motor vehicle liability insurance, first Council Directive 73/239/EEC and second Council Directive 88/357/EEC on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance.

*(3) Contents*

1. The Directive applies to the provision of third-party motor vehicle insurance by an insurer established in one Member State in respect of vehicles registered in other Member States.
2. Two classes of risk, namely class 10 (motor vehicle liability) and class 3 (damage to or loss of land motor vehicles or other land vehicles), are now to be included in the second Directive system which distinguishes between large risks and mass risks with corresponding degrees of supervision by home and host countries.
3. Classes 10 and 12 (Italian motorboat risks) are now to be included in the freedom-of-services provisions of the second Directive, and thus may now be covered by way of provision of services by insurers in other Member States.
4. A new group of classes entitled 'motor insurance' is to be introduced for the keeping of gross premium statistics in respect of the business written by each insurance company by way of provision of services in a given country.
5. The Member State of provision of services must require the services undertaking to become a member of, and participate in the financing of, its national motor insurers' bureau and its national guarantee fund. The membership contributions should be based only on the premium income from this insurance class in the State in question or the number of vehicles insured, i.e. an annual membership fee or minimum contribution may not be required.
6. Insurers must appoint a representative in the Member State of provision of services, responsible mainly for collecting information and representing the insurer in relation to persons pursuing claims or seeking redress before the courts or authorities of that State. The Member State of provision of services may require the representative to help it verify the existence and validity of insurance cover.

*(4) Deadline for implementation of the legislation in the Member States*

20.5.1992

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 330, 29.11.1990

*(7) Follow-up work*

*(8) Commission  
implementing  
measures*





## 2. INSURANCE

### 2.7. Motor vehicle liability insurance: coverage of passengers

<i>(1) Objective</i>	The Directive seeks to resolve certain problems not dealt with in the existing third-party motor insurance Directives, Council Directives 72/166/EEC (Official Journal L 103, 2.5.1972) and 84/5/EEC (Official Journal L 8, 11.1.1984), and in particular to fill the gaps that still exist in the compulsory insurance coverage of passengers across the Community.
<i>(2) Community measures</i>	Third Council Directive 90/232/EEC of 14 May 1990 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. All passengers of vehicles, other than a driver or passenger who has knowingly and willingly entered a stolen vehicle, should be covered by the compulsory third-party liability insurance.</li> <li>2. Member States must take the necessary steps to ensure that all compulsory insurance policies covering civil liability in respect of the use of vehicles cover the entire territory of the Community. The Directive seeks to make certain that a motorist using his vehicle outside his home country will never have less than his home country's insurance cover.</li> <li>3. The second motor insurance Directive 84/5/EEC requires each Member State to set up or authorize a body (guarantee fund) to compensate the victims of accidents caused by uninsured or unidentified vehicles. The new Directive adds to this a clause prohibiting Member States from allowing the guarantee fund to make the payment of compensation conditional on the victim establishing that the person responsible is unable or unwilling to pay.</li> <li>4. Where there is a dispute between the guarantee fund and an insurer as to which should compensate the victim of an accident, Member States must ensure that one of these parties is designated as responsible for compensating the victim without delay in the first instance.</li> <li>5. Member States must take the measures necessary to ensure that persons involved in a road accident are able to find out as soon as possible the name of the insurance companies covering civil liability in respect of the use of each of the vehicles concerned.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	31.12.1992
<i>(5) Date of entry into force (if different from the above)</i>	

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*(6) References*

Official Journal L 129, 19.5.1990

*(7) Follow-up work*

*(8) Commission  
implementing  
measures*



## 2. INSURANCE

### 2.8. Life assurance: freedom to provide services

#### (1) Objective

To lay down rules for the exercise of cross-frontier life assurance, balancing the needs of freedom to provide services and consumer protection and thereby developing the internal market in life assurance. To ensure reciprocity between the treatment of undertakings governed by laws of third countries who wish to operate in the Community from a subsidiary, on the one hand, and the treatment enjoyed by Community undertakings in third countries on the other.

#### (2) Community measures

Second Council Directive 90/619/EEC of 8 November 1990 on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC.

#### (3) Contents

1. Definitions of the concepts of 'undertaking', 'establishment' and 'Member State of the commitment'. The definition of undertaking is worded so as to ensure that non-Community insurers who are established in the Community only through an agency or a branch do not benefit from the provisions on freedom to provide services. 'Member State of the commitment' means the Member State in which the policy-holder has his habitual residence or, if the policy-holder is a legal person, in which his establishment is situated.

2. Some clauses are of general application, whereas others apply only to the provision of cross-border services. The Directive applies to both individual and group life assurance, but not to the management of group pension funds.

3. A distinction is made between commitments entered into on the initiative of the policy-holder and other commitments. The policy-holder will be deemed to have undertaken the initiative where:

- the initial contact between the policy-holder and the assurer is made by the policy-holder; or
- the contract is concluded in the Member State where the insurer is established without any contact being made between the policy-holder and the insurer in the Member State where the policy-holder has his habitual residence; or
- the contract is concluded with the help of a broker. Member States may postpone application of this provision for three years.

The second category, that of other contracts, includes all individual contracts not resulting from such initiatives. There is considered to be a greater need for consumer protection in respect of this category.

4. Commitments entered into on the initiative of the policy-holder benefit from home-country control (all control is in the State of establishment of the insurer). There are specific rules for these commitments in areas such as advertising, the use of brokers, etc., that are intended to provide a measure of protection for the policy-holder. However, before entering into a commitment on his own initiative in another Member State, the policy-holder must sign a statement that he is aware that the commitment is subject to the rules

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of supervision of the Member State of the insurer who is to cover the commitment.

5. Other contracts are subject to the supervisory rules of the Member State of commitment, e.g. as regards policy conditions and technical reserves, although this provision is optional.

6. A policy-holder who concludes an individual life assurance contract under his own initiative will have a period of between 15 and 30 days within which to cancel the contract.

7. Where a contract is to be concluded on the initiative of the policy-holder, an insurer established in another Member State may accept the contract by way of freedom to provide services, even if he has an establishment in the Member State of commitment. As regards other contracts covered by this Directive, this provision may apply but, where an assurer is authorized to provide services in respect of life business in another Member State and has an establishment in that other Member State, he may be required by that Member State to transact such business only from his establishment there.

8. The general provisions include rules on the choice of contract law (governing relations between the insurer and the policy-holder). In general, the law applicable will be the law of the Member State of the commitment, although there are provisions designed to guarantee the freedom to choose a different contract law.

9. A number of rules strengthen and amplify those in the first life assurance Directive; these concern in particular:

- the powers of the supervisory authorities;
- the transfer of portfolios;
- a system of penalties where the insurer fails to comply with the laws of the Member State of commitment.

10. Introduction of a procedure governing reciprocity between the Community and third countries in respect of life assurance. The authorization of a subsidiary of a non-Community company or the acquisition by a non-Community company of a share in the capital of a Community insurer may be subject to a special procedure the purpose of which is to ensure that Community insurers gain comparable access to the third country in question and receive the national treatment normally reserved for companies of that country.

11. Composite undertakings, which are forbidden under the first life assurance Directive from transacting life business by way of establishment in another Member State, may do so by way of freedom to provide services, albeit for a limited period in some cases. The rules governing such undertakings are to be reviewed at a later date.

12. The rule that insurers established in Italy must cede part of their underwriting business to the Italian National Assurance Institute must be abolished within four years.

13. Every contract written under freedom to provide services is subject only to the indirect taxes on premiums applicable in the Member State of commitment. The tax arrangements of the country of the policy-holder are therefore applied for the benefit of that country.

14. Provisions for cooperation between the supervisory authorities of the Member States, and between those authorities and the Commission.



(4) *Deadline for implementation of the legislation in the Member States* 20.11.1992

(5) *Date of entry into force (if different from the above)* — 31.12.1995: Spain  
— 31.12.1998: Portugal

(6) *References*

Official Journal L 330, 29.11.1990

(7) *Follow-up work*

(8) *Commission implementing measures*

On 22 February 1991 the Commission published a report on the operations referred to in Council Directive 79/267/EEC (Official Journal L 63, 13.3.1979), as effected by composite undertakings and by specialized undertakings (COM(91) 55 final).

The report reviews the operation of specialized undertakings in the Community since 1979 and the application by Member States of the arrangements governing composites, and examines whether the restrictions introduced by Directive 79/267/EEC are still justified.

Moreover, the Commission is to send to the European Parliament and the Council regular reports, the first on 20 November 1995, on the development of the market in life assurance and operations transacted under conditions of freedom to provide services.

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## 2. INSURANCE

### 2.9. Life assurance: third Directive

#### (1) Objective

The purpose of the Directive is twofold:

- to enable life assurance undertakings authorized in their home Member State to establish branches and provide services in other Member States on the basis of that authorization alone, under the supervision and in accordance with the rules of their home-country authorities;
- to enable policy-holders to have access to the widest possible range of life assurance products available in the Community, so that they can choose the product best suited to their needs at the keenest price.

#### (2) Proposal

Proposal for a third Council Directive on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC.

#### (3) Contents

1. The Directive gives definitions of the terms 'assurance undertaking', 'branch', 'commitment', 'home Member State', 'Member State of the branch', 'control', 'qualifying holding', 'parent undertaking' and 'subsidiary'.
2. The scope of the Directive is the same as that of the first Council Directive 79/267/EEC (Official Journal L 63, 13.3.1979). Article 1(2) of the first Directive has been amended to allow any assurer duly authorized in his home Member State to carry on business in all the Member States. The operations and activities referred to in Article 2, and the organizations and mutual associations referred to in Articles 3 and 4, of the first Directive have been excluded.
3. A system is introduced whereby a single official authorization is granted by the competent authorities in the Member State in which the assurance undertaking has its head office. Once given, this authorization is valid throughout the Community. It is granted either by class of business on the basis of the classification appended to the first Directive, or for a group of classes. Any undertaking wishing to extend its activities to other classes has to obtain a fresh authorization.
4. The grant of authorization is subject to certain conditions. The assurance undertaking must adopt one of the legal forms mentioned in Directive 79/267/EEC, to which is added that of European company. It must limit its business activities to the business of insurance, submit a scheme of operations and possess the minimum guarantee fund. It must be run by technically qualified persons of good repute. Member States may require, for supervision purposes, only non-systematic notification of general and special policy conditions, scales of premiums and forms and other printed matter. Fulfilment of this requirement may not constitute a pre-condition for the pursuit by an undertaking of its activities. On the other hand, notification of the identities of shareholders or members who have qualifying holdings in the assurance undertaking and of the amounts of those holdings is compulsory.
5. The home Member State has power of supervision over the assurance undertaking's business. This includes verification of the undertaking's state of solvency and of the establishment of sufficient technical provisions for the undertaking's entire business, and of the



assets covering them, in accordance with the rules applicable in the home Member State as coordinated by this Directive.

6. In the event of a breach of the rules on supervision, the home Member State is required to impose suitable penalties on the assurance undertakings responsible or on those running them.

7. From now on composite undertakings may carry on business both by way of branching and by way of provision of services, subject to their managing their life and non-life portfolios separately.

8. The Directive brings about such harmonization of national laws as is necessary to permit mutual recognition and home-country control in relation to the establishment and calculation of technical provisions, and lays down rules on the choice, valuation, diversification and location of the assets covering those provisions. It coordinates the actuarial principles that have to be respected by every assurance undertaking as regards the definition and calculation of technical provisions. The requirements that assets be located in the Member State in which business is done and that undertakings invest a minimum proportion in particular categories of asset are abolished to take account of the measures adopted in the field of liberalization of capital movements.

9. The life assurance buyer will have access to any life assurance product lawfully marketed in the Community provided it does not contravene the legal provisions protecting the general good in force in the Member State of the commitment. He can pull out of a contract within a 'cooling-off' period of 14 to 30 days from the time he is informed that the contract has been concluded. He must be provided with clear and accurate information about the essential characteristics of the products offered to him, both during the pre-contractual phase to guide him in his choice, and during the term of the contract in the event of any change or amendment thereto.

10. Any assurance undertaking wishing to establish a branch in another Member State must notify its home-country competent authority. The latter may refuse to pass on the proposal to the authorities in the prospective host country if it has reason to doubt the proposal's viability or the adequacy of the assurance undertaking's structures. In such an eventuality, it must justify its refusal within three months of receiving the notification.

11. Any assurance undertaking wishing to pursue business by way of the cross-border provision of services must indicate to its home-country authorities the Member State or States in which it intends to provide services and the nature of the business it proposes to transact there.

12. Duly authorized undertakings have free access to all means of communication to advertise their services and products.

13. Every undertaking will have to furnish its home-country supervisory authority with information on turnover in each Member State.

14. As far as indirect taxes and parafiscal charges are concerned, assurance undertakings are subject to the territoriality principle, that is to say the tax rules of the Member State of the commitment apply, for the benefit of that State.

15. There are two annexes, one concerning currency matching rules and the other information for policy-holders.

*(4) Opinion of the  
European Parliament*

Not yet given.

*(5) Current status*

The proposal is currently before Parliament for its opinion.

*(6) References*

Commission proposal  
COM(91) 57 final  
Economic and Social  
Committee opinion

Official Journal C 99, 16.4.1991

Not yet published in the Official  
Journal





## 2. INSURANCE

### 2.10. Direct insurance other than life assurance: freedom to provide services

#### (1) Objective

To lay down rules for the exercise of cross-frontier non-life insurance which balance the needs of freedom of services and consumer protection in various circumstances, and thereby to break down barriers between national markets.

#### (2) Community measures

Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC.

#### (3) Contents

1. Definitions including 'establishment' and 'Member State where risk is situated'. For the purposes of the Directive, services business is the covering by an insurer established in one Member State of a risk situated in another (Member State of provision of services), regardless of where the policy-holder is resident or established.

2. Some articles are of general application; others apply only to the provision of cross-frontier services. Some classes of business (e.g. accidents at work, nuclear liability, compulsory insurance of building works) are excluded from the freedom-of-services provisions and will be reviewed by the Council before 1 July 1998.

3. A distinction is made between large risk and mass risk business. Large risks are:

- transport risks (including goods in transit), regardless of size;
- credit and suretyship risks, if linked to a trade;
- fire and other property damage, general liability, pecuniary loss, where the policy-holder, or group to which he belongs, meets two out of three conditions (relating to balance-sheet size, turnover and number of employees the figures are found in accounts prepared in accordance with other Directives).

Mass risks are all other cases where there is considered to be greater need for consumer protection.

4. Large risks are subject to lighter controls than mass risks in both establishment and services situations (in particular, no prior approval of policy conditions, premium rates or standard forms and letters which the insurer intends to use in relations with policy-holders).

5. Large risks benefit from home-country control in services for businesses (all financial control is in the State of establishment). The insurer must, however, obtain a certificate of solvency from the State where his head office is located and send it to the host State with a notification of the intended activity.

6. Mass risks may be subject to heavy control in the State of provision of services, including:

- authorization requirement (detailed information to be supplied which the host State has six months to consider);
- technical reserves (needed to ensure that funds are available to meet claims) must be certified by the State where the head office is located;
- that host State's rules apply to policy conditions (thus determining the nature of the products that may be sold).

	<p>7. Articles of general application include rules on choice of contract law (governing insurer/policy-holder relations). These rules are intended to protect the policy-holder: the amount of choice depends on the circumstances of the policy-holder and never on those of the insurer.</p> <p>8. Special rules apply to compulsory insurances: policies must comply with the rules of the State which makes such insurances compulsory.</p> <p>9. A number of rules strengthen and amplify those in the first non-life insurance coordination Directive of 1973. These concern in particular:</p> <ul style="list-style-type: none"> <li>— the powers of the supervisory authorities;</li> <li>— the determination of currencies in which assets have to be held;</li> <li>— the transfer of portfolios.</li> </ul> <p>10. Insurance policies taken out under the freedom-of-services provisions are exclusively liable to the indirect taxes and parafiscal charges levied on insurance premiums in the Member State where the risk is situated.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	30.12.1989
<i>(5) Date of entry into force (if different from the above)</i>	30.6.1990. The large risk provisions do not fully come into force until 1 January 1993, and longer transitional periods are allowed for Spain (1997), Portugal, Greece and Ireland (1999).
<i>(6) References</i>	Official Journal L 172, 4.7.1988
<i>(7) Follow-up work</i>	See summary 2.11.
<i>(8) Commission implementing measures</i>	Council Directive 90/618/EEC of 8 November 1990 (Official Journal L 330, 29.11.1990), which brings compulsory motor-vehicle liability insurance within the scope of the second Directive (summary 2.6).

## 2. INSURANCE

### 2.11. Direct insurance other than life assurance: third Directive

#### (1) Objective

This is twofold:

- first, to enable insurance undertakings authorized in one of the Member States to establish branches and provide services on the basis of a single licence, subject to supervision by, and in accordance with the rules of, the authorities of the Member State which issued the licence;
- and secondly, to afford insurance buyers access to the widest possible Community insurance market so that they can choose the product most suited to their requirements in terms of cover and price proposed.

#### (2) Proposal

Proposal for a third Council Directive on the coordination of laws and regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC.

#### (3) Contents

1. Definitions of the terms 'first Directive' (Council Directive 73/239/EEC, published in Official Journal L 228, 16.8.1973), 'second Directive' (Council Directive 88/357/EEC — summary 2.10), 'insurance undertaking', 'branch', etc.
2. The taking-up of the business of direct insurance will be subject to prior official authorization. Such authorization will be valid throughout the Community and will enable insurance undertakings to carry on business there, either by way of right of establishment or by way of freedom to provide services.  
Conditions governing the grant of authorization.
3. Harmonization of the conditions governing the pursuit of business. This covers the following areas:
  - supervisions of insurance undertakings: financial supervision, verification of the state of solvency, establishment of technical provisions, transfers of portfolios, supervision of major shareholders or members;
  - technical provisions and investments: home-country control of technical provisions and investments, investment of technical provisions, admissible investments, diversification of investments, valuation, currency matching, inclusion of subordinated loan capital in the list of assets recognized for the purpose of covering the solvency margin;
  - provisions on the law applicable to insurance contracts and policy conditions: choice of law applicable to the contract, abolition of prior approval of premium scales and policies, compulsory insurance.  
Objective: to protect customers.
4. Provisions on freedom of establishment and freedom to provide services:
  - freedom of establishment: the Directive provides that an insurance undertaking which wishes to establish a branch in another Member State must notify the authorities of its home Member State, supplying them with the necessary background information;

- freedom to provide services: the Directive provides that any insurer who wishes to carry on non-life business by way of provision of cross-border services must indicate to his home- country authorities the Member State or States in which he intends to provide services and the classes of business he proposes to transact there;
  - technical adjustments and abolition of the prohibition on the simultaneous pursuit of business by way of establishment and by way of freedom to provide services so as to introduce a uniform system of supervision applicable to all direct non-life insurance business.
5. The Directive also contains a set of measures concerning:
- the approval of contract documents used by insurers;
  - a system of sanctions designed to ensure compliance with the rules governing the pursuit of insurance business;
  - full access to all the normal means of mass advertising;
  - equal treatment of all creditors in the event of an insurance undertaking being wound up;
  - arrangements for the provision of information to the policy-holder in respect of contracts entered into, including the address of the branch of the undertaking granting the cover;
  - the furnishing of statistical information to the supervisory authority in the home Member State;
  - participation, in respect of business done by way of establishment, in claims settlement schemes (guarantee funds);
  - the principle of the territoriality of taxation, i.e. application of the system of taxation of the Member State in which the risk is situated, for the benefit of that State.

*(4) Opinion of the European Parliament*

Not yet delivered.

*(5) Current status*

On 19 December 1991 the Council released a political agreement concerning a common position. The formal adoption of this common position will take place during the next session.

*(6) References*

Commission proposal  
COM(90) 348 final  
Economic and Social  
Committee opinion

Official Journal C 244, 28.9.1990

Official Journal C 102, 18.4.1991



## 2. INSURANCE

### 2.12. Insurance Committee

<i>(1) Objective</i>	To set up an Insurance Committee to assist the Commission in its work in the insurance field with a view to establishing closer cooperation between the national supervisory authorities and the Commission.
<i>(2) Community measures</i>	Council Directive 91/675/EEC of 19 December 1991 setting up an Insurance Committee.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Setting-up of an Insurance Committee made up of representatives of the Member States and chaired by the Commission's representative.</li> <li>2. Description of the procedure to be followed where the Council, in the instruments which it adopts in the insurance field, confers on the Commission powers for the implementation of the rules which it lays down. The Commission's representative is to submit to the Committee a draft of the measures to be taken. The Committee is to deliver its opinion by a qualified majority as provided for in Article 148(2) of the Treaty. The Commission is to adopt the measures envisaged if they are in accordance with the Committee's opinion. If the measures envisaged are not in accordance with the Committee's opinion, or if no opinion is delivered, the Commission is to submit its proposal to the Council, which is to act by a qualified majority. If the Council has not acted within three months, the proposed measures are to be adopted by the Commission (unless the Council has voted against the measures by a simple majority).</li> <li>3. The Committee may examine any question relating to the application of directives and to the preparation of new proposals on life and non-life insurance. It is not to consider specific problems raised by insurance undertakings.</li> <li>4. The Committee is to commence its work on 1 January 1992.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 374, 31.12.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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### 3. TRANSACTIONS IN SECURITIES

#### Current problems and 1992 objectives

If the Community is to become a single market, as opposed to a grouping of 12 national markets, a European securities market system has to be created to meet the needs of both investors and companies in search of capital.

Financial intermediaries authorized in one Member State shall be able to operate throughout the Community on the basis of a single licence issued in their home Member State.

The general approach to achieving the single market in securities is common to that adopted in all areas of financial services. It is a three-pronged approach comprising:

- harmonization of essential standards;
- mutual recognition by the national supervisory authorities of the controls applied in the country in which the head office is situated;
- coordination of the work of supervisory authorities by the home country, which will mean that any organization operating in several Member States will be supervised by the authorities in the country in which it has its head office.

The Community has already made considerable progress in this direction: coordination of the conditions for admission of securities to official stock-exchange listing and of the contents, scrutiny and method of publication of the listing particulars; publication of information by listed companies. This has taken place in parallel with work on liberalizing capital movements.

In this field, the Community has been active in the following areas:

- mutual recognition of stock-exchange listing particulars and mutual recognition of public-offer prospectuses as stock-exchange listing particulars (summaries 3.1 and 3.2);
- prospectus for public offerings of securities (summary 3.3);
- information on major holdings (summary 3.4);
- regulation of insider trading (summary 3.5);
- investment services (summaries 3.6 to 3.8);
- capital adequacy of investment firms and credit institutions (summary 3.9).

In addition, Sir Leon Brittan, Vice-President of the Commission, and Mr Richard C. Breedan, President of the United States Securities and Exchange Commission, signed a joint declaration in Washington on 23 September 1991 with the aim of improving cooperation between the member countries and the United States in the securities field.



