
INTERNAL MARKET

CURRENT STATUS 1 JANUARY 1993

**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

**COMMISSION OF THE
EUROPEAN COMMUNITIES**

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 September 1992, the Commission issued its 'Seventh 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.

This booklet is one of a series of six publications.

The complete series of booklets covers

A common market for services

The elimination of frontier controls

Conditions for business cooperation

Public procurement

Internal market for energy

A new Community standards policy

Veterinary and plant health controls

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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.

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.

Note to the reader

This publication provides a snapshot, as at 1 January 1993, of a situation which is evolving all the time. It was designed as a documentary tool and does **not** bind the Commission in any way.

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)

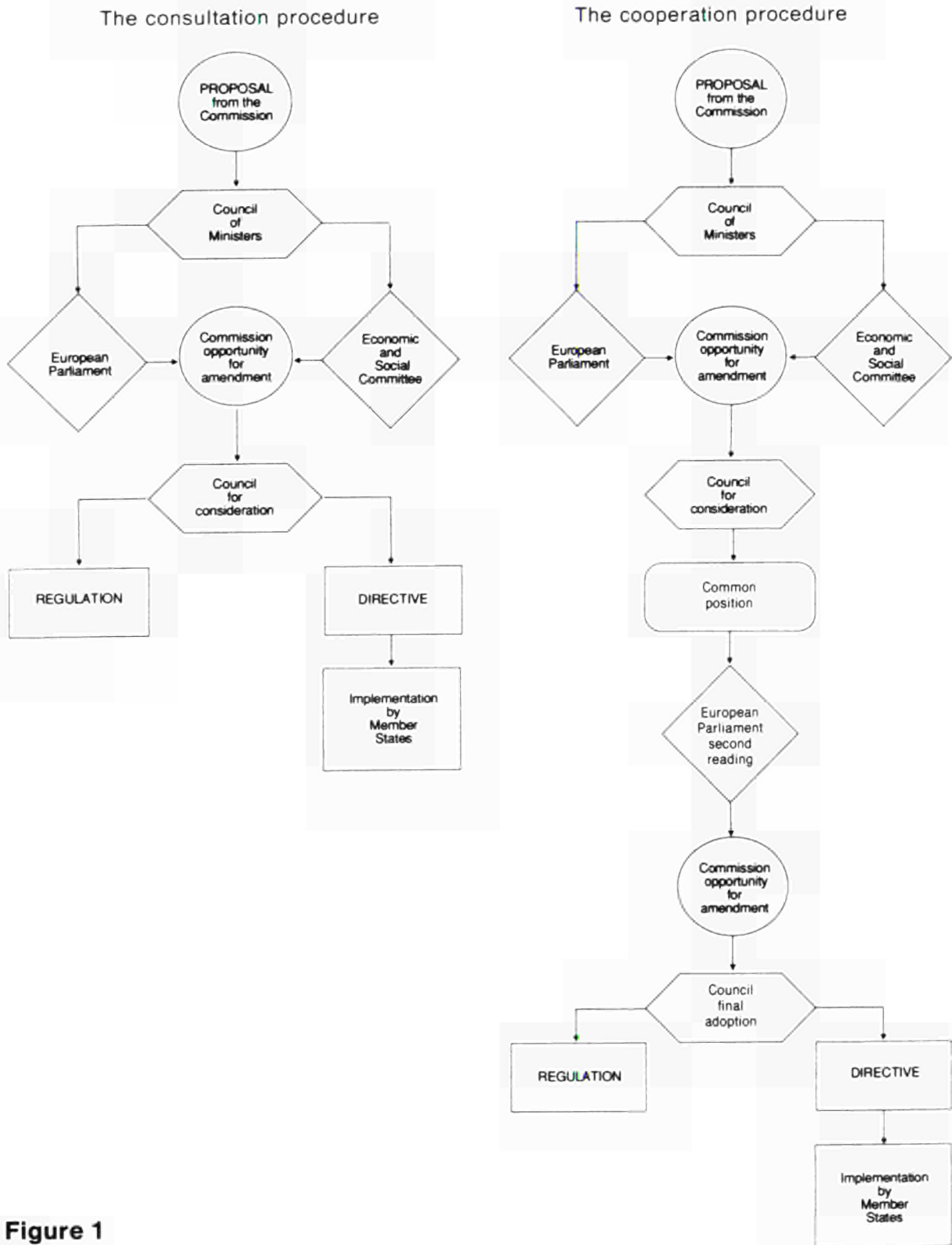


Figure 1

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.

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 1992.

A COMMON MARKET FOR SERVICES

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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 based on the principle of 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 service 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 limited freedom to provide services and freedom of establishment still remained in place as a result of national Regulations governing banking, insurance, transport and the professions or as a result of 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 were being perpetuated by the remaining internal obstacles to trade.

The Commission published a White Paper on 'completing 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 on the basis of mutual recognition of national Regulations following on from the prior harmonization of basic principles where necessary (e.g. financial services).

1987 — Single European Act

The Single European Act, which entered into force on 1 July 1987 and 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 to take decisions is strengthened by extending the scope of qualified majority (as opposed to unanimous) voting within the Council. The Single European Act has therefore facilitated the adoption of the measures envisaged in the White Paper.

1993 — Current situation

General situation

The service sector of the economy will undergo the most wide-ranging changes. The work programme for the sector has been completed in full, with the result that the freedom to provide services will become a reality as from 1993.

In general, leaving aside company law, the White Paper programme as far as it concerns the creation of the Community trade mark has already been, or will very shortly be, realized. The progress made, notably in the field of indirect taxation, has paved the way for the abolition of physical controls at borders.

Services

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

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.