### 3. TRANSACTIONS IN SECURITIES

#### 3.1. Mutual recognition of listing particulars to be published for the admission of securities to official stock-exchange listing

<i>(1) Objective</i>	To specify which authorities are competent to check and approve listing particulars in cases where an application for admission to official listing is made in more than one Member State. To establish the principle of reciprocal agreements with non-EC countries.
<i>(2) Community measures</i>	Council Directive 87/345/EEC of 22 June 1987 amending Directive 80/390/EEC coordinating the requirements for the drawing-up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock-exchange listing.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Where applications for admission to official listing are made in two or more Member States, listing particulars must be drawn up in the Member State where the issuer's registered office is situated. If it is not in any of the Member States, the issuer must choose one of these States.</li> <li>2. Mutual recognition of one Member State's approval of listing particulars by the others.</li> <li>3. Cooperation between the competent authorities of the relevant Member States in the exchange of information necessary to carry out their duties.</li> <li>4. Negotiations with non-member countries for reciprocal recognition of listing particulars.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	<ul style="list-style-type: none"> <li>— 1.1.1990</li> <li>— 1.1.1991: Spain</li> <li>— 1.1.1992: Portugal</li> </ul>
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 185, 4.7.1987
<i>(7) Follow-up work</i>	See summary 3.2.
<i>(8) Commission implementing measures</i>	

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### 3. TRANSACTIONS IN SECURITIES

#### 3.2. Mutual recognition of public offer prospectus as stock-exchange listing particulars

<i>(1) Objective</i>	To extend the scope of arrangements for mutual recognition to public offer prospectuses.
<i>(2) Community measures</i>	Council Directive 90/211/EEC of 23 April 1990 amending Directive 80/390/EEC in respect of mutual recognition of public offer prospectuses as stock-exchange listing particulars.
<i>(3) Contents</i>	<p>1. Where application for admission to official listing on a stock exchange situated in a Member State is made and the securities have been the subject of a public offer prospectus drawn up and approved in that or any other Member State in accordance with Articles 7, 8 or 12 of Council Directive 89/298/EEC (summary 3.3) in the three months preceding the application for admission, the public offer prospectus must be recognized as listing particulars in the Member State in which application for official listing is made, without any other formalities being necessary.</p> <p>2. The competent authorities may, however, require that the prospectus include information specific to the market of the country of admission, concerning, in particular, the income tax system, the financial organizations retained to act as paying agents for the issuer in the country of admission and the ways in which notices to investors are published.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	17.4.1991
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 112, 3.5.1990
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	





### 3. TRANSACTIONS IN SECURITIES

#### 3.3. Prospectus for public offerings of securities

<i>(1) Objective</i>	To ensure provision of full and appropriate information concerning transferable securities and the issuers of such securities. To provide for mutual recognition of prospectuses approved in individual Member States.
<i>(2) Community measures</i>	Council Directive 89/298/EEC of 17 April 1989 coordinating the requirements for the drawing-up, scrutiny and distribution of the prospectus to be published when securities are offered to the public.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. The Directive applies to securities which are offered to the public for subscription or sale for the first time in a Member State. List of exceptions, e.g. open-ended collective investment undertakings (such as unit trusts) and Eurosecurities.</li> <li>2. Requirement for prospectus to be published by the person making the offer. Prospectus to include all information needed to make an informed financial assessment of the securities. Less detailed disclosure where there is no application for official listing.</li> <li>3. Arrangements for prior scrutiny of the prospectus by the appointed authorities in Member States (if application is made for official listing) and publication of the prospectus.</li> <li>4. Cooperation between Member States and provisions for the mutual recognition of prospectuses. This is particularly important when offers of the same securities are made simultaneously or within a short interval in two or more Member States.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	17.4.1991
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 124, 5.5.1989
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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### 3. TRANSACTIONS IN SECURITIES

#### 3.4. Information on major holdings

<i>(1) Objective</i>	To coordinate policy on investor protection with regard to publication of information about major holdings, so as to make such protection more equivalent within the Community.
<i>(2) Community measures</i>	Council Directive 88/627/EEC of 12 December 1988 on information to be published when a major holding in a listed company is acquired or disposed of.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Directive applies to persons who acquire or dispose of major holdings in a company the shares of which are officially listed on a stock exchange and which is incorporated in a Member State.</li><li>2. When, as a result of the acquisition or disposal of a holding, the voting rights held by one person exceed or fall below one of the thresholds of 10, 20, 33.33, 50 or 66.66%, the shareholder must notify the company of the percentage he holds within seven calendar days. The company must then publish this information.</li><li>3. Rules for calculating the percentage holdings, e.g. indirect holdings to be counted.</li><li>4. Power of Member States' authorities exceptionally to exempt companies from certain notification requirements where they consider that the disclosure of such information would run counter to the public interest or would be seriously harmful to the companies involved.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1991
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 348, 17.12.1988
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	



### 3. TRANSACTIONS IN SECURITIES

#### 3.5. The regulation of insider trading

<i>(1) Objective</i>	To prohibit insider dealing, whereby investors who are in possession of inside information take advantage of that information at the expense of others who are not, and thus ensure that all investors are placed on an equal footing.
<i>(2) Community measures</i>	Council Directive 89/592/EEC of 13 November 1989 coordinating regulations on insider trading.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Member States are required to prohibit primary insiders from buying or selling transferable securities while knowingly making use of inside information.</li> <li>2. Inside information is defined as information which has not been made public, of a precise nature and relating to one or more issuers of transferable securities or to one or more transferable securities which, if it were made public, would be likely to have a significant effect on prices.</li> <li>3. Primary insiders are persons who possess inside information:             <ul style="list-style-type: none"> <li>— either by virtue of their membership of the administration, management or supervisory bodies of the issuer; or</li> <li>— by virtue of their holdings in the capital of the issuer; or</li> <li>— because they have access to such information by virtue of the exercise of their employment, profession or duties.</li> </ul> </li> <li>4. Prohibition of disclosure by primary insiders of inside information to third parties, who would then become secondary insiders. The same prohibition on the use of inside information received applies to secondary insiders.</li> <li>5. Cooperation between the competent national authorities.</li> <li>6. Each Member State shall determine the penalties to be applied for infringement of the measures taken. The penalties must be sufficient to promote compliance with those measures.</li> <li>7. The Directive shall not apply to transactions carried out for reasons connected with monetary or exchange policy, or management of the public debt, by a sovereign State, its central bank or any other body designated by the State. Member States may also decide that the prohibition on insider trading will not apply to transactions outside a stock exchange and not involving a professional intermediary.</li> <li>8. Member States may adopt provisions more stringent than those laid down by the Directive or additional provisions.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.6.1992
<i>(5) Date of entry into force (if different from the above)</i>	

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(6) *References*

Official Journal L 334, 18.11.1989

(7) *Follow-up work*

(8) *Commission  
implementing  
measures*



### 3. TRANSACTIONS IN SECURITIES

#### 3.6. Investments: collective investment undertakings (Ucits)

<i>(1) Objective</i>	To coordinate national laws governing Ucits (e.g. unit trusts) so as to give unit-holders throughout the Community uniform and more effective protection. To permit these companies to market units throughout the EEC on the basis of a single licence.
<i>(2) Community measures</i>	Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (Ucits).
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Ucits are undertakings whose sole object is the collective investment in transferable securities of capital raised from the public and the units of which are, at the request of the holders, repurchased or redeemed out of the undertakings' assets.</li> <li>2. Ucits must be authorized by the Member State in which they are situated. The authorization is valid for all Member States.</li> <li>3. Structure of Ucits. Specific obligations concerning management, investment and depositaries.</li> <li>4. Obligations concerning the investment policies of Ucits, e.g. at least 90% of the investments of a unit trust must consist of transferable securities listed on a stock exchange or on another regulated market, or of recently issued transferable securities.</li> <li>5. Requirement to publish a prospectus, regular reports, and information on the sale price of units.</li> <li>6. Special provisions applicable to Ucits which market their units in Member States other than those in which they are situated, e.g. a Ucits which markets its units in another Member State must comply with the laws in force in that State.</li> <li>7. Designation of authorities responsible for authorization and supervision in each Member State.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.10.1989. Member States may grant an additional period of 12 months to comply with those rules for Ucits existing on that date; facility for Greece and Portugal to postpone application up to 1 April 1992.
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 375, 31.12.1985
<i>(7) Follow-up work</i>	The Commission submitted a report to the Council on progress in implementing the Directive. Possibility of extending for not more than four years postponement of the date of implementation of the Directive in Greece and Portugal.
<i>(8) Commission implementing measures</i>	

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### 3. TRANSACTIONS IN SECURITIES

#### 3.7. Investments: special measures for certain investments by Ucits

<i>(1) Objective</i>	To enable unit trusts and comparable bodies (Ucits) to treat certain private-sector bonds as offering similar security to that offered by bonds issued or guaranteed by that State. Also specifically to extend the limit on investments in transferable securities issued by a single body.
<i>(2) Community measures</i>	Council Directive 88/220/EEC of 22 March 1988 amending, as regards the investment policies of certain Ucits, Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (Ucits).
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Amendment to Council Directive 85/611/EEC (summary 3.6) with regard to one specific class of transferable security so that a Ucits may now invest up to 25% of its assets, rather than the 5% it could previously invest, in issues of bonds by a single body. These securities are bonds issued by a credit institution which has its registered office in a Member State and is subject by law to special public supervision designed to protect bond-holders.</li><li>2. When a Ucits invests more than 5% of its assets in bonds as described at point 1, which have been issued by a single credit institution, the total value of such investments may not exceed 80% of the value of the assets of the Ucits.</li><li>3. Investments made in accordance with this extended limit will not be taken into account in applying the general rule of Directive 85/611/EEC whereby, when a Member State authorizes more than 5% to be invested in securities of a single issuer, such investment must not in aggregate exceed 40% of the total assets of a Ucits.</li><li>4. The different limits for investment in bonds guaranteed by the State or an equivalent body may not be combined. Thus, investments in such transferable securities issued by a single body may not exceed 35% of the assets of a Ucits.</li><li>5. Member States must send the Commission a list of categories of bonds as described at point 1, and lists of the categories of authorized issuers. The status of the guarantees offered must be specified in a notice attached to the lists.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	<p>— 1.10.1989</p> <p>— 1.4.1992: Greece and Portugal</p>
<i>(5) Date of entry into force (if different from the above)</i>	



*(6) References*

Official Journal L 100, 19.4.1988

*(7) Follow-up work*

*(8) Commission  
implementing  
measures*

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### 3. TRANSACTIONS IN SECURITIES

#### 3.8. Investment services

*(1) Objective*

To promote a single market in investment services by laying down an authorization procedure for any person wishing to provide one or more of the services in the Directive (investment advice, broking, dealing or portfolio management) and common rules for prudential supervision. On the basis of this authorization the investment firm will be allowed to set up branches and provide cross-frontier services without further authorization (home-country authorization). To liberalize access to stock-exchange membership in host Member States for investment firms authorized by their home Member States.

*(2) Proposal*

Proposal for a Council Directive on investment services in the securities field.

*(3) Contents*

1. Definitions of 'credit institution', 'investment service', 'investment firm', 'home Member State', 'host Member State', 'branch', 'qualifying holding', 'parent undertaking', 'subsidiary', and 'member of a stock exchange' or 'organized market'.
2. The Directive will apply to all investment firms. However, only Articles 9(2), 11 and 13 will apply to investment firms that are credit institutions.
3. Criteria for granting and withdrawing authorization of investment firms in the home Member State. The competent authorities in each Member State must ensure that:
  - the investment firm has sufficient initial financial resources for the proposed activities;
  - the persons directing the business have sufficient professional integrity and experience;
  - holders of qualified participations are suitable persons.Authorization applications will have to be accompanied by a programme of operations.
4. Authorization will apply to one or more of the investment services defined in the Annex: brokerage, dealing as principal, market-making, portfolio management, arranging or offering underwriting services, professional investment advice, and safekeeping and administration of specified instruments.
5. Investment firms that are credit institutions and which have been authorized for particular investment activities as a result of their banking authorizations will not require a further authorization under this Directive for these activities.
6. Investment firms whose existing authorization meets the Directive's standards do not have to be authorized again when the Directive comes into force provided that the authorization was given under equivalent conditions to those spelt out in the Directive.
7. Introduction of a procedure for reciprocity with third countries. Member States must inform the Commission of any authorization of a direct or indirect subsidiary of one or more parent undertakings in third countries and of any holding acquired by a parent undertaking in a Community investment firm such that the latter would become its subsidiary.





8. Whenever it appears to the Commission that a third country is not granting Community investment firms effective market access comparable to that granted by the Community to investment firms from that country, it may initiate negotiations in order to secure comparable competitive opportunities for Community investment firms.

9. Proposed changes in qualifying holdings in an investment firm must be notified to the supervisory authorities to enable them to assess the suitability of the new shareholders/members.

10. The Directive identifies certain rules of a prudential nature and for protection of investors, which are placed under exclusive home-country control. All Member States must establish a general compensation scheme to protect investors against default or bankruptcy of an investment firm. However, until further harmonization of these schemes, host-country control will apply to branches of investment firms. The home-country scheme will only apply to host-country business done under the freedom to provide services.

11. Rules for initial authorization must continue to be respected once the services in question have started to be provided. The home country supervisory authorities are responsible for monitoring compliance with these rules regardless of whether a firm opens a branch or provides services in other Member States.

12. Member States must permit investment firms from other Member States to carry out, in their territory, the activities authorized by the home country, either by establishing a branch or by provision of services without a branch.

13. Host Member States may not make the establishment of a branch or the provision of services by an investment firm authorized by its home Member State subject to further authorization or to a requirement to provide separate endowment capital. Host Member States shall ensure that investment firms authorized to provide broking, dealing or market-making services in their home Member State can enjoy the full range of privileges normally reserved to members of stock exchanges of host Member States. To do this, host Member States shall ensure that all authorized investment firms have the opportunity to become members of host Member States' stock exchanges or organized securities markets, provided they set up a branch or subsidiary which meets the local structural/organizational requirements. Alternatively, an existing member firm may be acquired.

14. Rules for notification to be made and formalities to be completed when either a branch is opened or services are provided in a host Member State.

15. Procedures to be followed by the authorities of either the home or the host Member State where an investment firm having an established branch or providing services fails to comply with the legal provisions in force in the host Member State.

16. Annex defining investment activities and financial instruments coming within the scope of the Directive.

*(4) Opinion of the European Parliament*

First reading: Parliament endorsed the proposal, subject to a number of amendments, some of which have been accepted by the Commission.

*(5) Current status*

The amended proposal incorporating Parliament's amendments that have been taken up by the Commission is now before the Council with a view to adoption of a common position.

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*(6) References*

Commission proposal COM(88) 778 final	Official Journal C 43, 22.2.1989
Amended proposal COM(89) 629 final	Official Journal C 42, 22.2.1990
European Parliament opinion First reading	Official Journal C 304, 4.12.1989
Economic and Social Committee opinion	Official Journal C 298, 27.11.1989



### 3. TRANSACTIONS IN SECURITIES

#### 3.9. Capital adequacy of investment firms and credit institutions

- (1) Objective* To supplement the Directive on investment services by harmonizing the capital requirements for investment firms. To ensure that there is freedom to provide investment services throughout the Community for investment firms, whether or not they are credit institutions. To subject bank and non-bank investment firms to equivalent legislative requirements so as to ensure fair competition.
- (2) Proposal* Proposal for a Council Directive on capital adequacy of investment firms and credit institutions.
- (3) Contents*
1. The minimum initial capital requirement for investment firms which are not credit institutions is set at ECU 500 000. The requirements applicable to credit institutions are laid down in Council Directive 89/646/EEC (Official Journal L 386, 30.12.1989 — summary 1.4). Provision is made for derogations from the capital requirements for certain specified cases in order to take account of the various kinds of investment firm and the type of operation they carry out.
  2. In order to guarantee the ongoing financial soundness of such firms, capital requirements are laid down to cover the market risks to which they are exposed.
  3. The first requirement concerns the position risk. According to the rules proposed, each firm must keep in the form of capital a given percentage of its long and short positions, after allowance has been made for its hedging operations.
  4. Secondly, there is a foreign-exchange risk requirement in respect of losses which the firm may suffer in the event of adverse exchange-rate movements.
  5. The third requirement relates to unsettled transactions, i.e. to those in which one or other party has not paid for the securities it has contracted to buy or has not delivered the securities it has contracted to sell.
  6. The Directive also lays down a 'base' requirement according to which each firm is required to hold own funds equivalent to one-quarter of the previous year's fixed overheads. This requirement is intended to cover all the other risks to which an investment firm is exposed, e.g. the risk that market turnover collapses, reducing a firm's broking income to a level insufficient to cover its expenses.
  7. Investment firms are required to assess their positions daily at market prices. Similarly, they are required to transmit to the competent authorities in their Member State of origin any information necessary for those authorities to check that the rules laid down in the Directive are being observed.
- (4) Opinion of the European Parliament* First reading: Parliament approved the Commission's proposal subject to certain amendments. The Commission accepted some of these amendments.
- (5) Current status* An amended proposal including Parliament's amendments withheld by the Commission is awaited.

*(6) References*

Commission proposal  
COM(90) 141 final  
European Parliament opinion  
First reading  
Economic and Social  
Committee opinion

Official Journal C 152, 21.6.1990

Not yet published

Official Journal C 69, 18.3.1991



## 4. TRANSPORT SERVICES

### Current problems and 1992 objectives

The right to provide transport services freely throughout the European Community is an essential element of the transport policy laid down in the EEC Treaty.

Yet, 30 years after the signature of the Treaty, transport within the Community is bedevilled by quotas, restrictions and limits on access to the market. These restrict competition in the Community, increasing costs for trade across internal borders and impeding the integration of the European economy.

In general, the Commission has followed a two-phased approach in each of these sectors. The first phase involves liberalizing transport services between Member States. In the second phase, the aim is to liberalize transport within Member States by opening up the national markets to non-resident carriers.

Measures aimed at harmonizing competitive conditions are being discussed in tandem with these measures to liberalize the market; this applies to the road-haulage sector in particular, which has developed in a strictly national environment:

- the harmonization of technical standards for vehicles (weights and dimensions of lorries);
- the harmonization of social legislation (driving and rest times and, where appropriate, hours of duty).

#### 1. Inland transport

In this field the Community has taken action on:

- transport between Member States (summary 4.1);
- a Community safeguard mechanism (summary 4.2);
- non-resident carriers operating in national markets (cabotage): transitional and definitive systems (summaries 4.3 and 4.4);
- road passenger transport (summaries 4.5 and 4.6);
- carriage of goods and passengers by inland waterway: non-resident carriers (summary 4.7).

#### 2. Sea transport

On 4 December 1990 the Council adopted transitional measures applicable in the new *Länder* of the Federal Republic of Germany as a result of German unification, to take account of the gradual application of all Community law to the territory of the former German Democratic Republic (Council Regulation (EEC) No 3573/90 published in Official Journal L 353, 17.12.1990 — summary 4.8)

In this field the Community has taken action on the following:

- the freedom to provide services, competition, unfair pricing practices, and freedom of access to ocean trades (summary 4.8);
- the freedom to provide services within Member States (cabotage — summary 4.9).

#### 3. Air transport

One of the principal tasks of air transport policy in the European Community will be to reconcile the process of integrating the Community air transport industry with the objectives. Competition policy and certain sectors of the common air transport policy will have to play an active and well coordinated role if the Community is not to be left with its industry compartmentalized and lacking in competitiveness on a world scale. Apart from goals related to route networks, other fundamental goals must be considered. These goals

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concern consumer preferences in the field of fares, the passenger's requirements relating to quality of service, people living in the vicinity of airports, and workers.

Air passenger safety is also one of the Commission's major objectives. It has therefore put to the Council a proposal for a directive addressing aspects of air safety relating to airworthiness, operating approval and maintenance of aircraft, engines and other airborne equipment.

The lack of uniform technical standards for the certification, operation and maintenance of aircraft means that the free movement of aircraft throughout the Community has yet to be achieved. Quite apart from the extra technical work that this entails, aircraft transferred from the register of one country to another must often undergo costly modification.

In this field the Community has taken action on the following:

- the sharing of passenger capacity and market access (second phase) (summary 4.10);
- fares and rates (second phase) (summary 4.11);
- application of the rules on competition (summaries 4.12 to 4.14);
- inter-regional air services (summary 4.15);
- personnel licences in civil aviation (summary 4.16);
- harmonization of standards in civil aviation (summary 4.17);
- air cargo services (summary 4.18).



## 4. TRANSPORT SERVICES

### 4.1. Carriage of goods by road: carriage between Member States

<i>(1) Objective</i>	To create the right conditions for instituting fair competition and ensuring minimum disturbance to the market.
<i>(2) Community measures</i>	Council Regulation (EEC) No 1841/88 of 21 June 1988 amending Regulation (EEC) No 3164/76 on the Community quota for the carriage of goods by road by Member States.
<i>(3) Contents</i>	<p>1. The Community quota will increase by 40% for 1988 and 1989 as the result of the Council Decision.</p> <p>2. All quantitative restrictions (quotas) will be abolished by 1 January 1993. Access to the market will be governed exclusively by qualitative criteria. Details of qualitative criteria will be determined by 30 June 1991 at the latest.</p> <p>3. Bilateral quotas still applicable during the transitional period should be adapted according to the requirements of trade and transit traffic (see section entitled 'Follow-up work')</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.7.1988
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 163, 30.6.1988
<i>(7) Follow-up work</i>	<p>Further increases in the quotas for 1990, 1991 and 1992 were adopted by the Council on 25 April and 17 December 1990 (Regulation (EEC) No 1053/90, Official Journal L 108, 28.4.1990; Regulation (EEC) No 3914/90, Official Journal L 375, 31.12.1990).</p> <p>Moreover, as a result of the enlargement of the Community brought about by German unification (see below), the Council adopted Regulation (EEC) No 3915/90 of 12 December 1990 increasing the Community quota for 1991 and 1992 (Official Journal L 375, 31.12.1990).</p> <p>On 26 August 1991 the Commission presented a proposal for a Council Regulation on access to the market for the carriage of goods by road in the European Community to or from the territory of a Member State or passing across the territory of one or more Member States (COM(91) 293 final; Official Journal C 238, 14.9.1991).</p> <p>The purpose of this Regulation is to enable the Council to adopt the measures necessary for implementing Regulation (EEC) No 1841/88. These measures will enter into force on 1 January 1993.</p>
<i>(8) Commission implementing measures</i>	

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## 4. TRANSPORT SERVICES

### 4.2. Carriage of goods by road: Community safeguard mechanism

<i>(1) Objective</i>	To introduce a Community safeguard mechanism, to be brought into operation in the event of a crisis in the market in the carriage of goods by road. Such a safeguard clause is an important back-up measure for the complete dismantling of the system of quotas currently regulating access to the market.
<i>(2) Community measures</i>	Council Regulation (EEC) No 3916/90 of 21 December 1990 on measures to be taken in the event of a crisis in the market in the carriage of goods by road.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Regulation applies to the carriage of goods by road in the territory of the Community between Member States for hire or reward.</li><li>2. Definition of 'crisis'.</li><li>3. The Commission collects the data required to monitor market developments and spot the existence of a crisis.</li><li>4. In the event of a crisis the Member State concerned supplies the Commission with substantive, quantified information. The Commission may then take all measures designed to prevent any further increase in haulage capacity on the affected market by placing limits on the growth of the operations of existing carriers and placing restrictions on market access for new carriers.</li><li>5. The composition and tasks of the Advisory Committee set up to assist the Commission with the implementation of this Regulation.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1991
<i>(6) References</i>	Official Journal L 375, 31.12.1990
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	





## 4. TRANSPORT SERVICES

### 4.3. Carriage of goods by road: non-resident carriers in the national market (inland trading)

(1) <i>Objective</i>	To realize the freedom to provide services by setting out the conditions under which non-resident carriers will be allowed to carry out national road-haulage services. This Regulation is a significant first step towards Community road trading, an essential element in building a Europe without frontiers.																								
(2) <i>Community measures</i>	Council Regulation (EEC) No 4059/89 of 21 December 1989, laying down the conditions under which non-resident carriers may operate national road-haulage services within a Member State.																								
(3) <i>Contents</i>	<p>1. The transitional arrangements allow:</p> <ul style="list-style-type: none"> <li>— international hauliers established in one Member State may temporarily carry out commercial national road-haulage operations in another Member State without first having to set up a registered office in that Member State;</li> <li>— for all carriers established in a Member State empowered to carry out international road-haulage of goods.</li> </ul> <p>2. This Regulation introduces from 1 July 1990 a quota of 15 000 specific trading authorizations; these authorizations are valid for two months and are allocated as follows:</p> <table border="0" style="margin-left: 20px;"> <tr><td>— Belgium</td><td style="text-align: right;">1 302</td></tr> <tr><td>— Denmark</td><td style="text-align: right;">1 263</td></tr> <tr><td>— Germany</td><td style="text-align: right;">2 073</td></tr> <tr><td>— Greece</td><td style="text-align: right;">573</td></tr> <tr><td>— Spain</td><td style="text-align: right;">1 350</td></tr> <tr><td>— France</td><td style="text-align: right;">1 767</td></tr> <tr><td>— Ireland</td><td style="text-align: right;">585</td></tr> <tr><td>— Italy</td><td style="text-align: right;">1 767</td></tr> <tr><td>— Luxembourg</td><td style="text-align: right;">606</td></tr> <tr><td>— Netherlands</td><td style="text-align: right;">1 842</td></tr> <tr><td>— Portugal</td><td style="text-align: right;">765</td></tr> <tr><td>— United Kingdom</td><td style="text-align: right;">1 107</td></tr> </table> <p>3. The annual percentage of increase will be set according to the mean increase in road-haulage traffic in the Member States, but will not be less than 10%.</p> <p>4. The Regulation also permits the introduction of safety clauses for certain regions, in order to prevent permits being used exclusively for trading in only one or a few Member States; with this in mind, it was decided that no more than 30% of permits could be used in any one Member State.</p>	— Belgium	1 302	— Denmark	1 263	— Germany	2 073	— Greece	573	— Spain	1 350	— France	1 767	— Ireland	585	— Italy	1 767	— Luxembourg	606	— Netherlands	1 842	— Portugal	765	— United Kingdom	1 107
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— Italy	1 767																								
— Luxembourg	606																								
— Netherlands	1 842																								
— Portugal	765																								
— United Kingdom	1 107																								
(4) <i>Deadline for implementation of the legislation in the Member States</i>	1.7.1990																								
(5) <i>Date of entry into force (if different from the above)</i>	The transitional arrangements apply from 1 July 1990 until 31 December 1992.																								

*(6) References*

Official Journal L 390, 30.12.1989

*(7) Follow-up work*

The increase in the size of the Community brought about by German unification makes it necessary to increase the cabotage quota and to allocate the additional cabotage authorizations amongst the Member States. To this end, the Council adopted Regulation (EEC) No 296/91 (Official Journal L 36, 8.2.1991) on 4 February.

Before 1 July 1992 the Council will adopt, on a proposal from the Commission, permanent rules on trading to come into force on 1 January 1993.

*(8) Commission implementing measures*

— Decision 91/232/EEC — Official Journal L 102, 23.4.1991  
Commission Decision of 10 April 1991 on the increase for 1991/92 in the Community cabotage quota for national road-haulage services performed by non-resident carriers.

— Commission report to the Council on the use of cabotage authorization in 1990 and 1991 (COM(91) 377/II final).



## 4. TRANSPORT SERVICES

### 4.4. Carriage of goods by road: non-resident carriers in the national market (cabotage): definitive system

<i>(1) Objective</i>	To permit, from 1 January 1993, free access to the cabotage market. To make cabotage operations subject to certain national rules in force in the State where the operation takes place. To harmonize certain national rules, in particular technical standards for vehicles, duty payable on fuel, and vehicle taxes. To provide a safeguard clause.		
<i>(2) Proposal</i>	Proposal for a Council Regulation (EEC) laying down the definitive system under which non-resident carriers may operate domestic road-haulage services within a Member State.		
<i>(3) Contents</i>	<p>1. Only those Community carriers authorized to operate international road-haulage services will be allowed to operate domestic-haulage services in other Member States.</p> <p>2. Cabotage operations will be exempt from any quantitative restrictions on market access.</p> <p>3. Subject to Community law, cabotage operations will be subject to the laws, regulations and administrative provisions in force in the host Member State in the following areas:</p> <ul style="list-style-type: none"> <li>— binding legal provisions concerning the transport contract;</li> <li>— weights and dimensions of vehicles, and environmental standards;</li> <li>— requirements relating to the carriage of certain categories of goods;</li> <li>— driving and rest time for drivers;</li> <li>— traffic laws and the highway code.</li> </ul> <p>The host Member State must, when applying its national provisions, take account of the principle of proportionality.</p> <p>4. In the event of a market disturbance, the Commission may take any necessary safeguard measures, having collected the data needed for monitoring the market and having investigated whether a crisis exists.</p> <p>5. The Regulation lays down the conditions under which the Member States must assist one another with a view to its implementation.</p>		
<i>(4) Opinion of the European Parliament</i>	Not yet delivered.		
<i>(5) Current status</i>	The proposal is currently awaiting the approval of Parliament and the Economic and Social Committee.		
<i>(6) References</i>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Commission proposal COM(91) 377/I final</td> <td style="width: 50%;">Not yet published in the Official Journal</td> </tr> </table>	Commission proposal COM(91) 377/I final	Not yet published in the Official Journal
Commission proposal COM(91) 377/I final	Not yet published in the Official Journal		

## 4. TRANSPORT SERVICES

### 4.5. Carriage of passengers by road: international carriage

<i>(1) Objective</i>	To introduce the freedom to provide road passenger transport services on journeys within the Community. To review the rules governing this sector. To enforce road safety.	
<i>(2) Proposal</i>	Proposal for a Council Regulation on common rules for the international carriage of passengers by coach and bus.	
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Regulation applies to the international carriage of passengers by road, for any portion of the journey within the Community, using vehicles registered in a Member State.</li><li>2. Definitions of 'regular services', 'shuttle services', and 'occasional services'.</li><li>3. Permission for Community carriers to operate passenger transport services between any Member States without discrimination on the grounds of nationality (provided it is a Community nationality).</li><li>4. Control documents required from transport companies for occasional services. Abolition of the need to carry a list of passengers.</li><li>5. Shuttle services: scope, procedure for the application and issue of authorizations.</li><li>6. Regular services: scope, procedure for the application and issue of authorizations.</li><li>7. Control procedures and penalties, e.g. travel documents must be supplied to passengers, transport operators must allow inspections, authorization may be withdrawn for breaches of the Regulation.</li><li>8. Transitional and final provisions regarding the implementation of measures required by this Regulation.</li></ol>	
<i>(4) Opinion of the European Parliament</i>	Parliament approved the Commission's proposal subject to certain recommendations for amendment, some of which have since been incorporated into the amended proposal. These include, in particular, shuttle services with accommodation which are no longer to be subject to authorization but must nevertheless carry a control document.	
<i>(5) Current status</i>	The proposal is now before the Council for adoption.	
<i>(6) References</i>	Commission proposal COM(87) 79 final Amended proposal COM(88) 595 final Re-examined proposal COM(88) 770 final European Parliament opinion Economic and Social Committee opinion	Official Journal C 120, 6.5.1987 Official Journal C 301, 26.11.1988 Official Journal C 31, 7.2.1989 Official Journal C 94, 11.4.1988 Official Journal C 356, 31.12.1987



## 4. TRANSPORT SERVICES

### 4.6. Carriage of passengers by road: non-resident carriers in the national market

- (1) *Objective* To enable non-resident carriers to have the freedom to provide national passenger transport services within a Member State without discrimination on grounds of nationality or place of establishment.
- (2) *Proposal* Proposal for a Council Regulation laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State.
- (3) *Contents*
1. Definitions of 'regular services', 'shuttle services', and 'occasional services'.
  2. International carriers established in one Member State may temporarily operate national road passenger transport services in another Member State without first having to set up a registered office in that Member State, as from 1 January 1989.
  3. The benefit in point 2 is reserved to carriers who fulfil certain strict nationality conditions which demonstrate that the carrier has a genuine link with the Community.
  4. Non-resident carriers are governed by the laws and regulations of the Member State in which the transport services are operated.
- (4) *Opinion of the European Parliament* Parliament approved the Commission's proposal subject to certain amendments, some of which have since been incorporated into the amended proposal.
- (5) *Current status* The proposal is currently before the Council for adoption.
- (6) *References*
- |                                                                         |                                    |
|-------------------------------------------------------------------------|------------------------------------|
| Commission proposal<br>COM(87) 31 final                                 | Official Journal C 77, 24.3.1987   |
| Amended proposal<br>COM(88) 596 final                                   | Official Journal C 301, 26.11.1988 |
| European Parliament opinion<br>Economic and Social<br>Committee opinion | Official Journal C 94, 11.4.1988   |
|                                                                         | Official Journal C 356, 31.12.1987 |

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## 4. TRANSPORT SERVICES

### 4.7. Inland waterway transport of goods and passengers: non-resident carriers

- (1) *Objective* To lay down the conditions under which non-resident carriers may have freedom to operate inland waterway transport services in a Member State.
- (2) *Community measures* Council Regulation (EEC) No 3921/91 of 16 December 1991, laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State.
- (3) *Contents*
1. From 1 January 1993, carriers of goods or passengers by inland waterway may transport goods or passengers by inland waterway for hire or reward in a Member State in which they are not established ('cabotage').
  2. Carriers may temporarily carry out cabotage services in the Member State in question without having to set up a registered office or other establishment, provided that they comply with the legislation of the Member State in which they are established, and on condition that they are authorized to transport goods or persons internationally by inland waterway.
  3. The Regulation also stipulates that in providing cabotage services, carriers may only use vessels belonging to one of the following:
    - natural persons domiciled in a Member State and nationals of a Member State;
    - legal persons with their registered office in a Member State and in which Member State nationals hold a controlling interest.Provided that they consult the Commission, Member States may, in exceptional cases, waive this last condition.
  4. Carriers will require a certificate, to be issued by the Member State in which the vessel is registered or by the Member State in which the owner of the vessel is established, asserting that they satisfy the above conditions.
  5. In certain fields that are specified in the Regulation, cabotage operations are required to observe the laws and regulations of the host Member State, subject to the application of Community rules.
  6. Up to 1 January 1995, two-trip cabotage operations in the French Republic and one-trip cabotage operations in the Federal Republic of Germany will be restricted to the direct homeward route following the international carriage of goods or passengers. In Germany, this regulation will not apply to transport between ports situated within the new *Länder* and Berlin until 1 January 1995.
- (4) *Deadline for implementation of the legislation in the Member States*
- (5) *Date of entry into force (if different from the above)*



*(6) References*

*(7) Follow-up work*

*(8) Commission  
implementing  
measures*

Official Journal L 373, 31.12.1991

## 4. TRANSPORT SERVICES

### 4.8. Maritime transport: freedom to provide services, competition, unfair pricing practices and free access to ocean trade

#### (1) Objective

To ensure the freedom of Member States' nationals to provide maritime transport services for trade between Member States and inward and outward Community trade without hindrance from third countries and with fair competition in terms of pricing practices. Further, to ensure that the general rules governing competition are compatible with the specific requirements of the liner traffic sector.

#### (2) Community measures

Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries.

Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport.

Council Regulation (EEC) No 4057/86 of 22 December 1986 on unfair pricing practices in maritime transport.

Council Regulation (EEC) No 4058/86 of 22 December 1986 concerning coordinated action to safeguard free access to ocean trade.

#### (3) Contents

These objectives are to be achieved by implementing four separate regulations. The original proposal on freedom to provide services also contained a section on the freedom to provide services in sea transport within Member States (for example, the right of a French ship to carry passengers or goods between two British ports). This part is still being considered ('maritime cabotage' — summary 4.9).

##### *Regulation (EEC) No 4055/86*

1. The Regulation gives Member State nationals (and third-country shipping companies using ships registered in a Member State and controlled by Member State nationals) the right to carry passengers or goods by sea between any port of a Member State and any port or off-shore installation of another Member State or of a third country.
2. Any current national restrictions which reserve the carriage of goods to vessels flying the national flag will be phased out by 1 January 1993, with intermediate stages at 31 December 1989 and 31 December 1991.
3. Adjustment or phasing out of existing cargo sharing arrangements in bilateral agreements with third countries.
4. Cargo sharing arrangements in future bilateral agreements with third countries will be limited to those Member States whose shipping companies would not otherwise have an opportunity to ply for trade to and from a particular third country.
5. Course of action where Member State shippers have no effective opportunity to ply for trade to and from a particular third country.
6. Possible extension of the benefits of the Regulation to third country nationals established in the Community.

##### *Regulation (EEC) No 4056/86*

1. Definitions of 'tramp services', 'liner conference agreement' and 'user'.





2. The Regulation lays down the rules for applying Articles 85 and 86 of the Treaty (free competition) to maritime transport. The transport must be between one or more Community ports, and excludes tramp vessel services.

3. Technical agreements whose sole object is to achieve technical improvements or cooperation are exempted by the Regulation from prohibition under Article 85(1) of the Treaty.

4. Exemptions from prohibition under Article 85(1) for liner conference agreements subject to specified conditions. These are agreements which coordinate shipping timetables, determine the frequency of sailing, allocate sailings among members of the conference, fix rates and conditions of carriage, regulate carrying capacity, or allocate cargo or revenue among members.

5. Monitoring of exempted agreements to ensure compliance.

6. Conflicts of international law as a result of application of the Regulation. The Commission may need to negotiate with third countries.

7. Procedure for complaints and objections.

8. Liaison with the appropriate authorities of the Member States.

9. Investigating powers of the Commission.

10. Financial sanctions (fines and penalty payments) for breaches of the competition rules:

— for providing incorrect, misleading or incomplete information to the Commission; and

— for failing to end anti-competitive behaviour.

The Court of Justice may countermand, reduce or increase the fine or penalty payment imposed by the Commission.

#### *Regulation (EEC) No 4057/86*

1. The Regulation enables the EEC to apply redressive duties in order to protect Community shipowners from unfair pricing practices by third-country shipowners.

2. Examination of alleged injuries due to unfair pricing practices, e.g. reduction in the shipowner's market share, profits and employment.

3. The procedure for complaints, consultations, and subsequent investigations.

4. Provisions for the imposition of redressive duties on foreign shipowners. These follow an investigation which demonstrates that injury is caused by unfair pricing practice and that the interests of the Community make intervention necessary.

5. Price undertakings by third-country shipowners; refunds on collected duty for cases where the shipowner can show that the collected duty exceeds the difference between the freight rate charged and the normal freight rate.

#### *Regulation (EEC) No 4058/86*

1. The Regulation applies when action by a third country or by its agents restricts free access by shipping companies of Member States or by ships registered in a Member State to the transport of liner cargoes, bulk or other cargoes, except where such action is taken in conformity with the UN Liner Code.

2. Definitions of 'home trader' and 'cross-trader'.

3. Coordinated action by the Community following a request by a Member State to the Commission. Such action might include diplomatic representation to the third countries concerned and countermeasures directed at the shipping companies concerned.

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4. Similar coordinated action can be carried out at the request of another OECD country with which a reciprocal arrangement has been concluded.

*(4) Deadline for implementation of the legislation in the Member States*

Not applicable.

*(5) Date of entry into force (if different from the above)*

— 1.1.1987: Regulation (EEC) No 4055/86 adaptation until 1.1.1995 on the implementation of Council Regulation (EEC) No 3573/90 (Official Journal L 353, 17.12.1990), of the conclusive agreements by the former German Democratic Republic  
— 1.7.1987: Regulation (EEC) No 4056/86  
— 1.7.1987: Regulation (EEC) No 4057/86  
— 1.7.1987: Regulation (EEC) No 4058/86

*(6) References*

Official Journal L 378, 31.12.1986

*(7) Follow-up work*

Regulation (EEC) No 4055/86: The Council shall review this Regulation by 1 January 1995.

At the Transport Council meeting of 18 and 19 June 1990, the Commission presented an oral report on the application of the Council Regulations summarized above.

*(8) Commission implementing measures*

Commission report to the Council (SEC(90) 1594 final of 1 August 1990) on the implementation of the four Regulations.



## 4. TRANSPORT SERVICES

### 4.9. Maritime transport: freedom to provide services within the Member States (ocean trade)

<i>(1) Objective</i>	The principle of freedom to provide services is applicable to maritime transport in the Community (summary 4.8). This proposal is designed to eliminate restrictions on the freedom to provide maritime transport services within Member States.	
<i>(2) Proposal</i>	Proposal for a Council Regulation applying the principle of freedom to provide services to maritime transport within Member States.	
<i>(3) Contents</i>	<p>1. This Regulation abolishes restrictions on the freedom to provide maritime transport services within Member States for Community shipping companies registered in Euros, on condition that these services are provided using ships which do not exceed 6 000 GRT and which are authorized to provide transport services within their State of registry.</p> <p>2. Definitions of 'maritime transport services' and 'public service obligations'.</p> <p>3. The Member State between the ports of which the maritime transport service operates may require that the crew of the ship concerned contains the same proportion of its nationals as is required for ships flying its flag and providing the same transport service.</p> <p>4. Member States may make the right to provide transport services subject to public service obligations in the interests of maintaining adequate cabotage services between the mainland and its islands and between the islands themselves.</p> <p>5. Safeguard measures are to be taken in the event of severe market disruption or serious imbalances between supply and demand in a given geographical area.</p> <p>6. Persons providing maritime transport services may do so temporarily in the Member State in which the transport services operate on the same terms as those applied by the Member State in question to its own nationals.</p>	
<i>(4) Opinion of the European Parliament</i>	Parliament approved the Commission's proposal subject to amendments. The Commission has accepted some of these.	
<i>(5) Current status</i>	The proposal is currently before the Council for adoption.	
<i>(6) References</i>	Commission proposal COM(89) 266 final Amended proposal COM(91) 54 final European Parliament opinion	Official Journal C 263, 16.10.1989  Official Journal C 73, 19.3.1991 Not yet published

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## 4. TRANSPORT SERVICES

### 4.10. Air transport: sharing of passenger capacity and market access (second phase)

#### (1) Objective

This Regulation belongs to the second phase of the liberalization of air transport. It reinforces certain provisions of Council Decision 87/602/EEC (Official Journal L 374, 31.12.1987) on the sharing of passenger capacity between air carriers on scheduled air services between Member States and on access for air carriers to scheduled air-service routes between Member States. The Regulation aims in particular at opening up the market to promote the development of air transport in the Community and gradually eliminate bilateral restrictions concerning capacity sharing which are incompatible with the internal market.

#### (2) Community measures

Council Regulation (EEC) No 2343/90 of 24 July 1990 on access for air carriers to scheduled intra-Community air-service routes and on the sharing of passenger capacity between air carriers on scheduled air services between Member States.

#### (3) Contents

1. The Regulation concerns:
  - access to the market for Community air carriers;
  - the sharing of passenger capacity between the air carrier(s) established in one Member State and the air carrier(s) established in another Member State on scheduled air services between these States.
2. Definitions of 'air carriers', 'third-freedom traffic rights', 'fourth-freedom traffic rights', etc.
3. The Member States shall grant, on a non-discriminatory basis, an operating licence as an air carrier to undertakings established on their territory when they comply with a set of requirements, including technical and economic standards.
4. Member States of destination shall authorize Community air carriers which have obtained this licence to operate third and fourth-freedom air services. The third freedom is the right for an air carrier to put down passengers, freight or mail at a stopover point on the outward journey from the Member State of registration. The fourth freedom covers the same eventualities as the third, save that it applies to the homeward journey.
5. Member States of destination shall accept multiple designation on a country-pair basis, i.e. they shall accept the designation by a State of registration of two or more of the air carriers established in its territory and that of another Member State.
6. Member States of destination shall also accept multiple designation on a city-pair basis, i.e. the designation by a State of registration of two or more of the air carriers in its territory to operate a scheduled air service between an airport in its territory and an airport in the territory of another Member State. As from 1 January 1992, a Member State is obliged to grant landing rights to more than one airline from another Member State if the route in question is used by more than 100 000 passengers or is served by over 600 flights a year.
7. The possibility for air carriers operating scheduled air services to or from two or more Member States to combine points.



8. The progressive widening of the scope of fifth-freedom rights makes it possible to increase the capacity share that may be transferred under fifth freedom from 30 to 50%. The fifth freedom is the right to carry passengers, freight and mail between any two States other than the State of registration.

9. Community air carriers shall be permitted to exercise cabotage traffic rights between combined points within the same Member State, on condition, for example, that it is operated between two airports, at least one of which is a regional airport.

10. From 1 October 1990, and before the total elimination of shares in 1993, any recognized air carrier operating third and fourth-freedom traffic rights is authorized to increase its capacity, provided that the resulting capacity shares are not outside the range of 67.5: 32.5%. These limits do not apply to services between two regional airports, whatever the aircraft capacity. From 1 April 1992 they will be extended to 75:25%. However, this Regulation shall not prevent Member States from concluding with each other, or maintaining in force, arrangements which are more flexible than those described above.

11. From 1 October 1990 the Regulation repeals and replaces Council Directive 83/416/EEC (Official Journal L 237, 26.8.1983) as last amended by Decision 87/602/EEC (Official Journal L 373, 31.12.1987).

12. Annexes listing Community air carriers recognized as national carriers and category 1 airports.

*(4) Deadline for implementation of the legislation in the Member States*

Not required.

*(5) Date of entry into force (if different from the above)*

1.11.1990

*(6) References*

Official Journal L 217, 11.8.1990

*(7) Follow-up work*

Before 30 June 1992 the Council is to decide on the revision of this Regulation on the basis of a Commission proposal.

*(8) Commission implementing measures*

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## 4. TRANSPORT SERVICES

### 4.11. Air transport: fares (second phase)

<i>(1) Objective</i>	This Regulation is part of the second phase of the liberalization of air transport. It reinforces the provisions of Council Directive 87/601/EEC (Official Journal L 374, 31.12.1987) concerning the setting of air fares and introduces greater flexibility in the fare systems applying to intra-Community routes.
<i>(2) Community measures</i>	Council Regulation (EEC) No 2342/90 of 24 July 1990 on fares for scheduled air services.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Regulation applies to the establishment of scheduled air fares charged on any route operated by the Community or between the Community and any third country.</li><li>2. Definitions of 'scheduled air fares', 'scheduled air service', 'flight', etc.</li><li>3. Air fares will be approved by Member States provided they are reasonably related to the long-term fully allocated costs of the applicant carrier. These air fares are lower than those offered by another carrier. However, the Member States will examine in detail any fare which is 20% higher or lower than the corresponding fare in the previous corresponding season. Possibility of aligning fares for scheduled services with those for non-scheduled services on the same routes, provided they offer equivalent conditions.</li><li>4. Only Community air carriers shall be authorized to introduce air fares lower than existing fares on routes between Community airports.</li><li>5. Procedure for approval of air fares. Air carriers will submit their fares for approval in the form prescribed by the civil aviation authorities of the Member State. In the case of routes between Community airports, fares shall be deemed accepted unless both civil aviation authorities object. Upon approval these fares apply until they expire or are replaced; they may also be extended for a maximum of 12 months. More specific criteria on which the Member States assess the proposed air fares are laid down.</li><li>6. Settlement of disputes. The Member State concerned or a carrier on the route in question may appeal to the Commission, which will immediately notify the other Member State.</li><li>7. Once adopted the Regulation repeals and replaces Directive 87/601/EEC with effect from 1 January 1991.</li><li>8. Annex containing the list of Community air carriers recognized as national air carriers by the Member States at the time of this Regulation's adoption.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	1.11.1990
<i>(6) References</i>	Official Journal L 217, 11.8.1990



*(7) Follow-up work*

With a view to achieving the objective of a double disapproval system for fares by 1 January 1993, the Council is to decide on the revisions of this Regulation by 30 June 1992 at the latest, on the basis of a Commission proposal.