Services form an essential aspect of the economic and industrial development of the Community; the objective associated with the 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 embarked 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 are important 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 had not previously benefited, to the same extent as manufactured goods, from the headway made in dismantling barriers to trade between the Member States; but it is now clear that the benefits of the integrated market will have to apply in the financial services sector as much as in 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.

In 1993 the measures aimed at giving practical shape to the European financial area, based as it is on an integrated securities market, a banking market and an insurance market, will take effect. Any firm will then be able to place securities on any stock exchange in the Community, while any individual will be able to acquire those securities. In addition, any bank or insurance company will be able to offer its products directly on any market in the Community without having to set up in business there. However, in order to ensure that interests, notably those of customers, are protected, this freedom to provide services will be based on harmonized rules laying down the common essential requirements to be met.

The general approach adopted to financial services is closely linked to the programme for liberalizing capital movements; such liberalization has become a reality for the 12 Member States since 1 January 1992. 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, and is laying the foundations for a single financial area. Residents of any Member State 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.

As a result, the date of 1 July 1990, when Directive 88/361/EEC on the liberalization of capital movements entered into force, also marked the starting point for the first stage of economic and monetary union.

Transport

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

As the rules governing the operation of the transport market have evolved, cabotage has been the basic principle since 1 January 1993; any transport enterprise established in a Member State may pursue its activity in any other Member State. Three conditions have to be met:

- the new rules must not lead to social dumping or predatory behaviour; for this reason, cabotage has been accompanied by harmonization of social conditions and by specific competition rules;
- competition must not be distorted as a result of provisions relating to the approximation of taxation on fuels and on the use of transport infrastructures;
- additional transitional periods have been needed for road passenger transport and for sea 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 on a first general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration. This first step has been 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' duration and to certificates awarded on completion of a course of secondary studies.

Lastly, the right of residence, which had until then been granted only to workers, was extended to all individuals, thereby facilitating movement within the Community.

1. BANKING

1992 target: current position and outlook

All Member States regulate access to this crucial sector and supervise its operations, even though such controls still differ in non-fundamental respects from one Member State to another. The first banking Directive adopted in 1977 represented an initial step towards harmonization of the rules relating to the right of establishment in the banking sector.