*(8) Commission  
implementing  
measures*

## 4. TRANSPORT SERVICES

### 4.12. Air transport: application of competition rules

<i>(1) Objective</i>	To enhance competition in the air transport sector. This will be done gradually in order to avoid disruption. The consumer will benefit most from this new approach.
<i>(2) Community measures</i>	Council Regulation (EEC) No 3976/87 of 14 December 1987 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Regulation applies to international air transport between Community airports.</li><li>2. The Commission may, by regulation, declare that Article 85(1) does not apply to certain categories of agreements between undertakings, decisions of associations of undertakings and concerted practices concerning the allocation of seat capacity, sharing of revenue, consultations on tariffs, slot allocation, computer reservation systems, ground handling, in-flight catering, and the handling of passengers, mail, freight and baggage at airports.</li><li>3. Any regulation adopted in point 2 above will expire on 31 December 1992.</li><li>4. The Commission may withdraw the benefit of exemptions specified at point 2 in individual cases.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1988
<i>(6) References</i>	Official Journal L 374, 31.12.1987
<i>(7) Follow-up work</i>	On 17 July 1991 the Commission presented a proposal for a Council Regulation (EEC) amending Council Regulation (EEC) No 3976/87 (COM(91) 272/II final, published in Official Journal C 225, 30.8.1991). This proposal is intended to extend the scope of Regulation (EEC) No 3976/87 to include domestic flights inside a single Member State.
<i>(8) Commission implementing measures</i>	<ul style="list-style-type: none"><li>— Regulation (EEC) No 82/91 (Official Journal L 10, 15.1.1991) Commission Regulation of 5 December 1990 on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices concerning ground handling services.</li><li>— Regulation (EEC) No 83/91 (Official Journal L 10, 15.1.1991) Commission Regulation of 5 December 1990 on the application of Article 85(3) of the Treaty to certain categories of agreements between undertakings relating to computer reservation systems for air transport services.</li><li>— Regulation (EEC) No 84/91 (Official Journal L 10, 15.1.1991) Commission Regulation (EEC) No 84/91 of 5 December 1990 on the application of Article 85(3) of the Treaty to certain categories of</li></ul>





agreements, decisions and concerted practices concerning joint planning and coordination of capacity, consultations on passenger and cargo tariff rates on scheduled air services and slot allocation at airports.

## 4. TRANSPORT SERVICES

### 4.13. Air transport: application of competition rules to particular types of agreement

<i>(1) Objective</i>	To authorize the Commission to adopt regulations granting block exemptions to certain categories of agreements, decisions or concerted practices.						
<i>(2) Proposal</i>	Proposal for a Council Regulation (EEC) on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector.						
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. This Regulation applies to international air transport between the Community and third countries.</li><li>2. The Commission may by regulation declare that Article 85(1) is not to apply to certain categories of agreements between undertakings, decisions of associations of undertakings and concerted practices which have as their object the joint planning and coordination of seating capacity, the sharing of revenue, consultation on tariffs, and slot allocation.</li><li>3. Any such block exemption shall apply for a specified period.</li><li>4. The Commission is to submit a proposal for the revision of the Regulation by 1 July 1992, and on that basis the Council is to reach a decision by 31 December 1992.</li><li>5. The Commission may withdraw the benefit of the block exemption where the persons concerned are in breach of the condition or obligation which attaches to a block exemption.</li></ol>						
<i>(4) Opinion of the European Parliament</i>	Parliament approved the proposal subject to certain amendments. The Commission has accepted some of these amendments.						
<i>(5) Current status</i>	The amended proposal is currently before the Council for adoption.						
<i>(6) References</i>	<table><tr><td>Commission proposal COM(89) 417 final</td><td>Official Journal C 248, 29.9.1989</td></tr><tr><td>Amended proposal COM(91) 183 final</td><td>Official Journal C 225, 30.8.1991</td></tr><tr><td>European Parliament opinion</td><td>Not yet published</td></tr></table>	Commission proposal COM(89) 417 final	Official Journal C 248, 29.9.1989	Amended proposal COM(91) 183 final	Official Journal C 225, 30.8.1991	European Parliament opinion	Not yet published
Commission proposal COM(89) 417 final	Official Journal C 248, 29.9.1989						
Amended proposal COM(91) 183 final	Official Journal C 225, 30.8.1991						
European Parliament opinion	Not yet published						



## 4. TRANSPORT SERVICES

### 4.14. Air transport: procedure for application of competition rules

<i>(1) Objective</i>	To provide appropriate procedures, powers and penalties to ensure compliance in the air transport sector with the competition rules laid down in the EEC Treaty.
<i>(2) Community measures</i>	Council Regulation (EEC) No 3975/87 of 14 December 1987 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. The Regulation applies only to international air transport between Community airports.</li> <li>2. The prohibition laid down in Article 85(1) of the Treaty does not apply to agreements, decisions and concerted practices in so far as their sole object and effect is to achieve technical improvements or cooperation.</li> <li>3. Procedures instituted in response to a complaint or on the Commission's own initiative to deal with infringements of the competition rules.</li> <li>4. Application by undertakings for exemption under Article 85(3) of the Treaty.</li> <li>5. Duration, renewal and revocation of exemption decision.</li> <li>6. Procedures carried out by the Commission in close and constant liaison with the competent authorities of the Member States.</li> <li>7. Commission procedures for requesting information.</li> <li>8. Commission's investigating powers exercised in consultation with the Member States.</li> <li>9. Penalties (fines and periodic penalty payments), e.g. where an undertaking supplies incorrect information in response to a request by the Commission.</li> <li>10. Information of a kind covered by the obligation of professional secrecy and acquired in connection with investigations may not be disclosed.</li> <li>11. Publication of Commission decisions.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1988
<i>(6) References</i>	Official Journal L 374, 31.12.1987
<i>(7) Follow-up work</i>	<p>On 14 May 1991 the Council adopted Regulation (EEC) No 1284/91 amending Regulation (EEC) No 3975/87 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector (Official Journal L 122, 17.5.1991).</p> <p>This Regulation empowers the Commission to take, by decision, interim measures prohibiting practices which jeopardize the existence of an air service or an airline company.</p>

*(8) Commission  
implementing  
measures*

On 17 July 1991 the Commission presented a proposal for a Council Regulation (EEC) amending Council Regulation (EEC) No 3975/87 (COM(91) 272/I final, published in Official Journal C 225, 30.8.1991). This proposal, is aimed at removing the provision which restricts the scope of Regulation (EEC) No 3975/87 to international air transport between Community airports. Thus domestic services inside a single Member State will now also be covered by the Regulation.

Commission Regulation (EEC) No 4261/88 (Official Journal L 376, 31.12.1988)

Commission Regulation of 16 December 1988 on the complaints, applications and hearings provided for in Council Regulation (EEC) No 3975/87 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector.



## 4. TRANSPORT SERVICES

### 4.15. Inter-regional air services: review

<i>(1) Objective</i>	To extend the network of air services within the Community by giving air carriers greater scope to develop services between regions in different Member States. This will encourage further development of scheduled international services between a regional airport (category 2) and either a second regional airport or a major airport (category 1).								
<i>(2) Proposal</i>	Proposal for a Council Directive amending for the second time Council Directive 83/416/EEC concerning the authorization of scheduled inter-regional air services for the transport of passengers, mail and cargo between Member States.								
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Amendment of the original 1983 Directive to include long-haul services and to introduce easier access to the market.</li> <li>2. Procedural changes in applications for authorization and approval of air services, e.g. applications for inter-regional air services shall be forwarded from the home State to the State(s) affected which then have three months in which to take a decision; conditions for authorizations and refusals.</li> <li>3. Right of Member States to apply national rules on the environment, social conditions and on the location, operation or safety of airports provided that there is no discrimination against inter-regional air services.</li> <li>4. New compliance and reporting requirements for Member States, e.g. Member States are required to report any accident involving aircraft operating services authorized under this Directive.</li> </ol>								
<i>(4) Opinion of the European Parliament</i>	Parliament has approved the proposition.								
<i>(5) Current status</i>	The proposal is currently before the Council for examination and adoption.								
<i>(6) References</i>	<table border="0" style="width: 100%;"> <tr> <td style="padding-right: 20px;">Commission proposal COM(86) 424 final</td> <td>Official Journal C 240, 24.9.1986</td> </tr> <tr> <td style="padding-right: 20px;">Amended proposal COM(88) 126 final</td> <td>Official Journal C 78, 25.3.1989</td> </tr> <tr> <td style="padding-right: 20px;">European Parliament opinion Economic and Social Committee opinion</td> <td>Official Journal C 13, 18.1.1988</td> </tr> <tr> <td></td> <td>Official Journal C 105, 21.4.1987</td> </tr> </table>	Commission proposal COM(86) 424 final	Official Journal C 240, 24.9.1986	Amended proposal COM(88) 126 final	Official Journal C 78, 25.3.1989	European Parliament opinion Economic and Social Committee opinion	Official Journal C 13, 18.1.1988		Official Journal C 105, 21.4.1987
Commission proposal COM(86) 424 final	Official Journal C 240, 24.9.1986								
Amended proposal COM(88) 126 final	Official Journal C 78, 25.3.1989								
European Parliament opinion Economic and Social Committee opinion	Official Journal C 13, 18.1.1988								
	Official Journal C 105, 21.4.1987								

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## 4. TRANSPORT SERVICES

### 4.16. Civil aviation licences

<i>(1) Objective</i>	To establish a Community procedure for the mutual acceptance of licences and qualifications of persons working in civil aviation in order to ensure that air transport services operate efficiently and safely and to guarantee free movement of these workers throughout the Community.
<i>(2) Community measures</i>	Council Directive 91/670/EEC of 16 December 1991 on the mutual acceptance of licences for persons working in civil aviation.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Directive applies to procedures for the mutual acceptance of licences issued by the Member States to flight crews in civil aviation.</li><li>2. Description of the conditions under which Member States have to accept licences issued by other Member States, together with the associated privileges and certificates. Holders of private pilot licences may fly aircraft registered in any Member State without the need to obtain licence validation from the State of registry.</li><li>3. Member States must accept all licences issued in accordance with the Chicago Convention on International Civil Aviation, provided that the holder has complied with the special validation requirements described in the Annex to the Directive.</li><li>4. The Commission will draw up, and send to all Member States before 1 January 1992, a comparative survey of the requirements individuals must meet in order to qualify for licences covering the same activities issued in each Member State to enable the competent authorities to assess the extent to which licences issued by other Member States are the equivalent of their own. Description of the procedure to be followed by a Member State when a licence cannot be accepted because it is not equivalent.</li><li>5. The Directive provides that nationals of all Member States are to be admitted to public and private training institutions and to examinations in any Member State on the same basis as its own nationals.</li><li>6. Member States may choose whether to accept licences issued by Member States on the basis of licences issued by third countries.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.6.1992
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 373, 31.12.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	



## 4. TRANSPORT SERVICES

### 4.17. Harmonization of civil aviation rules and procedures

- (1) *Objective* To improve cooperation with the Joint Aviation Authorities (JAA) by incorporating this body into Community law with a view to obliging Member States to adopt common codes governing technical rules and administrative procedures in the field of aviation and to observe the administrative requirements and procedures adopted by the JAA.
- (2) *Community measures* Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical rules and administrative procedures in the field of civil aviation.
- (3) *Contents*
1. This Regulation concerns the harmonization of technical rules and administrative procedures in the field of civil aviation safety.
  2. Definitions of 'operator', 'product', 'equipment', 'element', 'certification', 'maintenance', 'national variant' and 'arrangements'.
  3. The common technical rules and administrative procedures applicable in the Community in the fields specified in Annex II of this Regulation are the corresponding JAA codes featuring in the same annex. They shall enter into force on 1 January 1992.
  4. The Member States shall ensure that the competent authorities in the field of civil aviation meet the requirements for membership of the JAA as specified in the arrangements, and that these arrangements are signed before 1 January 1992.
  5. Existing products and their derivatives which are not certified in accordance with the common technical rules and administrative procedures may be accepted by the Member States under existing national legislation, until the common technical rules and administrative procedures for the products concerned are adopted by virtue of this Regulation.
  6. Member States shall accept certifications granted by another Member State or a body acting on behalf of another Member State to persons or bodies under its jurisdiction who are employed in the design, manufacture and maintenance of products, or in the operation of aircraft.
  7. Member States may take immediate action when safety problems become apparent as a result of an accident, incident or other event observed during service, whether the problems lie with a product that is designed, manufactured, maintained and operated in accordance with this Regulation, or with persons, procedures or bodies involved in carrying out these activities.
  8. Where safety levels are found to be inadequate or lacking under the common technical rules and administrative procedures, the Commission shall take the appropriate steps to remedy the situation.
  9. The Member States shall take the necessary measures to coordinate their research in the field of improving civil aircraft and aviation safety. The Commission is to be briefed accordingly, and may take any steps deemed appropriate for the promotion of this research.
  10. The Member States shall notify the Commission of any new or amended rules or procedures which may be drawn up or adopted in accordance with the procedures laid down in the arrangements, or of any amendment to the arrangements themselves, and of the outcome

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of consultations with representatives from the industry and other interested parties.

11. The Commission shall amend the common technical rules and administrative procedures where such amendments are rendered necessary by progress in the field of science and technology. If such amendments involve a national variant for a given Member State, the Commission shall rule whether or not this variant should be included in the common technical rules and administrative procedures.

*(4) Deadline for implementation of the legislation in the Member States*

1.1.1992

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 373, 31.12.1991

*(7) Follow-up work*

*(8) Commission implementing measures*





## 4. TRANSPORT SERVICES

### 4.18. Air cargo services

<i>(1) Objective</i>	To encourage the development of air cargo services by harmonizing the regulations and liberalizing access to the market and the price fixing mechanism.
<i>(2) Community measures</i>	Council Regulation (EEC) No 294/91 of 4 February 1991 on the operation of air cargo services between Member States.
<i>(3) Contents</i>	<p>1. The Regulation concerns on the one hand access to the market for the operation of air cargo services between Member States by Community air cargo carriers and on the other air cargo rates between Member States. Application of the Regulation to Gibraltar airport is suspended until the arrangements set out in the declaration made by Spain and the United Kingdom on 2 December 1987 have come into operation.</p> <p>2. Definitions of the concepts of 'air cargo carrier', 'Community air cargo carrier', 'cargo rates', 'air cargo services', 'a third-freedom traffic right', etc.</p> <p>3. Common rules concerning the licensing of air cargo carriers to be applied at the latest from 1 July 1992.</p> <p>4. Free access to the market for all Community air carriers which observe the provisions laid down.</p> <p>5. The exercise of traffic rights is subject to published Community, national, regional or local rules relating to safety, the protection of the environment and the allocation of slots.</p> <p>6. The carriers may fix cargo rates by free agreement between the parties to the contract of carriage. Rates are to be made available to the general public on request.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.
<i>(5) Date of entry into force (if different from the above)</i>	11.2.1991
<i>(6) References</i>	Official Journal L 36, 8.2.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

## 5. NEW TECHNOLOGIES AND SERVICES

### Current problems and 1992 objectives

Rapidly changing innovative information technologies have given rise to a range of new information services. These play an increasingly significant role in the economy and have potential for considerable cross-border development.

The opening-up of the market in Europe will benefit users of these services by increasing choice and competition. It will also benefit suppliers by bringing economies of scale in research, development and type approval and by increasing European competitiveness in world markets.

To achieve this, the Community has to remove the obstacles which hamper the free movement of these new information services.

To that end the Commission has been active in liberalizing the provision of services, standardization and in the networks. In view of the importance of telecommunications for implementing the 1992 objective, in 1987 the Commission published a Green Paper on the development of the common market in services and telecommunications equipment and put forward a timetable for opening up the market (COM(87) 290 final). A second Green Paper dealing more specifically with satellite telecommunications was published in 1990 (COM(90) 490 final — see point 4 below)

#### 1. Liberalizing telecommunications services

To meet the objective for competition in telecommunications services, on the basis of Article 90 of the Treaty the Commission adopted two Directives on competition in the markets for telecommunications services and for telecommunications terminal equipment respectively (summary 5.16).

The Directive on services and a framework Directive on ONP (open network provision — see 'Networks' section below) were notified to the Member States by the Council and the Commission simultaneously in July 1990 to guarantee parallelism between liberalization and harmonization.

The Community has also taken action on:

- establishing harmonized conditions for open network provision (summary 5.11);
- defining the detailed conditions for the provision of an open telecommunications network, established by Council Directive 90/387/EEC as regards leased lines (summary 5.12);
- laying down rules on the freedom of television broadcasting (summary 5.1);
- opening up the information services market (summary 5.23).

#### 2. Standardization

On 27 April 1989 the Council adopted a resolution concerning standardization, aimed at organizing cooperation between national bodies, operators of public networks, industrial firms, research institutes and other users within the European Telecommunications Standards Institute (ETSI).

On 4 December 1990 the Council adopted transitional measures applicable in the new *Länder* of the Federal Republic of Germany, having regard to German unification, preparing the way for progressive application of all Community legislation to the territory of the former German Democratic Republic (Council Directive 90/657/EEC published in Official Journal L 353, 17.12.1990 — summary 5.13).



The Community has also taken action on:

- continuing and speeding up the standardization of information technology and telecommunications standards (summary 5.8);
- introducing high-definition television standards. This measure was accompanied by a decision on the joint action to be taken by the Member States for the adoption of a single world-wide HDTV production standard (summary 5.5);
- mutual recognition of pattern approval for telecommunications terminals (summaries 5.9 and 5.10);
- the development of land-based pan-European cellular communications (European mobile telephone — summary 5.13);
- the coordinated introduction of cordless digital telecommunications in the Community (DECT — summary 5.15);
- the coordinated introduction of digital short-range radio in the Community (DSRR — summary 5.22);
- the introduction of a standard Europe-wide emergency call number (112) (summary 5.20);
- the introduction of a standard international access code for public telephone networks in the Community (summary 5.21).

### 3. Networks

On 18 July 1989 the Council adopted a resolution (Official Journal C 196, 1.8.1989) aimed at stepping up efforts to introduce the Integrated Services Digital Network (ISDN) in Europe which would allow access to a wide variety of services such as voice, text, data and image transmission. In the framework of the action plan for implementation of 'trans-European networks', 'ISDN' constitutes an opportunity to achieve in 1993 a general, switched telecommunications network, interconnected and compatible at pan-European level, which will be capable of meeting the diverse needs of the single market (see point 6).

A third annual report presented by the Commission on 26 November 1991 reviewed progress on implementation for each Member State and in the less-favoured regions covered by the special telecommunications action for regional development (STAR) programme. 1991 saw a considerable extension of networks, even though five countries are proposing to supply on commercial terms, existing networks are not fully harmonized and international interconnection is behind schedule; the delays in standardization, for their part, will not affect scheduling. The report makes several recommendations concerning support for small and medium-sized enterprises (SMEs), interconnection with Japan, tariffs, promotion to potential users and finalization of standards.

The Community has also taken action on:

- defining guidelines for the operation of electronic payments systems (summaries 5.6 and 5.7);
- strengthening coordination procedures in Europe to ensure that the Community's reserved frequencies do not hinder future developments (summary 5.14);
- widening the scope for the electronic interchange of commercial or administrative forms direct between different organizations' computers, resulting in appreciable savings in terms of time and the administrative costs involved (Tedis programme — summary 5.19).

### 4. Satellite communications

On 20 November 1990 the Commission presented a Green Paper on a joint approach to satellite communications within the European Community (COM(90) 490 final).

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This document is intended to widen the application of the general principles of Community telecommunications policy to include satellite communications. Four major options are proposed:

- complete liberalization of ground-based operations, including both receiving and transmitting and receiving stations, subject to appropriate approval and authorization procedures where so justified by the regulatory safeguard machinery;
- free (unrestricted) access under Community telecommunications policy to the capacity of the space sector, subject to the application of appropriate authorization procedures which are intended to safeguard the exclusive or special rights and the steps taken by the Member States both under Community law and on a consensus basis. Access will have to be on equitable terms that do not discriminate and do take account of costs;
- complete commercial freedom for all space-sector suppliers and in particular direct marketing of satellite capacity among suppliers and users of services, provided that the authorization procedures mentioned above and Community law are adhered to. In the latter case this proviso applies above all to the competition rules;
- harmonization to the extent needed to make it easier to provide services on a European scale. This involves in particular the mutual recognition of authorization and approval procedures, coordination of frequencies and suppliers of services from non-member countries.

The combined effect of these changes will pave the way for a very wide range of specialized services.

The Community has also taken action in the following areas:

- harmonization of common standards for the manufacture of television sets, enabling programme reception by satellite (summary 5.2);
- definition of a European standard for the satellite broadcasting of television signals (summary 5.3).

#### 5. Protection of personal data

Action by the Community is needed in order to complete the internal market and allow information technology and new telecommunications services to flourish, while guaranteeing the protection of private data (see also the introduction concerning control of individuals).

A set of measures in this connection has been submitted to the Council:

- a proposal for a general Directive aimed at establishing an equivalent, high level of protection in the Member States in order to remove obstacles to the exchange of data (see chapter 'Control of individuals');
- a Commission declaration on the application to the institutions and other bodies of the Community of the provisions of the general Directive (*idem*);
- a recommendation for a Council Decision on the accession of the European Community to the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (*idem*);
- a proposal for a Directive concerning the protection of data in the context of public digital telecommunications networks, in particular the ISDN and public digital mobile networks (summary 5.17);
- a proposal for a Council Decision on the adoption of a two-year action plan on information security, i.e. protection of data against every kind of threat (both accidental and deliberate) in the context of the deployment of open telecommunications networks, concerning in particular standards and approval and testing procedures (summary 5.18).



6. Promotion of telematics networks to improve the effectiveness of the internal market  
The operation of the internal market calls for closer cooperation and, to a far greater extent than in the past, a systematic exchange of information that is both fast and extremely reliable. This cannot be achieved unless intensive use is made of compatible and interoperable telematics systems.

These issues were raised in the Commission's communication on trans-European networks (COM(90) 585 final).

Furthermore, in its communication on the electronics and data-processing industry and the telecommunications industry the Commission emphasized how action in the area of demand for pan-European services from administrations can be instrumental in lending a new impetus to Community industry. The Commission completed its analysis of the problem in its communication to the Council and Parliament on the requirements in the field of information interchange between administrations in order to improve the effectiveness of the internal market.

It identified some 85 information interchange activities between administrations in the Member States and/or with Community institutions. Because of the inadequacy of the action taken so far, there is a case for urgent and priority measures to remove controls at internal borders (indirect taxation, customs and excise duties, veterinary controls, plant health, statistics).

This communication will be followed up by an operational plan for the actual establishment of systems including measures to:

- involve both national and Community administrations through the setting-up of a panel of senior national officials;
- make use of the various budgetary resources available;
- set aside the necessary budgetary resources for this purpose at both national and Community level.

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.1. Television: pursuit of televisual broadcasting

<i>(1) Objective</i>	To ensure that all residents in the EC have access to all EC broadcasts which have become possible with satellite and cable technology. To remove the obstacles to this which result from Member State rules on advertising, protection of children and right of reply. To promote the distribution and production of European televisual programmes.
<i>(2) Community measures</i>	Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of televisual broadcasting.
<i>(3) Contents</i>	<p>1. Member States shall not restrict the reception nor hinder the distribution by cable on their territories of broadcasts from other Member States (except if the broadcast does not respect the provisions of the Directive concerning the protection of children).</p> <p>2. Harmonization in the area of advertising concerns:</p> <ul style="list-style-type: none"><li>— the duration (15% of daily broadcasting time, 20% per hour);</li><li>— methods of programme interruptions;</li><li>— the form of natural breaks, ethical considerations (particularly for children); and</li><li>— advertisements for alcohol.</li></ul> <p>Advertising tobacco and certain medicines is forbidden. As regards television broadcasting bodies which come under their responsibility and which broadcast only in their national territory, the Member States may apply other rules concerning duration and scheduling of advertising.</p> <p>3. Sponsorship of television programmes is possible provided that certain rules are respected.</p> <p>4. Television programmes must not seriously impair the development of minors.</p> <p>5. A right of reply must be granted where the legitimate interests of the individual have been damaged.</p> <p>6. As far as the promotion of European broadcasting production is concerned, the Directive stipulates that the Member States should ensure, wherever possible, that broadcasters reserve a majority of their broadcasting time to European works (except for news, sport, game shows, advertising and teletext). 'European works' is precisely defined. The Commission is responsible for ensuring that this provision is respected. 10% of broadcasting time must be reserved, wherever possible, to independent European productions. The time between a film being released and being broadcast on television shall be two years, and one year for films co-produced with radio. Under certain conditions language quotas may be authorized but only for radio broadcasters under the responsibility of the State which fixes them.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	3.10.1991



*(5) Date of entry into force (if different from the above)*

*(6) References*

*(7) Follow-up work*

*(8) Commission implementing measures*

Official Journal L 298, 17.10.1989

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.2. Television: satellite broadcasting: MAC/packet standards

<i>(1) Objective</i>	To produce common technical specifications for direct satellite broadcasting of television programmes and their redistribution by cable. This will establish common standards for the production of television sets and allow programmes to be received throughout the Community.
<i>(2) Community measures</i>	Council Directive 86/529/EEC of 3 November 1986 on the adoption of common technical specifications for the MAC/packet family of standards for direct satellite television broadcasting.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Member States to take the necessary measures to ensure coordination and the exclusive use only of the MAC/packet family of standards for direct satellite broadcasting of television programmes and their redistribution by cable.</li><li>2. Definition of direct broadcasting by satellite as that using channels assigned to Member States in the 11.7-12.5 GHz band and intended for display on 625-line domestic television receivers.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	31.12.1991
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 311, 6.11.1986
<i>(7) Follow-up work</i>	The Commission presented proposals for a replacement Directive before 31 December 1991 which is the final date for the application of this Directive (summary 5.3).
<i>(8) Commission implementing measures</i>	





## 5. NEW TECHNOLOGIES AND SERVICES

### 5.3. Television: satellite broadcasting: new standards

- (1) *Objective* To define, with a view to a comprehensive strategy for the introduction of high-definition television (HDTV) services in Europe and to a single market in satellite broadcasting of television signals, the HD-MAC standard as the sole European standard for HDTV, with the aid of an intermediate standard, D2-MAC.
- (2) *Proposal* Proposal for a Council Directive on the adoption of standards for satellite broadcasting of television signals.
- (3) *Contents*
1. The Member States must promote and support the introduction and development of advanced satellite broadcasting services for television programmes, using the HD-MAC standard for HDTV transmission and the D2-MAC standard for other transmission in the 16:9 format.
  2. Only the HD-MAC standard may be used for all transmissions of HDTV services.
  3. Only the D2-MAC standard may be used for all 625-line television services broadcast by satellite. Satellite services in operation on 31 December 1995 and using D-MAC, PAL or Secam standards may continue to use the same standard for 625-line 4:3 format programmes.
  4. As from 1 January 1994, all new television sets and all new satellite receivers for sale within the Community must be equipped to receive D2-MAC signals.
  5. Any new terrestrial redistribution system, or any existing terrestrial redistribution system with the necessary technical capability, must be configured in such a way that HD-MAC signals can be transmitted through the network. Cable operators who receive programmes in the 16:9 format and the D2-MAC or HD-MAC standard must redistribute them in the same format and standard.
  6. The Member States must take all the necessary measures to ensure that a conditional access system fully compatible with D2-MAC is employed for all encrypted services using this standard.
  7. The Directive is applicable until 31 December 1999. Every two years the Commission will submit an assessment report to the Council, the European Parliament and the Economic and Social Committee.
- (4) *Opinion of the European Parliament* First reading: Parliament approved the Commission's proposal subject to certain amendments. The Commission accepted some of these amendments.
- (5) *Current status* On 19 December 1991 the Council released a political agreement concerning a common position. The formal adoption of this common position will take place during the next session.

*(6) References*

Commission proposal COM(91) 242 final	Official Journal C 194, 25.7.1991
Amended proposal COM(91) 530 final	Official Journal C 332, 21.12.1991
European Parliament opinion First reading	Not yet published
Economic and Social Committee opinion	Not yet published in the Official Journal



## 5. NEW TECHNOLOGIES AND SERVICES

### 5.4. High-definition television — HDTV

<i>(1) Objective</i>	To develop a comprehensive strategy for the introduction of HDTV services in Europe.
<i>(2) Community measures</i>	Council Decision 89/337/EEC of 27 April 1989 on high-definition television.
<i>(3) Contents</i>	<p>1. This Decision sets the five following objectives as a basis for a comprehensive strategy for the introduction of HDTV services in Europe:</p> <ul style="list-style-type: none"> <li>— to make every effort to ensure that the European industry develops in time all the technology, components and equipment required for the launching of HDTV services;</li> <li>— to promote the adoption of the European proposal (1 250 lines, 50 complete frames per second) as the single world standard;</li> <li>— to promote the widest use of the European HDTV system throughout the world;</li> <li>— to promote the introduction, as soon as possible, of HDTV services in Europe;</li> <li>— to make every effort to ensure that the European film and television production industry achieves the capability, experience and dimension required to occupy a competitive position on the world market.</li> </ul> <p>2. On the basis of a proposal from the Commission, the Council will examine an action plan for the introduction of HDTV services. This plan should include mechanisms allowing non-Community countries in Europe to participate.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 142, 25.5.1989.
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	On 24 July 1991 the Commission submitted a communication to inform the Council and the European Parliament of the policy which the Commission intends to implement to enable the European programme industry to play a full part at all stages of the HDTV strategy.

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.5. High-definition television: single world-wide production standard

<i>(1) Objective</i>	To contribute to the smooth development of high-definition television (HDTV) production by taking common action to promote the adoption of a single world-wide high-definition television production standard by the Plenary Assembly of the International Radio Consultative Committee (IRCC).
<i>(2) Community measures</i>	Council Decision 89/630/EEC of 7 December 1989 on the common action to be taken by the Member States with respect to the adoption of a single world-wide high-definition television production standard by the Plenary Assembly of the International Radio Consultative Committee (IRCC) in 1990.
<i>(3) Contents</i>	The common action to be taken with respect to the adoption of a single world-wide standard must be based on the proposal arising from the Eureka 95 project. It will be carried out at the meetings to be held to prepare these recommendations concerning a single world-wide HDTV production standard. If these consultations fail to produce an agreement, the points on which there is disagreement will, if necessary, be brought before the relevant Council bodies.
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 363, 13.12.1989
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	



## 5. NEW TECHNOLOGIES AND SERVICES

### 5.6. Payment systems: electronic payments

<i>(1) Objective</i>	Standardization in the development of payment card systems. This will allow for interoperability between the different networks and thus ensure equal access for all card-holders to all distribution networks. This should contribute to the rapid modernization of banking, distribution and telecommunications services throughout the Community. It will also aid the free movement of goods and capital.
<i>(2) Community measures</i>	Commission Recommendation 87/598/EEC of 8 December 1987 on a European code of conduct relating to electronic payments.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Recommendation that all interested parties concerned should comply with the provisions of the 'European code of conduct' relating to electronic payments. This has been drafted by the European Commission and will promote: <ul style="list-style-type: none"> <li>— security and convenience for consumers;</li> <li>— greater security and efficiency for traders and issuers.</li> </ul> </li> <li>2. Definitions of 'electronic payment', 'issuer' (bank), 'trader', 'consumer' and 'interoperability'.</li> <li>3. General principles relating to the contract between issuers (banks) and traders or consumers, e.g. it shall set out in detail the general and specific conditions of the agreement; the contract shall be drawn up in the official language(s) of the Member State in which it is concluded.</li> <li>4. Obligation for interoperability to be full and complete before 31 December 1992. This will enable traders and consumers to join the networks or contract with the issuers of their choice, and ensure that every electronic payment terminal is able to process all cards.</li> <li>5. Respect of privacy of information given by consumer. Right of fair access to the system for traders, irrespective of their size.</li> <li>6. Obligations concerning relations between issuers and traders: <ul style="list-style-type: none"> <li>— including a ban on any exclusive trading clause which requires the trader to operate only one system; and</li> <li>— an obligation on card-holders to take all reasonable precautions to ensure the safety of the payment card.</li> </ul> </li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	None required.
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 365, 24.12.1987
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.7. Payment systems: relationship between card-holders and card-issuers

<i>(1) Objective</i>	To give greater protection to consumers through the adoption of regulations applicable to all types of financial services, in particular those relating to payment methods and the purchasing of goods and services.
<i>(2) Community measures</i>	Commission Recommendation 88/590/EEC of 17 November 1988 concerning payment systems, and in particular the relationship between card-holder and card-issuer.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Recommendation stipulates that consumers must receive adequate information concerning the terms of contract, particularly with regard to the fees and other costs, if any, payable by consumers, and also concerning their rights and contractual obligations.</li><li>2. It stipulates that consumers would be better protected if contracts were made in writing and contained minimum particulars concerning the contractual terms, in particular an indication of the period of time within which operations will normally be credited, debited or invoiced.</li><li>3. No payment device, whether in the form of a plastic card or otherwise, must be dispatched to a consumer except in response to an application from such person. The contract concluded between the consumer and the issuer of the payment device must not take effect until the consumer has received the payment device and has been informed of the applicable terms of contract.</li><li>4. Operations authorized by issuing bodies must be recorded in order that operations can be traced and errors rectified. Payment instructions communicated electronically by a contracting holder should be irrevocable, so that a payment thereby shall not be reversed.</li><li>5. The contracting holder must receive a written statement of the operations effected by means of a payment device.</li><li>6. The Recommendation provides for the fixing of common rules concerning the issuer's liability:<ul style="list-style-type: none"><li>— for non-execution or erroneous execution of a contracting holder's payment instructions and allied operations;</li><li>— for operations which have not been authorized by the contracting holder, subject to the contracting holder's own obligations in the event of lost, stolen or copied payment devices.</li></ul>Common terms of contract have also been drawn up concerning the consequences to the contracting holder in the event of lost, stolen or copied payment devices.</li><li>7. For the purpose of ensuring that electronic payment networks can function and payment devices be used internationally, it is necessary that data relating to a contracting card-holder can be transmitted across frontiers, subject to certain conditions.</li><li>8. Annex describing the various operations used to effect payment. Definitions of the terms 'payment device', 'issuer', 'system provider', 'contracting holder' and 'company-specific card'.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	None required.



*(5) Date of entry into force (if different from the above)*

*(6) References*

*(7) Follow-up work*

*(8) Commission implementing measures*

Official Journal L 317, 24.11.1988

## 5. NEW TECHNOLOGIES AND SERVICES

### 5.8. Standardization: information and telecommunications

- (1) *Objective* To promote closer cooperation in establishing EEC technical standards in the information technology and telecommunications sectors.
- (2) *Community measures* Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications.
- (3) *Contents*
1. Prioritization of the areas which need standardizing. Furthermore, rapid publication of standards must be ensured so that undue delays do not result in early obsolescence of texts.
  2. Establishment of European standards, European pre-standards and telecommunications functional specifications. These will be based on international standards where they exist.
  3. Coordination of Member States' activities in:
    - the verification of conformity of products and services to standards and functional specifications;
    - the certification of conformity.
  4. Member States shall ensure reference to European standards, European pre-standards, international standards and functional specifications for public procurement orders.
  5. Special circumstances which may justify the use of standards and specifications other than those specified in this Decision, e.g. those requiring compatibility with existing systems, genuinely innovative projects, certain contracts worth less than ECU 100 000 (provided that this does not prevent the use of the correct standards in contracts worth more than ECU 100 000).
- (4) *Deadline for implementation of the legislation in the Member States* 7.2.1988
- (5) *Date of entry into force (if different from the above)*
- (6) *References* Official Journal L 36, 7.2.1987
- (7) *Follow-up work*
- (8) *Commission implementing measures* On 30 April 1991 the Commission adopted a report on standardization in the field of information technology and telecommunications. This report is submitted to the Council and the European Parliament in accordance with Article 8 of Council Decision 87/95/EEC and reports on the progress made in the area of standardization during 1988 and 1989.





## 5. NEW TECHNOLOGIES AND SERVICES

### 5.9. Telecommunications terminal equipment: type approval

<i>(1) Objective</i>	To promote a Community market for telecommunications terminal equipment through the mutual recognition by Member States of tests for conformity with common technical regulations.
<i>(2) Community measures</i>	Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Member States to implement the mutual recognition of the results of tests for conformity with common specifications in mass-produced telecommunications terminal equipment.</li> <li>2. Definitions of terms relating to 'telecommunications' 'administration', 'standards', 'technical specification', 'conformity', etc.</li> <li>3. The Commission to draw up annually a list of international technical standards and specifications to be harmonized, terminal equipment for which common conformity specifications should be drafted as a matter of priority, and establish a timetable for this work.</li> <li>4. The composition and tasks of the 'Working Party of Senior Officials on Telecommunications'. This will assist the Commission with the implementation of the Directive.</li> <li>5. Member States to accept certificates of conformity for a particular type of terminal equipment and not to carry out further tests.</li> <li>6. Power of Member States to suspend recognition of a certificate of conformity if the Member State discovers cases of non-implementation of the common conformity specification, or if it discovers that the common conformity specification fails to meet the essential requirement that it is supposed to cover.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	24.7.1987
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 217, 5.8.1986
<i>(7) Follow-up work</i>	See summary 5.10.
<i>(8) Commission implementing measures</i>	

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.10. Telecommunications terminal equipment: mutual recognition of conformity (second phase)

- (1) *Objective* To implement the single market in telecommunications terminal equipment by means of harmonized procedures for the certification, testing, marking, quality assurance and inspection of products in order to ensure compliance with the essential requirements already laid down in Directive 86/361/EEC (summary 5.9). The aim is also to guarantee the right to connect lawfully marketed terminal equipment to the public telecommunications networks.
- (2) *Community measures* Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws of the Member States relating to telecommunications terminal equipment, including mutual recognition of conformity.
- (3) *Contents*
1. Definitions of the concepts 'public telecommunications network', 'technical specification' and 'standard'.
  2. The Directive applies to terminal equipment intended to be connected to the public telecommunications network, i.e. equipment intended either:
    - to be directly connected to a public telecommunications network terminal, or
    - to interoperate with a public telecommunications network by being directly or indirectly connected to a public telecommunications network terminal,in order to transmit, process or receive data. The intended purpose of the equipment must be declared by the manufacturer or supplier. The Directive also contains specific provisions on equipment capable of, but not intended for, connection to a public telecommunications network.
  3. Member States shall not hinder the marketing and free movement or the use on their territory of terminal equipment meeting the essential requirements laid down in the Directive. Furthermore, they undertake to take all necessary steps to prevent the marketing and use of equipment that does not meet the conditions laid down.
  4. The Directive specifies the essential requirements to be met by terminal equipment.
  5. Terminal equipment may be subjected to:
    - an EC-type examination: a notified body declares that the equipment meets the essential requirements; or to
    - an EC declaration of conformity, with full quality assurance established by the manufacturer.
  6. The Member States shall inform the Commission of the bodies established within the Community which they have appointed to certify and inspect products and to carry out the relevant supervisory functions.
  7. Terminal equipment shall bear the EC mark of conformity, which consists of the letters EC followed by the identification symbol of the notified body responsible and a symbol indicating that the equipment is intended to be connected to the public telecommunications network and is suitable for that purpose.



8. A standing committee for terminal equipment called the Approvals Committee for Telecommunications Equipment (ACTE) shall be set up.
9. The Commission will periodically consult the representatives of the telecommunications organizations, the consumers, the manufacturers, the service providers and the trade unions and will inform the Committee on the outcome of such consultations, with a view to taking due account of this outcome.
10. This Directive shall annul Council Directive 86/361/EEC by 6 November 1992 at the latest.
11. Annexes containing the EC-type examination, conformity to type, full quality assurance and the minimum criteria to be observed by Member States for the designation of notified bodies pursuant to Article 10(1).

*(4) Deadline for implementation of the legislation in the Member States*

6.11.1992

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 218, 23.5.1991

*(7) Follow-up work*

*(8) Commission implementing measures*

## 5. NEW TECHNOLOGIES AND SERVICES

### 5.11. Implementation of open network provision (ONP)

<i>(1) Objective</i>	To establish harmonized conditions for the provision of an open telecommunications network, the basic objective for the completion of a single market in value-added services.
<i>(2) Community measures</i>	Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (ONP).
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Directive provides for the harmonization of conditions for open access to, and open and efficient use of, the public telecommunications network infrastructure, and, if applicable public telecommunications services within and between the Member States.</li><li>2. Definitions of the terms 'telecommunications organizations', 'exclusive or special rights', 'public telecommunications network' etc.</li><li>3. Open network provision conditions must respect the following principles:<ul style="list-style-type: none"><li>— objectivity;</li><li>— transparency;</li><li>— non-discrimination.</li></ul></li><li>4. Open network provision conditions may not restrict access to public telecommunications networks or public telecommunications services except on the grounds of essential requirements, namely:<ul style="list-style-type: none"><li>— security of network operations;</li><li>— maintenance of network integrity;</li></ul>and, where justified,<ul style="list-style-type: none"><li>— interoperability of services;</li><li>— data protection.</li></ul></li><li>5. Open network provision conditions (several stages).</li><li>6. Provision for a gradual process of mutual recognition of declaration and/or licensing procedures ('authorizations') within the Community.</li><li>7. Annexes containing a list of telecommunications organizations the fields for which open network provision conditions may be drawn up; the reference framework for the drafting of open network provision conditions.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1991
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 192, 24.7.1990
<i>(7) Follow-up work</i>	Directive 90/387/EEC is a framework Directive on the basis of which the Commission must make specific proposals in the fields set out in the annex. The Commission will thus draw up proposals for Directives and recommendations during 1991. This is the background to the proposal on the application of open network provision to leased lines (summary 5.12), and the proposal for



a Council Recommendation on the harmonized provision of a minimum set of packet-switched data services in accordance with open network provision principles, adopted on 7 June 1991. This proposal for a Recommendation would implement harmonized general principles as laid down in Council Directive 90/387/EEC and specify which services should be provided in all Member States in a harmonized way (COM(91) 208 final).

On 13 December 1991 the Commission presented a proposal for a Council Recommendation on the provision of harmonized ISDN access arrangements and a minimum set of ISDN functionalities in accordance with open network provision (ONP) principles (COM(91) 509 final). This Recommendation concerns the provision of technical interfaces, conditions for use and tariff principles.

In 1992 the Council will carry out a general review of all conditions for access to telecommunications services not harmonized by that time, the effects of these conditions on the working of the internal market for telecommunications services and the advisability of opening up this market.

*(8) Commission  
implementing  
measures*

On 29 December 1990 the Commission published a list of ISDN standards suitable for ONP (Official Journal C 327, 29.12.1990). This list may be amended by subsequent publications.

On 14 February 1991 the Commission published an announcement on the availability of the report on ONP for the ISDN (Official Journal C 38, 14.2.1991), inviting public comment.

On 26 July 1991 the Commission published an announcement on the availability of the report on ONP for voice telephony (Official Journal C 197, 26.7.1991), inviting public comment.

## 5. NEW TECHNOLOGIES AND SERVICES

### 5.12. Open network provision: application

<i>(1) Objective</i>	To define conditions for the provision of an open telecommunications network, established by Council Directive 90/387/EEC (summary 5.11), as regards leased lines.				
<i>(2) Proposal</i>	Proposal for a Council Directive on the application of open network provision to leased lines.				
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Definitions of the terms 'leased lines', 'equivalent transmission capacity', 'competitive services', 'ONP Committee', 'users', 'national regulatory authority', 'simple resale of capacity', 'common ordering procedure', 'one-stop ordering' and 'one-stop billing'.</li><li>2. The telecommunications organizations must use a set of general supply conditions containing at least a number of parameters of importance to users, in particular the delivery period for leased lines of the same type and the length of the contractual period. The telecommunications organizations will be obliged to inform users of amendments made to the general supply conditions.</li><li>3. The Directive provides the broad outlines for interpretation at Community level of the concept of 'essential requirements' which could limit the use of leased lines.</li><li>4. At least five types of leased lines must be available throughout the Community.</li><li>5. The national regulatory authorities will determine the monitoring procedures applicable to the telecommunications organizations.</li><li>6. The telecommunications organizations must use transparent cost accounting systems in compliance with the basic principles of cost orientation and transparency.</li><li>7. The Directive lays down a conciliation procedure to deal with any user complaints.</li><li>8. Annexes concerning, firstly, the publication format of the information concerning leased lines which must be notified and, secondly, the definition of a minimum set of leased lines with harmonized technical characteristics.</li></ol>				
<i>(4) Opinion of the European Parliament</i>	First reading: Parliament approved the Commission's proposal subject to certain amendments. The Commission accepted some of these amendments.				
<i>(5) Current status</i>	The Council adopted a common position on 19 December 1991. Within the framework of the cooperation procedure this is now before Parliament for a second reading.				
<i>(6) References</i>	<table><tr><td>Commission proposal COM(91) 30 final</td><td>Official Journal C 58, 7.3.1991</td></tr><tr><td>European Parliament opinion First reading Economic and Social Committee opinion</td><td>Official Journal C 305, 25.11.1991 Official Journal C 269, 14.10.1991</td></tr></table>	Commission proposal COM(91) 30 final	Official Journal C 58, 7.3.1991	European Parliament opinion First reading Economic and Social Committee opinion	Official Journal C 305, 25.11.1991 Official Journal C 269, 14.10.1991
Commission proposal COM(91) 30 final	Official Journal C 58, 7.3.1991				
European Parliament opinion First reading Economic and Social Committee opinion	Official Journal C 305, 25.11.1991 Official Journal C 269, 14.10.1991				



## 5. NEW TECHNOLOGIES AND SERVICES

### 5.13. Pan-European mobile telephone

- (1) *Objective* To promote the development of pan-European land-based cellular communications by 1991 by ensuring the free movement of mobile telephones throughout the EEC, the compatibility of networks and EEC standards for manufacture.
- (2) *Community measures* Council Directive 87/372/EEC of 25 June 1987 on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community.  
Council Recommendation 87/371/EEC of 25 June 1987 on the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community.
- (3) *Contents* *Directive 87/372/EEC*  
1. Member States to ensure that 905-914 and 950-959 MHz frequency bands, or equivalent parts of the 890-915 and 935-960 MHz bands, are reserved exclusively for a public pan-European cellular digital mobile communications service by 1 January 1991. The whole of 890-915 and 935-960 MHz bands are to be made available as soon as possible.  
2. Definition of the term 'public pan-European cellular digital land-based mobile communications service' as a public, cellular radio service provided in each of the Member States to a common specification.  
*Recommendation 87/371/EEC*  
The Recommendation proposes that the telecommunications administrations implement detailed recommendations concerning the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community. Special consideration is to be given to the choice of transmission system and network interfaces. A time schedule is outlined in the annex to the Recommendation; the service should commence in 1991 at the latest.
- (4) *Deadline for implementation of the legislation in the Member States* — Directive 87/372/EEC: 25.12.1988 Derogation until 31 December 1992 on the implementation of Council Directive 90/657/EEC (Official Journal L 353, 17.12.1990) regarding the new *Länder* and the frequency bands that do not conform to Directive 87/372/EEC.  
— Recommendation 87/371/EEC: Member States to inform the Commission at the end of each year, beginning at the end of 1989, of actions taken and problems occurring.
- (5) *Date of entry into force (if different from the above)*
- (6) *References* Official Journal L 196, 17.7.1987
- (7) *Follow-up work* On 9 October 1990, the Council adopted two measures:  
— the first is a Recommendation on the coordinated introduction of pan-European land-based public radio paging in the Community. This Recommendation aims to speed up the action which the Member States, telecommunications authorities and manufacturers need to take for the development, introduction and progressive expansion of pan-

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European radio paging (Council Recommendation 90/543/EEC published in Official Journal L 310, 9.11.1990);

— the second is a Directive on the frequency bands to be reserved for the coordinated introduction of pan-European land-based public radio paging. The Directive aims to ensure that the 169 MHz frequency band is available in time for Ermes — European radio messaging system (Council Directive 90/544/EEC published in Official Journal L 310, 9.11.1990).

On 14 December 1990 the Council adopted a Resolution covering the points set out above.

*(8) Commission  
implementing  
measures*

In its report on the implementation of Council Recommendation 87/371/EEC and Council Directive 87/372/EEC, the Commission underlines the considerable progress made in launching the services (voice telephony, emergency services, call forwarding) and in the process of standardization (COM(90) 565 final). Nevertheless, this technical progress linked as it is to the availability of common frequency bands throughout the Community, could still be slowed down by delays in the harmonization of approval arrangements and the granting of licences, and by the restrictions imposed by the owners of intellectual property rights for the components and software. The tariff system arrangements have still to be finalized.

The Commission will tackle the problem of setting up an appropriate regulatory environment for mobile communications in the name of a Green Paper due to be published at the end of 1991.





## 5. NEW TECHNOLOGIES AND SERVICES

### 5.14. Radio frequencies

<i>(1) Objective</i>	To reform the cooperation procedures in force in Europe, so as to ensure that the dedicated frequencies allocated to the Community do not become a bottleneck to stifle future developments.
<i>(2) Proposal</i>	Proposal for a Council Resolution on ways of strengthening European cooperation in the allocation of radio frequencies, with special reference to the pan-European services.
<i>(3) Contents</i>	<p>1. European cooperation in the coordination of radio frequencies must be strengthened with a view to allocating a sufficient number of frequencies to the new services as a function of the requirements of the European market. At the same time, account must be taken of the needs of existing services and of mobile and satellite applications, so as to ensure that the use of frequencies is planned on a long-term basis.</p> <p>2. Common positions must be worked out with regard to the use of frequencies in the context of international frequency coordination, notably under the auspices of the International Telecommunications Union (ITU) and its radiocommunications conferences (CAMR and CARR).</p> <p>3. Under the resolution the Commission, the Member States and the European Conference of Postal and Telecommunications Administrations are invited to introduce the new structures needed to ensure the attainment of these objectives. To this end, special emphasis is placed on the proposed creation of a European Radio Communications Bureau to meet the new needs of the pan-European services. The structure of this new Bureau must be such as to permit the broad participation of all the parties concerned (national bodies and administrations, service providers, manufacturers, users, ETSI, ITU, etc.). The Bureau will need to be structured along appropriate organizational and constitutional lines, with access to the necessary resources to enable it to operate independently and respond swiftly to the demands placed on it.</p>
<i>(4) Opinion of the European Parliament</i>	Not yet delivered.
<i>(5) Current status</i>	The proposal is currently being submitted to Parliament and to the Economic and Social Committee for information purposes.
<i>(6) References</i>	<p>Commission proposal COM(90) 171 final</p> <p style="text-align: right;">Official Journal C 166, 7.7.1990</p>

## 5. NEW TECHNOLOGIES AND SERVICES

### 5.15. Digital European cordless telecommunications (DECT)

#### (1) Objective

The Recommendation is aimed at directing and accelerating the efforts by the Member States, telecommunications administrations and industry to identify a common solution. The aim of the Directive is to ensure the coordinated and timely availability of a common frequency band for DECT throughout the Community.

#### (2) Community measures

Council Recommendation 91/288/EEC of 3 June 1991 on the coordinated introduction of digital European cordless telecommunications (DECT) in the Community.

Council Directive 91/287/EEC of 3 June 1991 on the frequency bands to be designated for the coordinated introduction of digital European cordless telecommunications (DECT) in the Community.

#### (3) Contents

##### *Recommendation 91/288/EEC*

1. The Member States and, where appropriate, the telecommunications administrations are to draw up detailed recommendations on the coordinated introduction of digital European cordless telecommunications in the Community.
2. Definition of the 'digital European cordless telecommunications system'.
3. Member States are required to inform the Commission at the end of each year, from the end of 1992 onwards, of the measures taken and the problems encountered in the course of implementing this Recommendation.
4. The telecommunications administrations should continue to cooperate within the European Conference of Postal and Telecommunications Administrations (CEPT) and/or the European Telecommunications Standards Institute (ETSI) on the completion of the specifications and the introduction and operation of DECT technology.
5. The Commission should prepare a long-term strategy for the development of the pan-European digital cellular, paging and cordless telecommunications systems, which are soon to be introduced, taking account of the general development towards a universal personal communications system, and recent studies and the ETSI work programme.
6. Annex concerning detailed requirements for the coordinated introduction of digital European cordless telecommunications in the Community.

##### *Directive 91/287/EEC*

1. Definition of the 'digital European cordless telecommunications system'.
2. Obligation on the part of the Member States to designate the 1880-1900 MHz frequency band for digital cordless telecommunications by 1 January 1992. Digital European cordless telecommunications have priority and are protected in the designated band.
3. The Commission will report to the Council on the implementation of this Directive not later than the end of 1995.



*(4) Deadline for implementation of the legislation in the Member States* 31.12.1991

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 144, 8.6.1991

*(7) Follow-up work*

*(8) Commission implementing measures*

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.16. Competition in the markets for telecommunications services

*(1) Objective*

To strengthen Community telecommunications and gradually open up the telecommunications market to competition as planned in the Commission's 1987 Green Paper. This Directive, and another concerning open network provision (ONP — summary 5.11) are fundamental stages in the creation of a true harmonized internal market in telecommunications which is open to competition.

*(2) Community measures*

Commission Directive 90/388/EEC of 28 June 1990 on open competition in the markets for telecommunications services.

*(3) Contents*

1. Definitions of the terms 'telecommunications services', 'telecommunications organizations', 'public telecommunications network', etc.
2. The Directive does not apply to telex, mobile radiotelephony, paging or satellite communications services.
3. Member States are bound to withdraw all special or exclusive rights for the provision of telecommunications services other than voice telephony. They must also take the measures necessary to ensure that any operator is entitled to provide such telecommunications services.
4. Member States which make the provision of such services subject to a licensing or declaration procedure must ensure that the conditions for the grant of licences are objective, non-discriminatory and transparent, that reasons are given for any refusal, and that there is a procedure for appealing against any such refusal.
5. As regards packet or circuit-switched data services, Member States may until 31 December 1992, prohibit economic operators from offering leased-line capacity for simple resale to the public. Member States must, no later than 31 December 1992, publish any licensing or declaration procedures adopted for the provisions of such services.
6. Member States which maintain special or exclusive rights for the provision and operation of public telecommunications networks must take the necessary measures to make the conditions governing access to the networks objective and non-discriminatory and publish them.
7. Member States must ensure that from 1 July 1991 the grant of operating licences, the control of type approval and mandatory specifications, the allocations of frequencies and surveillance of usage conditions are carried out by a body independent of the telecommunications organizations.
8. In 1992 the Commission will carry out an overall assessment of the situation in the telecommunications sector in relation to the aims of this Directive. In 1994, the Commission shall assess the effects of the measures in order to see whether any amendments need to be made to the provisions of the Directive, particularly in the light of technological evolution.

*(4) Deadline for implementation of the legislation in the Member States*

— 31.12.1990: Articles 2, 4, 5, 6 and 7(2)  
— 1.7.1991: Article 7(1)  
— 30.6.1992: Article 3(2)  
— 31.12.1992: Article 3(4)



*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 192, 24.7.1990

*(7) Follow-up work*

The Commission has published guidelines on the application of EEC competition rules in the telecommunications sector (Official Journal C 233, 6.9.1991).

These guidelines are intended to clarify the situation with regard to the application of rules to market participants in the telecommunications sector. They are intended to provide advice to public telecommunications operators, the legal profession and others concerned about the general legal and economic principles employed by the Commission in this area. These general principles have evolved from the application of competition rules to undertakings in the telecommunications sector and the rulings of the Court of Justice of the European Communities in this sector.

*(8) Commission implementing measures*

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.17. Protection of personal data: public digital telecommunications networks

- (1) *Objective* To approximate laws in the Member States concerning the protection of personal data and privacy in the context of public mobile and fixed digital telecommunications networks and the new 'intelligent' functions which they offer.
- (2) *Proposal* Proposal for a Council Directive concerning the protection of personal data and privacy in the context of public digital telecommunications networks, in particular the integrated services digital network (ISDN) and public digital mobile networks.
- (3) *Contents*
1. This Directive is designed to provide an equivalent level of protection of personal data and privacy in the Community and to contribute towards the free movement of telecommunications services equipment in the Member States.
  2. The definitions of concepts of 'personal data', 'telecommunications organization', 'public telecommunications network' and 'public telecommunications service'.
  3. The collection, storage and processing of personal data by a telecommunications organization can be justified only for the supply of the desired services and may not be used without legal authorization or the subscriber's prior consent.
  4. This Directive sets out the user's rights and stresses the principle of non-disclosure of data to third parties without legal authorization. For example all personal data which are subjected to processing in the context of telecommunications networks and services must be treated confidentially.
  5. The telecommunications organization must provide suitable protection of personal data against unauthorized access and use. In the event of the risk of a breach of security of a network, the telecommunications organization must inform subscribers accordingly and provide them with an end-to-end encryption service.
  6. Application of the principle of storage and processing of personal data to invoicing and trade data.
  7. The protection of subscribers' privacy will also be ensured in the context of itemized call statements by the omission of the last four figures of the number of the called subscriber.
  8. The Directive makes detailed provisions concerning the identification of the calling line and in particular the possibility of eliminating identification, in order to respect the anonymity of the calling party and of the called party.
  9. Protection of the privacy of both the calling subscriber and the called subscriber in the event of calls being redirected.
  10. Prior notification of the calling subscriber if the content of calls is stored and/or forwarded to third parties.
  11. Protection against unauthorized use of subscribers' personal data by providers of teleshopping and videotex services.
  12. When implementing the provisions of this Directive, the Member States shall ensure that no compulsory requirement concerning specific technical characteristics is imposed on terminals or other telecommunications equipment, to avoid creating obstacles to the

marketing of equipment or the free movement of such equipment within and between the Member States.

*(4) Opinion of the European Parliament*

Not yet delivered.

*(5) Current status*

The proposal is currently being submitted for examination by Parliament.

*(6) References*

Commission proposal  
COM(90) 314/V final  
Economic and Social  
Committee opinion

Official Journal C 277, 5.11.1990

Official Journal C 159, 17.6.1991

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.18. Information security

<i>(1) Objective</i>	To provide general users, administrations and the business community with effective and practical security for electronically stored information without compromising the interests of the public at large.	
<i>(2) Proposal</i>	Proposal for a Council Decision in the field of information security.	
<i>(3) Contents</i>	<p>1. Adoption of an action plan designed to develop a global strategy providing the users of information systems against accidental or deliberate threats. This plan will be implemented by the Commission in collaboration with the organizations and enterprises concerned and in close association with the Member States.</p> <p>2. The action plan comprises:</p> <ul style="list-style-type: none"><li>— development of an information security strategy framework;</li><li>— analysis of information security requirements;</li><li>— solutions for certain priority needs;</li><li>— specifications, standardization and verification of information security;</li><li>— integration of technological and operational developments for information security within a general strategy;</li><li>— integration of certain security functions in information systems.</li></ul> <p>3. The amount attributed to the action plan will be determined in the course of the annual budgetary procedure.</p> <p>4. For the implementation of the action plan, the Commission will consult a Senior Official Group on Information Security (Sogis). This Group will consist of two representatives of each Member State and of the Commission and will be chaired by a Commission representative.</p> <p>5. The Commission will send to the European Parliament and the Council a report on the results of the action plan within three months of its completion.</p>	
<i>(4) Opinion of the European Parliament</i>	Not yet delivered.	
<i>(5) Current status</i>	The proposal has been submitted to the European Parliament for its opinion.	
<i>(6) References</i>	Commission proposal COM(90) 314/VII final Economic and Social Committee opinion	Official Journal C 277, 5.11.1990  Official Journal C 159, 17.6.1991





## 5. NEW TECHNOLOGIES AND SERVICES

### 5.19. Exchange of electronic data (second phase of the Tedis programme)

- (1) *Objective*                      Ensuring that the setting-up of computerized data exchange systems within the Community takes place in the most efficient manner possible, owing to the socio-economic importance of systems of this type, and mustering the resources needed to provide optimum performance at Community level.
- (2) *Community measures*                      Council Decision 91/385/EEC of 22 July 1991 introducing the second stage of the Tedis programme (trade electronic data interchange systems).
- (3) *Contents*                      1. In light of the results of the first stage of the Tedis programme the Commission is sending the Council a proposal concerning a second stage with a budget of ECU 25 million including ECU 10 million for the period 1991-92 covered by the financial perspective for 1988-92. The second stage of the programme will last for three years. For the remainder of the programme's duration, the amount will depend on the Community financial framework in force.
2. The first stage of the programme, which began in 1988 with a budget of ECU 5.3 million covering two years and also bringing in the EFTA countries as associates, coordinated the activities pursued in the following sectors: motor vehicle design (Odette), chemicals (Cefic-EDI), electronics and dataprocessing (Edifice), retail trade and distribution (EAN-EDI), reinsurance (Rinet) and transport (Tedis Transport Group). The programme has made a major contribution towards commonality of the standards used by supporting the introduction of the international Edifact standard. The full report on the activities conducted during the initial stage is contained in document COM(90) 361 final.
3. The foremost aim of the second stage of the Tedis programme is to integrate the vertical EDI activities (first-stage sector projects) and the relevant horizontal activities, that is:
- standardization of EDI messages: development and use of the Edifact standard in western Europe. Development of conversion software in line with the Edifact standard and recommendations;
  - interlinking of data networks;
  - drawing-up of a model agreement on the legal status of EDI messages, their contractual validity and their proven values;
  - guaranteeing message security (partner authentication, message integrity, confidentiality etc.);
  - coordination of the sectoral and geographical integration of the projects with the interface with the rest of the world, and in particular, apart from the EFTA countries, with the Mediterranean countries, Central and Eastern Europe;
  - measurement of the impact of EDI on the management and organization of public and private bodies and of its social and economic repercussions;
  - potential awareness campaigns aimed at potential users of such systems (and in particular SMBs) hardware and software producers, and the suppliers of services.

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4. At the end of the Tedis programme, the Commission will present to Parliament, the Council and the Economic and Social Committee a final report which evaluates the extent to which the programme's objectives have been achieved.

*(4) Deadline for implementation of the legislation in the Member States*

1.7.1991

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 208, 30.7.1991

*(7) Follow-up work*

*(8) Commission implementing measures*



## 5. NEW TECHNOLOGIES AND SERVICES

### 5.20. Single European emergency call number

<i>(1) Objective</i>	To introduce a single emergency call number throughout the Community, notably to enable citizens in case of emergency or disaster to call the relevant national emergency services.
<i>(2) Community measures</i>	Council Decision 91/396/EEC of 29 July 1991 on the introduction of a single European emergency call number
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. The Decision provides for the introduction by Member States of the number 112 in the public telephone networks, future integrated services digital networks, and public mobile services, as a single European emergency call number.</li> <li>2. The single European emergency call number will be introduced alongside any other existing national emergency call number, where justified.</li> <li>3. Where the complete introduction of the number by that date is impossible or would prove too costly for a Member State owing to special technical, financial, geographical or organizational difficulties, it must notify the Commission of a new date for complete adoption which must in any case be effective no later than 31 December 1996.</li> <li>4. Member States must take the necessary steps to ensure that calls to the number are followed up and processed appropriately, in a manner best suited to the national organization of emergency services, taking account of the technical facilities available on the networks.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	31.12.1992
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 217, 6.8.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.21. International telephone access code

<i>(1) Objective</i>	To provide a sound basis for the full implementation of a common international telephone access code throughout the Community within a reasonable time, taking account of specific national circumstances.						
<i>(2) Proposal</i>	Proposal for a Council Decision on the harmonization of the international telephone access code in the Community.						
<i>(3) Contents</i>	<p>1. The Decision provides for the introduction by Member States of the code 00 in the public telephone networks as a common access code to the international telephone service.</p> <p>2. The common access code to the international telephone service must be adopted by 31 December 1992. However, where a Member State is prevented from introducing the code by that date owing to special technical, financial or organizational difficulties, it must notify the Commission of a new date for adoption which must be effective no later than 31 December 1998.</p> <p>3. Member States facing such difficulties must nevertheless ensure that the number 00 is fully available no later than 31 December 1995 with a view to its exclusive use as a common access code to the international telephone network. From that date, a toll-free pre-recorded message, in an appropriate number of Community languages, must inform subscribers dialling 00 of the particular code still in use for access to the international telephone network.</p> <p>4. The Decision provides for the establishment and maintenance of the special agreements for calls between neighbouring places separated by a border between Member States. These Member States must ensure that use of the code does not prevent correct routing of calls or charging at the same rate as laid down in the special agreements.</p>						
<i>(4) Opinion of the European Parliament</i>	First reading: Parliament approved the Commission's proposal subject to certain amendments. The Commission accepted some of these amendments.						
<i>(5) Current status</i>	The Council adopted a common position on 18 December 1991. Within the framework of the cooperation procedure this is now before Parliament for a second reading.						
<i>(6) References</i>	<table><tr><td>Commission proposal COM(91) 165 final</td><td>Official Journal C 157, 15.6.1991</td></tr><tr><td>European Parliament opinion First reading</td><td>Not yet published</td></tr><tr><td>Economic and Social Committee opinion</td><td>Official Journal C 269, 14.10.1991</td></tr></table>	Commission proposal COM(91) 165 final	Official Journal C 157, 15.6.1991	European Parliament opinion First reading	Not yet published	Economic and Social Committee opinion	Official Journal C 269, 14.10.1991
Commission proposal COM(91) 165 final	Official Journal C 157, 15.6.1991						
European Parliament opinion First reading	Not yet published						
Economic and Social Committee opinion	Official Journal C 269, 14.10.1991						



## 5. NEW TECHNOLOGIES AND SERVICES

### 5.22. Digital short-range radio — DSRR

<i>(1) Objective</i>	To ensure the availability throughout the Community of a common frequency band for DSRR and to carry forward earlier Community initiatives in the field of mobile communications.	
<i>(2) Proposal</i>	Proposal for a Council Directive on the frequency bands to be designated for the coordinated introduction of digital short-range radio (DSRR) in the Community.	
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Definition of the concept of 'digital short-range radio system'.</li> <li>2. Member States' obligation to designate the frequency bands 888-890 MHz and 933-935 MHz for DSRR by 1 January 1992. DSRR has priority and is protected in the designated frequency bands.</li> <li>3. The Commission will report to the Council by the end of 1995 on the implementation of the Directive.</li> </ol>	
<i>(4) Opinion of the European Parliament</i>	Not yet published.	
<i>(5) Current status</i>	The proposal has been sent to the European Parliament for their opinion.	
<i>(6) References</i>	Commission proposal COM(91) 215 final Economic and Social Committee opinion	Official Journal C 189, 20.7.1991  Not yet published in the Official Journal

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## 5. NEW TECHNOLOGIES AND SERVICES

### 5.23. Information services market

<i>(1) Objective</i>	To create better market conditions for the accelerated development of information services aimed at professionals in research, trade and industry. The main goals are to stimulate and reinforce the competitive capabilities of European information suppliers, taking into account the specific needs of small and medium-sized enterprises, to promote the use of advanced information services in the Community and to set up an internal information services market by 1992.
<i>(2) Community measures</i>	Council Decision 88/524/EEC of 26 July 1988 concerning the establishment of a plan of action for setting up an information services market. This plan of action has been named Impact (information market and policy actions).
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Launching of large-scale pilot and demonstration projects which will exert a catalytic effect on the development of the information services industry.</li><li>2. Measures to improve market conditions for electronic information services such as:<ul style="list-style-type: none"><li>— setting up a European information market observatory;</li><li>— the elimination of technical, administrative and legal barriers to setting up an internal market in information services;</li><li>— standardization and simplification for the improvement of conditions for transmitting and accessing information services;</li><li>— initiative to improve the synergy between the public and private sectors;</li><li>— the reinforcement of user-support initiatives;</li><li>— the preparation of a specific action in favour of libraries.</li></ul></li><li>3. Provision of ECU 15 million for 1989 and ECU 21 million for 1990.</li><li>4. Obligation on the part of the Commission to submit in the second half of 1989 an evaluation report on the results obtained through the implementation of the measures as a result of which it may present guidelines for future action up to 1992 (see (8) below).</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	None required.
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 288, 21.10.1988
<i>(7) Follow-up work</i>	<p>On 7 November 1991 the Council adopted a Decision concerning a programme for the continuation of Community policy and actions on the creation of an internal information services market (not yet published).</p> <p>The new programme (Impact 2), which is proposed for a period of four years with a budget of ECU 64 million, takes up the general objectives of the first plan of action and amends the lines of action and intervention mechanisms in light of the experience gained and market</p>



developments as set out in the evaluation report submitted to the Council in accordance with the its Decision (see below). The main changes which it is planned to make to the intervention mechanisms concern simplification of the procedures for calls for proposals for shared-cost projects and flexibility in Community support to allow increased participation by small and medium-sized enterprises and the less-favoured regions.

*(8) Commission  
implementing  
measures*

In accordance with Council Decision 88/524/EEC, the Commission presented in September 1990 an evaluation report on the Impact programme. It also contains a report on the most important events which took place in the information services market.

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## 6. CAPITAL MOVEMENTS

### Current problems and 1992 objectives

A single market in which goods, services and persons circulate freely can only function efficiently if the related capital movements are unrestricted. In order to complete the internal market, restrictions on capital transfers must be abolished, and residents of any Member State must have free access to the financial systems and products of other Member States.

Considerable progress was made in the liberalization of capital movements through EEC legislation in the 1960s and through the subsequent liberalization measures adopted unilaterally by some Member States. The 1985 White Paper aims to bring about complete liberalization of capital movements. Accordingly, the three Directives contained in the White Paper have now been adopted.

The first measure liberalized capital movements in transactions in securities issued by Ucits (Council Directive 85/583/EEC published in Official Journal L 372, 31.12.1985).

The second (Council Directive 86/566/EEC published in Official Journal L 332, 26.11.1986) liberalized cross-frontier movements relating to:

- long-term commercial loans;
- transactions in securities (shares, bonds and stocks issued by Ucits);
- admission (introduction, issue and investment) of a firm's securities to the capital markets.

The two Directives were amended and replaced by the third Directive (Council Directive 88/361/EEC — summary 5.2), which lifted the last restrictions on capital movements between Member States. Its entry into force on 1 July 1990 was a decisive step in the creation of an effective and stable Community financial system.

With a view to combating the laundering of the proceeds of criminal activities, the Commission presented a proposal for a Directive to the Council in March 1990 (COM(90) 106 final, published in Official Journal C 106, 28.4.1990 — summary 1.13).

This would make money laundering a criminal offence in all Member States and would require banks and other financial institutions to inform the authorities of financial transactions suspected of flowing from drug trafficking, terrorism or other forms of crime, and in particular organized crime. This measure is intended to safeguard the integrity of the Community's financial market and at the same time to uphold the principle of a liberal and open financial system.





## 6. CAPITAL MOVEMENTS

### 6.1. Complete liberalization of capital movements

<i>(1) Objective</i>	To remove remaining restrictions on capital movements between Member States as part of the moves to complete the internal market; this is a major step towards setting up an efficient and stable Community financial system.
<i>(2) Community measures</i>	Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty.
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Obligation on Member States to abolish restrictions on the movement of capital between persons resident in Member States.</li> <li>2. Obligation on Member States to ensure that capital transfers be made at the same exchange rates as those applying to current transactions.</li> <li>3. Obligations on Member States to notify the Commission and certain other relevant bodies of measures to regulate bank liquidity. These must be limited to what is necessary for domestic monetary regulation.</li> <li>4. Procedures under which Member States may take protective measures restricting certain capital movements. These are permitted only when foreign exchange markets are exposed to short-term capital movements of exceptional magnitude, leading to serious disturbances in a Member State's monetary and exchange-rate policies. These protective measures may apply for not more than six months. These provisions will be reconsidered following a report from the Commission to the Council before 31 December 1992.</li> <li>5. Member States must endeavour to apply the same degree of liberalization to operations concerning the movement of capital to and from third countries as occurs between themselves. This provision does not prejudice the application to third countries of domestic or Community rules concerning operations involving establishment, provision of financial services and admission of securities to capital markets. In the case of serious disturbances affecting the monetary or financial situation and arising from short-term capital movements to or from third countries, Member States are required to consult one another.</li> <li>6. Deferred implementation of the Directive in the case of Greece, Ireland, Portugal and Spain.</li> <li>7. Authorization for Belgium and Luxembourg to continue to operate their two-tier exchange market until 31 December 1992, subject to specified conditions.</li> <li>8. Annex to the Directive containing a new classification of capital movements.</li> <li>9. The Directive replaced the first Directive of 11 May 1960 and all subsequent amending Directives (Council Directive 86/566/EEC published in Official Journal L 332, 26.11.1986 and Council Directive 85/583/EEC published in Official Journal L 372, 31.12.1985).</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.7.1990

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*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 178, 8.7.1988

*(7) Follow-up work*

The Commission has presented to the Council a proposal aimed at eliminating or reducing risks of distortion, tax evasion and avoidance linked to the diversity of national systems for taxation of savings (COM(89) 60 final, Official Journal C 141, 7.6.1989).

*(8) Commission implementing measures*



## 6. CAPITAL MOVEMENTS

### 6.2. Funds held by institutions for retirement provision

<i>(1) Objective</i>	To establish freedom to provide services in respect of the investment management and custody of assets. To lay down prudential investment rules compatible with the free movement of capital and freedom to provide services.		
<i>(2) Proposal</i>	Proposal for a Council Directive relating to the freedom of management and investment of funds held by institutions for retirement provision.		
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Definition of the terms 'institution for retirement provision', 'retirement benefits' and 'sponsoring undertaking'.</li> <li>2. This proposal for a Directive covers financial institutions for retirement provision and aims to establish certain freedoms regarding the management and investment of their assets. It does not apply to the financial institutions covered by other Directives in related fields, such as banks, insurance companies and undertakings for collective investment in transferable securities (summaries 1.4, 2.9, 2.11 and 3.6).</li> <li>3. Institutions for retirement provision would be free to choose an investment manager for their assets who is established and duly authorized in another Member State. This principle also applies to the custodian holding the assets of an institution for retirement provision.</li> <li>4. The proposal seeks to lay down the following prudential principles:             <ul style="list-style-type: none"> <li>— assets to be invested in a manner appropriate to the nature and duration of the corresponding liabilities;</li> <li>— diversification of assets;</li> <li>— investment in the sponsoring undertaking or undertakings to be restricted.</li> </ul> </li> <li>5. Institutions for retirement provision would not be required to invest in particular categories of assets or to localize their assets in a particular Member State.</li> <li>6. Institutions for retirement provision would not be required to hold more than 80% of their assets in matching currencies. Where liabilities are not fixed in monetary terms, this percentage would be reduced to 60%.</li> <li>7. Member States would be free to lay down more detailed rules provided that they are consistent with the principles laid down.</li> </ol>		
<i>(4) Opinion of the European Parliament</i>	Not yet delivered.		
<i>(5) Current status</i>	The proposal is currently being examined by the European Parliament and the Economic and Social Committee.		
<i>(6) References</i>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Commission proposal COM(91) 301 final</td> <td style="width: 50%;">Official Journal C 312, 3.12.1991</td> </tr> </table>	Commission proposal COM(91) 301 final	Official Journal C 312, 3.12.1991
Commission proposal COM(91) 301 final	Official Journal C 312, 3.12.1991		

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## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### Current problems and 1992 objectives

One of the fundamental principles of the EEC Treaty is that a citizen of one Member State should be free to live and work in another Member State as an employee or as a self-employed person.

Much has already been achieved by the Community, particularly in the case of employees and a number of specific professions. Nevertheless, there remain obstacles which must be removed by 1992 if the single market in goods and services is to be matched by a single employment market.

Since 1985 progress in this area has been limited to organizing the recognition of diplomas, either on the basis of specific directives or through a general system of recognition of university degrees, to which lower-level qualifications were subsequently added.

The Community is tackling some of the remaining general obstacles to free movement of workers. These are described in:

- summaries 7.1 to 7.3: free movement of workers;
- summaries 7.4 and 7.5: movement and residence of workers and their families;
- summary 7.6: taxation of the income of workers living in one Member State and working in another.

It is also addressing problems which are specific to certain regulated professions. This normally involves recognition of foreign qualifications. The measures in question are covered in:

- summaries 7.10 to 7.12: recognition and comparability of higher education and vocational qualifications;
- summaries 7.15 to 7.18: issues concerned with the pharmaceutical and medical sector and commercial agents.

It would not be in line with the objective of completing the internal market or with the legitimate expectations of European citizens to establish a frontier-free area in which freedom of movement was assured but nationals of Member States were not also given the right to live where they wanted.

This is the objective of the three Council Directives on the right of residence for students and retired and non-active workers (summaries 7.7 to 7.9).

The Community has also adopted two action programmes on training in technology (Comett I and Comett II) with a view to forging closer links between industry and training institutions (summaries 7.13 and 7.14).



## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.1. Free movement of workers and their families

- (1) *Objective* To ensure the mobility of the labour force in the Community — which means the elimination of any discrimination based on nationality as regards employment, remuneration and other working conditions, access to accommodation and the worker's right to be joined by his family.
- (2) *Community measures* Council Regulation (EEC) No 1612/68 of 15 October 1968 on the free movement of workers within the Community.
- (3) *Contents*
1. Any national of a Member State is entitled to take up and engage in gainful employment on the territory of another Member State in conformity with the relevant regulations applicable to national workers. He is entitled to the same priority as the nationals of that Member State as regards access to available employment. He receives the same assistance as that given by job centres there to their own nationals seeking employment. His recruitment may not be dependent on medical, occupational or other criteria which discriminate on the grounds of nationality.
  2. A worker who is a national of a Member State may not be treated differently from national workers on the territory of other Member States because of his nationality as regards working and employment conditions (dismissal and remuneration in particular).
  3. Like a national worker, he is entitled to:
    - the same social and tax benefits;
    - training at vocational schools and redeployment and retraining centres on the same terms as national workers;
    - equal treatment as regards the exercise of trade union rights.
 He may be excluded from the management of bodies under public law and from the exercise of an office under public law;
    - all rights and benefits as regards accommodation.
  4. The family members (spouse, descendants under the age of 21 or over 21 but dependants, and dependent relatives in the ascending line) of a worker employed on the territory of another Member State are entitled to establish themselves there with him, whatever their nationality. Member States are required to promote the admission of any other member of the worker's family who is dependent on him or lives with him in the country of origin. The worker's spouse and his children under the age of 21 or dependent on him are entitled to take up gainful employment in the host state, even though they are not nationals of a Member State. His children have access to general education, apprenticeships and vocational training on the same terms as nationals of the host State.
  5. Any study on employment and unemployment related to the free movement of workers is undertaken in cooperation with the specialized departments appointed by the Member States and with the Commission.
  6. The specialized department of each Member State forwards to the departments of the other Member States and the European Coordination Office information on living and working conditions and

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the state of its labour market. They ensure that such information is given extensive publicity.

7. At least once a month the specialized department of each Member State sends to the departments of the other Member States and the European Coordination Office a summary, broken down by occupation and region, of:

— unfilled job offers or job offers unlikely to be filled from the national workforce;

— jobseekers willing to take up employment in another country.

8. At the request of a Member State which is experiencing or expecting disruptions of its labour market likely to entail major threats to the standard of living and employment in a region or occupation the Commission may decide to suspend, for a given period, the machinery for the clearing of vacancies and applications for employment.

9. The Regulation applies to workers in occupations related to the coal, steel and nuclear industries where their legal situation is not covered by the ECSC and EAEC Treaties.

10. The Commission, in close contact with the authorities of the Member States, adopts the necessary implementing measures.

11. The Commission will submit to the Council proposals designed to eliminate restrictions on access to employment where the absence of mutual recognition of diplomas, certificates or other national qualifications may impede the freedom of movement of workers.

*(4) Deadline for implementation of the legislation in the Member States*

Not applicable.

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 257, 19.10.1968

*(7) Follow-up work*

*(8) Commission implementing measures*



## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.2. Free movement of workers: adaptation

- (1) *Objective* To adapt the provisions of the Regulation to the new socio-economic context and incorporate the principles laid down by the Court of Justice in this field.
- (2) *Proposal* Proposal for a Council Regulation (EEC) amending Regulation (EEC) No 1612/68 on the free movement of workers within the Community.
- (3) *Contents*
1. A national of a Member State seeking employment in another Member State is entitled to the mobility and recruitment subsidies available to nationals of that Member State who move in order to take up gainful employment.
  2. The worker is eligible for further occupational training and retraining.
  3. A Member State whose laws, regulations and administrative provisions attribute legal effect or make social or tax benefits subject to the occurrence of certain facts or events must, where necessary, treat such facts and events occurring in any other Member State as though they have occurred on its national territory.
  4. A worker who is a national of a Member State under contract in another Member State where he normally exercises his activity will continue to enjoy, as regards that Member State, the rights conferred upon him by the provisions of Title II when he temporarily performs his contractual obligations on behalf of that undertaking either on the territory of another Member State or outside the Community.
  5. The following are entitled to take up residence with a worker who is a national of a Member State but employed in another Member State, even though they are not nationals of a Member State:
    - the spouse, or any person treated as such in the host country, and their descendants;
    - relatives in the ascending line of that worker or the spouse or of any person treated as such in the host country;
    - any other member of the family who is a dependant or who lives with the worker in the country of origin, the spouse or any other person treated as such in the host country.
  6. Those members of the family of a worker who are not nationals of a Member State are entitled to take up any kind of gainful employment throughout the territory of the host Member State in line with the provisions governing the employment of nationals of that state. The death of the worker on whom the members of the family are dependent or the dissolution of the marriage does not affect that right.
  7. They enjoy the same social benefits as nationals of the host state; they also have access to general education, apprenticeships and vocational training, university or non-university education on the same terms as nationals.
  8. The Member States must take the necessary measures to guarantee effectively the application by each natural or legal person of the principle of equal treatment in the areas covered by the Regulation and to prevent any infringement of that principle.

(4) *Opinion of the European Parliament* First reading: Parliament approved the Commission's proposal subject to a number of amendments. The Commission accepted some of these amendments.

(5) *Current status* The amended proposal is currently before the Council in view of a common position.

(6) *References*

Commission proposal COM(88) 815/I final	Official Journal C 100, 21.4.1989
Amended proposal COM(90) 108/I final	Official Journal C 119, 15.5.1990
Amended proposal COM(90) 108/I final/2	Official Journal C 177, 18.7.1990
Parliament's opinion First reading	Official Journal C 68, 19.3.1990
Opinion of the Economic and Social Committee	Official Journal C 159, 26.6.1989





## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.3. European system for the international clearing of vacancies and applications for employment (Sedoc)

<i>(1) Objective</i>	To encourage the Member States to disseminate their vacancies and applications for employment as part of the free movement of workers within the Community. To guarantee jobseekers quality service. To simplify administrative procedures (see also the chapter on the free movement of workers in the section devoted to 'the social dimension of the internal market').	
<i>(2) Proposal</i>	Proposal for a Council Regulation (EEC) amending Part II of Regulation (EEC) No 1612/68 on the free movement of workers within the Community.	
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. The Regulation sets out to remove the restrictions applying to the selection of vacancies dealt with by the clearing system so as to encourage job centres to draw attention to all vacancies likely to interest Community workers.</li> <li>2. A distinction is made between jobseekers who have formally expressed a wish to work in another Member State and those prepared to accept employment in another Member State.</li> <li>3. The Regulation simplifies the procedure for clearing vacancies and applications for employment.</li> <li>4. The Commission is required to draft a report on the basis of information provided by the Member States. The Commission and the Member States must regularly and jointly analyse the results of the Community machinery set up in this field.</li> </ol>	
<i>(4) Opinion of the European Parliament</i>	Not yet delivered.	
<i>(5) Current status</i>	The proposal is currently awaiting the opinion of Parliament and the Economic and Social Committee.	
<i>(6) References</i>	Commission proposal COM(91) 316 final	Official Journal C 254, 28.9.1991.

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## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.4. Movement and residence of workers and their families

- (1) *Objective* To adopt measures for the removal of restrictions still existing on movement and residence within the Community which conform with the rights and privileges accorded by Community law to nationals of any Member State who move in order to pursue activities as employed persons and to their families.
- (2) *Community measures* Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families.
- (3) *Contents*
1. The right of workers who are nationals of a Member State and of their families to leave their country of origin to work as employed persons in another Member State is exercised simply on production of a passport or identity card. Member States may not require an exit visa or equivalent document.
  2. Member States are to admit such persons to their territory simply on production of a valid identity card or passport. No entry visa or equivalent document may be demanded, except from members of the family who are not nationals of a Member State; Member States are required to grant them every facility for obtaining any necessary visas.
  3. Member States are to grant the persons referred to in point 1 the right of residence on their territory and issue them with a 'Residence Permit for a National of a Member State of the EEC'. The wording of the statement to be included in the permit is contained in an annex to the Directive. All the documents which must be produced to obtain the residence permit are listed. A member of the family who is not a national of a Member State is to be issued with a residence document having the same validity as that issued to the worker on whom he is dependent. Completion of the formalities for obtaining a residence permit must not impede the immediate implementation of contracts of employment.
  4. The terms of validity of the residence permit are spelled out. It must be valid throughout the territory of the host state and have a duration of no fewer than five years. Where a worker is employed for a period exceeding three months but not exceeding one year, the host state must issue him with a temporary residence permit whose validity may be limited to the expected duration of the employment.
  5. A valid residence permit may not be withdrawn solely on the grounds that the worker is no longer in employment — either because he is temporarily incapable of work (sickness or an accident) or because he is involuntarily unemployed.
  6. Member States are to acknowledge the right of residence on their territory, without issuing a residence permit, to a person working as an employee for a fixed duration not exceeding three months, to a crossfrontier worker and to a seasonal worker on specified terms. The authorities of the host state may require such workers to report their presence on their territory.
  7. The cost of residence documents may not exceed what is charged for the issue of identity cards to nationals. Visas issued to members of the family who are not nationals of a Member State are free of charge.



Member States are to make as simple as possible the formalities and procedures for obtaining such documents.

8. Member States may not derogate from the Directive except on grounds of public order, public security or public health.

9. The Directive applies to workers in the coal, steel and nuclear industries and to members of their families, where their situation is not regulated by the ECSC and EAEC Treaties.

10. Member States are to inform the Commission of changes made to simplify the formalities for issuing such documents as are still required for exit, entry and residence.

*(4) Deadline for implementation of the legislation in the Member States*

Nine months from the date of notification.

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 257, 19.10.1968.

*(7) Follow-up work*

*(8) Commission implementing measures*

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## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.5. Movement and residence of workers and their families: adaptation

#### (1) Objective

To adapt the provisions of Council Directive 68/360/EEC (summary 7.4) to the proposed amendments to Council Regulation (EEC) No 1612/68 (summary 7.1). To eliminate the obstacle to free movement of workers constituted by the fact that the procedures for the issue of residence documents have often proved too long and the costs very high. To take into account the new conditions obtaining on the labour markets and to improve implementation of the right of residence in the host country.

#### (2) Proposal

Proposal for a Council Directive amending Directive 68/360/EEC on the abolition of restrictions on movement and residence of workers of Member States and their families within the Community.

#### (3) Contents

1. The right of residence is to be evidenced by the issue of a document entitled 'European Communities residence card'.
2. The formalities for obtaining the residence card are to be completed as quickly as possible.
3. The residence card must be valid for no fewer than five years from the date of issue; it is to be automatically renewable every 10 years.
4. Absence on military service or for medical reasons, maternity or study or in the event of secondment to perform contractual obligations either in another Member State or outside the Community at an employer's request are not to affect the validity of the residence permit if they do not exceed six consecutive months.
5. The host Member State is required under certain conditions to issue the residence permit to a worker who has held a number of successive temporary jobs.
6. A temporary residence permit is to be automatically renewable until entitlement to unemployment benefits ends.
7. A residence permit which expires during a period of incapacity for work is to be automatically renewed.
8. The residence documents and supporting documents issued to persons covered by the Directive are to be issued and renewed without charge.
9. Presentation of the residence card must not be required when frontiers are crossed.
10. The Commission is to report on the implementation of the Directive two years after it takes effect and every three years thereafter.

#### (4) Opinion of the European Parliament

First reading: Parliament approved the Commission's proposal subject to certain amendments. The Commission accepted some of these amendments.

#### (5) Current status

The amended proposal is currently before the Council in view of a common position.



*(6) References*

Commission proposal COM(88) 815/II final	Official Journal C 100, 21.4.1989
Amended proposal COM(90) 108/II final/2	Official Journal C 119, 15.5.1990
European Parliament opinion First reading	Official Journal C 68, 19.3.1990
Economic and Social Committee opinion	Official Journal C 159, 26.6.1989

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## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.6. Income tax of workers

<i>(1) Objective</i>	To harmonize income taxes and certain tax reliefs for non-resident workers.	
<i>(2) Proposal</i>	Proposal for a Council Directive concerning the harmonization of income taxation provisions with respect to freedom of movement for workers within the Community.	
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Directive applies to the taxation of frontier and non-resident workers.</li><li>2. 'Resident' is to be interpreted in line with existing national tax provisions and relevant double taxation agreements.</li><li>3. Definition of a frontier worker as an individual who derives income from employment in a Member State in which he is not resident and who is resident in another Member State to which he returns daily.</li><li>4. Frontier workers are taxed by their Member State of residence. However, the Member State of employment can levy a withholding tax. The worker can offset any such tax against tax paid to his Member State of residence.</li><li>5. If a worker is resident in one Member State, but is liable to taxation by another Member State on pensions or other specialized income, this tax cannot be levied at a greater rate than that which would be due in the Member State of residence.</li><li>6. If a Member State grants tax relief for particular payments (e.g. pensions) within its own borders, it has to extend similar relief for such payments within other Member States.</li></ol>	
<i>(4) Opinion of the European Parliament</i>	The European Parliament approved the proposal.	
<i>(5) Current status</i>	The proposal is before the Council for adoption.	
<i>(6) References</i>	Commission proposal COM(79) 737 final	Official Journal C 21, 26.1.1980
	European Parliament opinion Economic and Social Committee opinion	Official Journal C 149, 14.6.1982  Official Journal C 113, 17.12.1980



## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.7. Right of residence: students

(1) *Objective* To eliminate obstacles to the free movement of persons and guarantee equal access to vocational training in the Community.

(2) *Community measures* Council Directive 90/366/EEC of 28 June 1990 on the right of residence for students.

(3) *Contents*

1. Member States will grant the right of residence to any student who is a national of a Member State and who does not enjoy this right under other provisions of Community law where the student assures the relevant national authority, by means of a declaration or by such alternative means as the student may choose that are at least equivalent, that he or she has sufficient resources to avoid becoming a burden on the social security system of the host Member State during his or her period of residence. The student must also be enrolled at a recognized establishment for the principal purpose of following a vocational training course there and must be covered by sickness insurance in respect of all risks in the host Member State.
2. The right of residence is extended to the student's spouse and dependent children.
3. The Directive does not establish any entitlement to the payment of maintenance grants by the host Member State to students benefiting from the right of residence.
4. Member States will issue a residence permit the validity of which may be limited to the duration of the course of studies and which will be renewable annually. Where a member of the family does not hold the nationality of a Member State, he or she shall be issued with a residence document of the same validity as that issued to the national on whom he or she depends. The spouse and dependent children of a national of a Member State will be entitled to take up an employed or self-employed activity anywhere within the territory of that Member State, even if they are not nationals of a Member State.
5. Member States may not derogate from the provisions of the Directive save on grounds of public policy, public security or public health.
6. Not more than three years following the entry into force of the Directive, and then every three years, the Commission will draw up a report on the implementation of this Directive and present it to the Council and the European Parliament. The Commission will pay particular attention to any difficulties to which implementation of the article concerning the granting of the right of residence might give rise in Member States. If appropriate, it will submit proposals to the Council with the aim of remedying such difficulties.

(4) *Deadline for implementation of the legislation in the Member States* 30.6.1992

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*(5) Date of entry into force (if different from the above)*

*(6) References*

*(7) Follow-up work*

*(8) Commission implementing measures*

Official Journal L 180, 13.7.1990





## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.8. Right of residence: employees and self-employed persons who have ceased their occupational activity

- (1) *Objective* To remove obstacles to the free movement of persons, to extend the right of residence enjoyed by all employed or self-employed persons to the non-active part of their working life.
- (2) *Community measures* Council Directive 90/365/EEC of 28 June 1990 on the right of residence for employees and self-employed persons who have ceased their occupational activity.
- (3) *Contents*
1. Member States will grant the right of residence to nationals of Member States who have pursued in the Community an activity as an employee or self-employed person provided that they are the recipients:
    - of an invalidity or early retirement pension or old-age benefits, or
    - a pension in respect of an industrial accident or disease
 and provided they are covered by sickness insurance or have sufficient resources to avoid becoming a burden on the social security system of the host Member State during their period of residence. The right of residence will also be granted to members of their family (spouse, dependent descendants and dependent relatives in the ascending line of the nationals concerned or their spouse).
  2. Member States will issue a residence permit the validity of which may be limited to five years on a renewable basis. However, they may, if they deem it to be necessary, require revalidation of the permit at the end of the first two years of residence. Where a member of the family does not hold the nationality of a Member State, he or she will be issued with a residence document of the same validity as that issued to the national on whom he or she depends. For the purposes of issuing the residence permit or document, the Member State may require only that the applicant present a valid identity card or passport and provide proof that he or she meets the conditions laid down.
  3. The spouse and the dependent children of a national of a Member State entitled to the right of residence may take up any employed or self-employed activity anywhere within the territory of the Member State, even if they are not nationals of a Member State.
  4. Member States may not derogate from the provisions of the Directive save on the grounds of public policy, public security or public health.
  5. Not more than three years following the entry into force of the Directive, and then every three years, the Commission will draw up a report on the implementation of this Directive and present it to the Council and the European Parliament.
- (4) *Deadline for implementation of the legislation in the Member States* 30.6.1992
- (5) *Date of entry into force (if different from the above)*

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*(6) References*

Official Journal L 180, 13.7.1990

*(7) Follow-up work*

*(8) Commission  
implementing  
measures*



## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.9. Right of residence

(1) <i>Objective</i>	To remove obstacles to the free movement of persons and allow any European citizen to reside in a country other than his own.
(2) <i>Community measures</i>	Council Directive 90/364/EEC of 28 June 1990 on the right of residence.
(3) <i>Contents</i>	<p>1. Member States will grant the right of residence to nationals of Member States who do not enjoy this right under other provisions of Community law provided that they themselves and the members of their family (spouse, dependent descendants and dependent relatives in the ascending line of the person concerned or his or her spouse) are covered by sickness insurance in respect of all risks in the host Member State and have sufficient resources to avoid becoming a burden on the social security system of the host Member State during their period of residence.</p> <p>2. Member States will issue a residence permit the validity of which may be limited to five years on a renewable basis. However, they may, if they deem it to be necessary, require revalidation of the permit at the end of the first two years of residence. Where a member of the family does not hold the nationality of a Member State, he or she will be issued with a residence document of the same validity as that issued to the national on whom he or she depends.</p> <p>3. The spouse and the dependent children of a national of a Member State entitled to the right of residence within the territory of the Member State may take up any employed or self-employed activity anywhere within the territory of that Member State, even if they are not nationals of a Member State.</p> <p>4. Member States may not derogate from the provisions of the Directive save on the grounds of public policy, public security or public health. The Directive does not affect existing law on the acquisition of second homes.</p> <p>5. Not later than three years following the entry into force of the Directive, and then every three years, the Commission will draw up a report on the implementation of this Directive and present it to the Council and the European Parliament.</p>
(4) <i>Deadline for implementation of the legislation in the Member States</i>	30.6.1992
(5) <i>Date of entry into force (if different from the above)</i>	
(6) <i>References</i>	Official Journal L 180, 13.7.1990
(7) <i>Follow-up work</i>	
(8) <i>Commission implementing measures</i>	

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## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.10. Recognition of diplomas, certificates, and other evidence of formal qualifications awarded on completion of a higher-education course of at least three years' duration

#### (1) Objective

To enable higher-education professional diplomas acquired in a Member State to be recognized in another host Member State which regulates the professional activity in question, without prior harmonization of training courses.

#### (2) Community measures

Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas, awarded on completion of professional training of at least three years' duration.

#### (3) Contents

1. Definitions of 'diploma', 'host Member State', 'regulated professional activity', 'professional experience', 'adaptation period' and 'aptitude test'.

2. A Member State which regulates a profession will recognize qualifications acquired in another Member State and permit their holder to pursue his activity or activities on the same conditions as apply to its own nationals.

3. The Directive applies to all professions for which higher-education qualifications are required and which are not the subject of specific directives on recognition. The term 'regulated professions' covers those professions exercised by members of private associations which are recognized in a special form in a Member State (e.g. 'chartered bodies' in the United Kingdom and their counterparts in Ireland). Diplomas acquired by Community nationals in a third country are also covered by the Directive provided that:

- the education and training to which they attest were received mainly in the Community; or
- the holder possesses proof of three years' professional experience in the Member State recognizing these diplomas.

4. The Directive adopts the following recognition arrangements:

- basic principle: automatic recognition by the host Member State;
- exception: recognition by the host Member State after compensation in the form of:
  - either an adaptation period, or
  - an aptitude test, where the host state provides evidence of substantial differences between the education and training received and that required; or
  - prior professional experience, where the duration of the migrant's education and training is less than that required in the host Member State.

The applicant may choose between the two types of compensation. In the case of the legal professions, this choice is left to the host Member State.

5. To facilitate its application, the Directive sets up under the aegis of the Commission a coordinating group composed of national coordinators.

6. From its entry into force, the Directive imposes an obligation:

- on Member States to communicate to the Commission every two years a report on the application of the Directive;



— on the Commission to report within a period of five years to the European Parliament and the Council on the state of application of the Directive together with its conclusions as to any changes that need to be made.

*(4) Deadline for implementation of the legislation in the Member States*

4.1.1991

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 19, 24.1.1989

*(7) Follow-up work*

See summary 7.11, which concerns diplomas, certificates and other evidence of formal qualifications attesting to higher education of less than three years' duration.

*(8) Commission implementing measures*

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## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.11. Recognition of diplomas, certificates, and other evidence of formal qualifications attesting to education and training other than higher education of at least three years' duration

#### (1) Objective

This Directive is the last in a set of measures giving every Community national the right to have qualifications acquired in one Member State recognized or taken into account by another Member State. It extends the system of mutual recognition introduced by Directive 89/48/EEC (summary 7.10) to those professions for which the required level of training is not as high.

#### (2) Proposal

Proposal for a Council Directive on a second general system for the recognition of professional education and training which complements Directive 89/48/EEC.

#### (3) Contents

1. Definitions of 'diploma', 'certificate', 'host Member State', 'regulated profession', 'regulated professional activity', 'professional experience', 'adaptation period' and 'aptitude test'.

2. A Member State which regulates a profession will recognize qualifications acquired in another Member State and permit their holder to pursue his activity or activities on the same conditions as apply to its own nationals.

3. The Directive will apply to those professions which are not the subject of a specific directive on recognition.

The term 'regulated professions' covers those professions exercised by members of private associations which are recognized in a special form in a Member State (e.g. 'chartered bodies' in the United Kingdom and their counterparts in Ireland).

Diplomas acquired by Community nationals in a third country will also be covered by the Directive provided that:

— the education and training to which they attest were received mainly in the Community; or

— their holder possesses proof of three years' professional experience in the Member State recognizing these diplomas.

4. The Directive adopts the following recognition arrangements:

— basic principle: automatic recognition by the host Member State;

— exception: recognition by the host Member State after compensation in the form of:

— either an adaptation period or,

— an aptitude test,

a) where the host state provides evidence of substantial differences between the education and training received and that required;

b) where there are, in the host State, differences in the fields of activity characterized by specific education and training, relating to subjects which differ substantially from those covered by the applicant's qualification;

The host Member State must allow the applicant to choose between an adaptation period and an aptitude test.

— or prior professional experience, where the duration of the migrant's education and training is less than that required in the host Member State.



5. The Directive covers a very wide range of qualifications; it therefore had to be divided into two new levels:

- a level corresponding to a short post-secondary course;
- a level corresponding to a secondary course.

6. Consequently, provision had to be made for recognition not only between Member States whose training courses are at the same level but also between Member States whose training courses are not at the same level, including that covered by Directive 89/48/EEC.

7. In addition to a procedure for recognizing education and training received by means of a structured course, the Directive provides for a procedure for recognizing training received by means of professional experience.

8. It extends to employees the provisions of certain specific directives (so-called transitional directives covering in particular the distributive trades and craft industries) which at present cover only the self-employed.

9. The Directive extends the role of the coordinating group set up by Directive 89/48/EEC and lays down the same obligations for the Member States and the Commission regarding reports on the application of the future Directive.

*(4) Opinion of the European Parliament*

First reading: the European Parliament supports the Commission proposal and regards it as an essential complement to Directive 89/48/EEC. The changes adopted, which are incorporated in the amended Commission proposal, are aimed mainly at improving the transparency of the system, the information available to the migrant and his situation when he has to undergo an adaptation period and at giving greater consideration to the actual level of certain training courses for paramedical staff and health workers.

*(5) Current status*

On 19 December 1991 the Council released a political agreement concerning a common position. The formal adoption of this common position will take place during the next session.

*(6) References*

Commission proposal COM(89) 372 final	Official Journal C 263, 16.10.1989
Amended proposal COM(90) 389 final	Official Journal C 217, 1.9.1990
Opinion of the European Parliament First reading	Official Journal C 149, 18.6.1990
Economic and Social Committee opinion	Official Journal C 75, 26.3.1990

## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.12. Comparability of qualifications

*(1) Objective* To establish comparability of vocational training qualifications throughout the Member States. This will allow workers to practise their skills throughout the Community.

*(2) Community measures* Council Decision 85/368/EEC of 16 July 1985 on the comparability of vocational training qualifications.

*(3) Contents*

1. The purpose of the Decision is to enable skilled workers to make better use of their qualifications, in particular to obtain suitable employment in another Member State.
2. The Commission has completed and published in the Official Journal its work on the comparability of vocational training qualifications, in respect of occupations at 'skilled worker' level in the following sectors:
  - hotel and catering industry (Horeca):  
Official Journal C 166, 3.7.1989,
  - motor vehicle repair sector:  
Official Journal C 168, 3.7.1989,
  - construction/building sector:  
Official Journal C 292, 20.11.1989,
  - electrical/electronics sector:  
Official Journal C 321, 22.12.1989,
  - agriculture/horticulture/forestry:  
Official Journal C 83, 2.4.1990.
  - textile/garment industry:  
Official Journal C 253, 8.10.1990The Commission has also produced a model information sheet intended mainly to enable migrant workers to explain the nature of their qualifications more clearly. The model is published in Official Journal C 209, 14.8.1989.
3. On 12 June 1990, the Commission presented its interim report on the implementation of Decision 85/368/EEC on the comparability of vocational training qualifications between the Member States of the European Community (COM(90) 225 final). The report describes the characteristics of the system, the work completed and the difficulties encountered. It also refers to the measures adopted at Community level and those envisaged at national level.
4. Each Member State has appointed a coordinating body responsible for the comparability of qualifications and for overseeing its application.

*(4) Deadline for implementation of the legislation in the Member States*

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 199, 31.7.1985





*(7) Follow-up work*

- On 26 November 1990 the Council adopted a resolution which:
- takes note of the interim report presented by the Commission on the implementation of Decision 85/368/EEC (Contents, point 3);
  - notes the need to ensure that the work done on the comparability of vocational qualifications is effective by making a sustained effort in the dissemination, exchange and utilization of information on the comparability of qualifications already established (Contents, point 4);
  - considers it necessary, after assessing the results of work on the comparability of qualifications, to decide on the extension of work on the comparability of qualifications to other occupations at all levels of vocational training which are involved most frequently in current instances of mobility; one of the priorities should be vocational training qualifications connected with technological innovation;
  - invites Member States to submit the first report on the application of the system of comparability of qualifications by 31 December 1991, incorporating any suggestions which they consider appropriate;
  - invites the Commission to present proposals taking account of this resolution and of the national reports referred to above.

*(8) Commission implementing measures*

- Continuation of the work under way with the technical assistance of Cedefop to establish the comparability of qualifications relating to occupations in other sectors;
- coordination of operations involving information about and utilization of the work already carried out;
- assessment of the results achieved by the implementation of the system;
- consideration of improvements to be made to the present system.

## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.13. Training in technology: Comett I

<i>(1) Objective</i>	To give a European dimension to cooperation between the universities and industry. To foster the joint development of training programmes and exchange of experience. To improve the provision of training at local, regional and national levels. To develop the standard of training in response to technological and social change (see also the section on 'Social dimension of the internal market' in the chapter on 'Vocational training — Rationalization and coordination of programmes').
<i>(2) Community measures</i>	Council Decision 86/365/EEC of 24 July 1986 adopting the programme on cooperation between universities and enterprises regarding training in the field of technology (Comett).
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Definition of the terms 'university' and 'enterprise'.</li><li>2. Allocation of an EEC appropriation of ECU 45 million to finance the programme for a period extending from 1 January 1986 to 31 December 1989.</li><li>3. The programme is implemented by the Commission in accordance with the detailed provisions of the Annex to the Decision. In the performance of its task the Commission is assisted by a committee consisting of two representatives of each Member State, who may in turn be assisted by experts or advisers.</li><li>4. An annual report on implementation of the Comett programme is submitted by the Commission to Parliament, the Council, the Advisory Committee on Vocational Training and the Education Committee.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1986
<i>(6) References</i>	Official Journal L 222, 8.8.1986
<i>(7) Follow-up work</i>	Launching of the Comett II programme on 1 January 1990 (summary 7.14).
<i>(8) Commission implementing measures</i>	On 7 June 1991, the Commission adopted a final report on the results of Comett I.



## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.14. Training in technology: Comett II

<i>(1) Objective</i>	To give a European dimension to cooperation between the universities and industry. To improve the contribution to technology made by training. To promote the joint development of training programmes and exchange of experience. To respond to the specific needs of small and medium-sized firms. To promote equal opportunities for men and women. See also the section on 'Social dimension of the internal market' in the chapter on 'Vocational training — Rationalization and coordination of programmes'.
<i>(2) Community measures</i>	Council Decision 89/27/EEC of 16 December 1988 adopting the second phase of the programme on cooperation between universities and enterprises regarding training in the field of technology (Comett II) (1990-94).
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. Allocation of an EEC appropriation of ECU 200 million to finance the programme for a period extending from 1 January 1990 to 31 December 1994.</li> <li>2. Before 30 June 1992, the Commission will send to the Council, the Education Committee, Parliament and the Economic and Social Committee an interim progress report on the implementation of Comett II.</li> <li>3. Before 30 June 1995, the Commission will send to the Council, Parliament and the Economic and Social Committee a final assessment report on the experience acquired and the results of Comett II.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1990
<i>(6) References</i>	Official Journal L 13, 17.1.1989
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.15. Pharmacy: qualifications in pharmacy

<i>(1) Objective</i>	To define the range of activities to which formally qualified pharmacists must at least be entitled to have access in all Member States. To provide a minimum level of coordination of pharmaceutical training in the Community. To set up an advisory committee on pharmaceutical training.
<i>(2) Community measures</i>	<p>Council Directive 85/432/EEC of 16 September 1985 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of certain activities in the field of pharmacy.</p> <p>Council Decision 85/434/EEC of 16 September 1985 setting up an advisory committee on pharmaceutical training.</p>
<i>(3) Contents</i>	<p>1. The Directive applies to holders of a diploma, certificate or other university or equivalent qualification in pharmacy who wish to pursue activities which require such qualifications, e.g. the preparation, testing and distribution of medicines, the provision of information and advice on medicines, etc. The diplomas, certificates and other formal qualifications referred to are listed in Council Directive 85/433/EEC (summary 7.16).</p> <p>2. Minimum conditions, with regard to training, which Member States are to impose for the award of the diplomas, certificates and other formal qualifications; in particular training which ensures adequate knowledge of medicines, pharmaceutical technology, the metabolism, the effects of medicinal products, etc.</p> <p>3. The Commission will present to the Council appropriate proposals on specializations in pharmacy.</p> <p>4. The pharmaceutical committee will be available should any Member State encounter major difficulties in applying this Directive.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.10.1987
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 253, 24.9.1985
<i>(7) Follow-up work</i>	Preparation of proposals concerning specialized pharmaceutical training to be sent by the Commission to the Council.
<i>(8) Commission implementing measures</i>	



## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.16. Pharmacy: Mutual recognition of diplomas in pharmacy

- (1) *Objective* To facilitate the right to set up practice as a pharmacist in any Member State, in particular via the mutual recognition of diplomas, certificates and other evidence of formal qualifications.
- (2) *Community measures* Council Directive 85/433/EEC of 16 September 1985 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, including measures to facilitate the effective exercise of the right of establishment relating to certain activities in the field of pharmacy.
- (3) *Contents*
1. The Directive applies to activities, the access to and pursuit of which are subject to the conditions of professional qualification defined in Council Directive 85/432/EEC (summary 7.15) and which are open to holders of one of the diplomas, certificates or other formal qualifications in pharmacy referred to in the Directive.
  2. Each Member State must recognize the diplomas, certificates and other formal qualifications listed in the Directive and awarded by other Member States. They must give to such qualifications the same effect in their territory with regard to access to and the pursuit of the activities in question as the diplomas, certificates and other formal qualifications which they themselves award. Examples of qualifications include:
    - Belgium: Le diplôme légal de pharmacien;
    - Ireland: The Certificate of Registered Pharmaceutical Chemist.
 Furthermore, when access to or the pursuit of the activity in a Member State requires additional professional experience, that Member State is obliged to accept as sufficient evidence a certificate issued by the competent authorities of the applicant's Member State attesting that he has pursued the said activities for an equivalent period.
  3. Derogation allowing Greece to give effect to the diplomas, certificates and other formal qualifications awarded by the other Member States only in cases of pursuit of the activities concerned as an employed person. The other Member States are required to give effect to diplomas, certificates and other formal qualifications awarded in Greece only in cases of pursuit of the activities concerned as an employed person.
  4. Host Member States must ensure that nationals of Member States who fulfil the conditions laid down have the right to use their lawful academic title in the language of the Member State from which they come.
  5. Procedure for the recognition of pharmacists. A host Member State which requires of its nationals proof of good character or good repute or a certificate of physical or mental health when they take up the activities specified must accept as sufficient evidence, in respect of nationals of other Member States, a certificate issued by a competent authority in the Member State from which the foreign national comes.
- (4) *Deadline for implementation of the legislation in the Member States* 1.10.1987

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*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 253, 24.9.1985

*(7) Follow-up work*

Directive 85/584/EEC — Official Journal L 372, 31.12.1985  
Council Directive of 20 December 1985 amending, on account of the accession of Spain and Portugal, Directive 85/433/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, including measures to facilitate the effective exercise of the right of establishment relating to certain activities in the field of pharmacy.

*(8) Commission implementing measures*



## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.17. Specific training in general medical practice

(1) <i>Objective</i>	To provide for the specific training of general medical practitioners; this will allow mutual recognition, in the Member States, of diplomas attesting to that specific training.
(2) <i>Community measures</i>	Council Directive 86/457/EEC of 15 September 1986 on specific training in general medical practice.
(3) <i>Contents</i>	<p>1. Definition of what specific training in general medical practice entails. It should include at least two years' specific training, preceded by at least six years' basic training within the framework laid out by Council Directive 75/363/EEC (Official Journal L 167, 30.6.1975), should be practically based, etc.</p> <p>2. Part-time training is permitted in the Member States, provided certain conditions are met, e.g. part-time courses must not have a weekly duration of less than 60% of the full-time courses.</p> <p>3. Member States may, subject to conditions laid down in the Directive, issue a diploma, certificate or other evidence of formal qualification attesting to specific training in general medical practice to a medical practitioner who has not completed the specified training but who holds a formal qualification, issued by the competent authorities of a Member State, attesting to completion of another additional training course.</p> <p>4. From 1 January 1995 each Member State must make the exercise of general medical practice under its national social security scheme conditional on holding formal qualifications attesting to specific training in general medical practice.</p> <p>5. Member States must recognize formal qualifications issued to nationals of Member States by other Member States in accordance with the provisions of the Directive and must give the possessor of such qualifications the right to use in the host Member State the professional title which exists there.</p>
(4) <i>Deadline for implementation of the legislation in the Member States</i>	1.1.1995
(5) <i>Date of entry into force (if different from the above)</i>	
(6) <i>References</i>	Official Journal L 267; 19.9.1986
(7) <i>Follow-up work</i>	<p>Presentation, by the Commission to the Council, of a report on the implementation of the Directive and suitable proposals.</p> <p>A consolidated version of Directive 86/457/EEC was adopted by the Commission on 12 December 1991.</p> <p>This involves legislative consolidation since the new Directive will replace the various Directives covered by the consolidation exercise. This Directive retains the substance of the consolidated Directives and</p>

*(8) Commission  
implementing  
measures*

restricts itself to combining their provisions, making only such formal amendments as are required by the consolidation operation itself.

In accordance with Article 12 of Directive 86/457/EEC, the Commission has published in the *Official Journal of the European Communities* the designations adopted by each Member State for the diplomas, certificates or other evidence of formal qualifications and, where appropriate, the professional titles in question (Official Journal C 268, 24.10.1990).

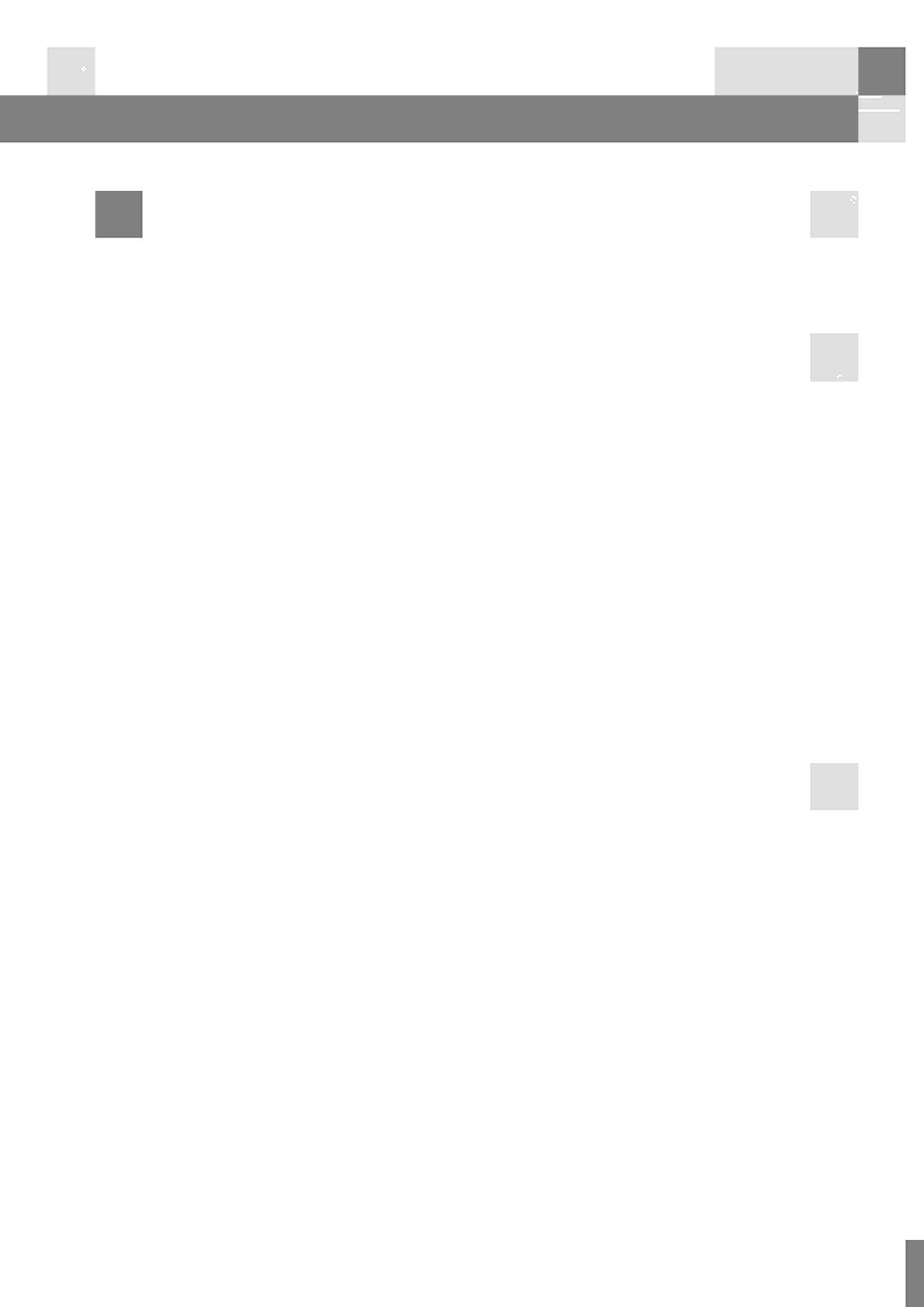




## 7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

### 7.18. Commercial agents

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|--------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) <i>Objective</i>                                                           | To coordinate national laws governing the legal relationship of self-employed commercial agent and principal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| (2) <i>Community measures</i>                                                  | Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| (3) <i>Contents</i>                                                            | <p>1. The harmonization measures laid down apply to laws, regulations and administrative provisions governing relations between self-employed commercial agents and their principals. A commercial agent is a person who has continuing authority to negotiate the sale or purchase of goods on behalf of another person, the principal, or to negotiate and conclude such transactions on behalf and in the name of that principal.</p> <p>2. Rights and obligations of a commercial agent, e.g. he must communicate to his principal all the necessary information available to him, make proper efforts to negotiate and, where appropriate, conclude the transactions he is instructed to take care of.</p> <p>3. Remuneration to which a commercial agent is entitled, e.g. a commission on commercial transactions concluded as a result of his action.</p> <p>4. Conclusion and termination of agency contracts. Each party is entitled to receive from the other a signed written document setting out the terms of the agency contract. Where the contract is for an indefinite period, either party may terminate it by giving the other party notice.</p> |
| (4) <i>Deadline for implementation of the legislation in the Member States</i> | <p>— 1.1.1990: Others</p> <p>— 1.1.1993: Italy (Article 17)</p> <p>— 1.1.1994: Ireland and the United Kingdom</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| (5) <i>Date of entry into force (if different from the above)</i>              | 1.1.1994: for contracts in operation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| (6) <i>References</i>                                                          | Official Journal L 382, 31.12.1986                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| (7) <i>Follow-up work</i>                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (8) <i>Commission implementing measures</i>                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |



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