A bank authorized in one Member State by its supervisory authority and wishing to establish branches in the others used to need 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 access to banking activity, the capital required to cover both credit and market risks, the solvency ratio, the prevention of over-lending to individual borrowers, the form and content of the annual and consolidated accounts published by banks, and the obligation to observe the various requirements of banking supervision on a consolidated basis;
- home-country control through coordination between national supervisory authorities, which means 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 in the countries of origin of the banks operating on their territory.

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. On 15 July 1992 the Commission transmitted to the Council and to Parliament a report on the extent to which reciprocal arrangements were made by third countries for Community banks, concluding that there were no significant difficulties for those banks.

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

- right of establishment of credit institutions (summaries 1.1 — 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 institutions (summary 1.6);
- own funds (summary 1.7);
- monitoring of large exposures (summaries 1.10 and 1.11);
- solvency ratios (summary 1.13);
- supervision on a consolidated basis (summary 1.3).

In 1986 the Commission also issued a recommendation concerning deposit-guarantee schemes (summary 1.8). A proposal for a Directive on the same subject, which is designed to replace the recommendation, is awaiting adoption (summary 1.9). This will provide the Community with legislation based on the principle that deposits must be guaranteed by the scheme in force in the Member State in which the bank has its registered office.

On 10 June 1991 the Council adopted a Directive designed to combat the laundering of the proceeds of criminal activities (summary 1.14).

This Directive makes money laundering a criminal offence in all Member States and requires banks and other financial institutions to notify the authorities of any financial operations suspected of being linked to drugs traffic, terrorism or other crimes, and in particular organized crime. This measure was adopted with a view to safeguarding the integrity of the Community financial market while at the same time observing the principle of a liberal and open financial system.

The prospect of economic and monetary union underlines the need to improve payment systems in such a way that cross-border payments within the Community's internal market are more rapid, less expensive and more reliable than is currently the case. In this context, the Commission published on 14 February 1990 a recommendation on the transparency of banking conditions relating to cross-border financial transactions (summary 1.15).

In the single market payments made from one country to another and converted from one currency into another should be as rapid as within a Member State and should be no more expensive. This is not yet the case. The Commission has therefore sought the cooperation of banks, preferring a pragmatic method to one based on Regulations or Directives.

In the spring of 1992 the Commission put forward a proposal for a 'users' charter'. For all cross-border payments within the Community the user should have the right to the best possible service. More specifically:

- the bank should inform the user of the most appropriate payment services available;
- the user should be given in advance full information regarding the total cost of a payment;
- the user should have the option of paying all charges so that the beneficiary receives the full sum sent;
- cross-border payments should be speeded up, the objective being to achieve the same rapidity and reliability as for domestic payments by Stage Three of EMU;
- the user should have access to redress procedures at least equivalent to those existing for domestic payments.

1. BANKING

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

<i>(1) Objective</i>	To update the list of credit institutions excluded from Community coordinating legislation concerned with their operation.
<i>(2) Community measures</i>	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.
<i>(3) Contents</i>	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 (Official Journal L 322, 17.12.1977), 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.
<i>(4) Deadline for implementation of the legislation in the Member States</i>	31.12.1986
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 309, 4.11.1986
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

1. BANKING

1.2. Credit institutions: reorganization and winding up

- (1) *Objective* To establish mutual recognition by Member States of the steps taken by each of them to resolve the financial difficulties of its own establishments.
- (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. Responsibility lies with the authorities in the host Member State, except where bilateral agreements exist with the home country.
 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.

<i>(5) Current status</i>	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.	
<i>(6) References</i>	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

1. BANKING

1.3. Credit institutions: supervision

<i>(1) Objective</i>	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.
<i>(2) Community measures</i>	Council Directive 92/30/EEC of 6 April 1992 relating to the supervision of credit institutions on a consolidated basis.
<i>(3) Contents</i>	<ol style="list-style-type: none">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. Analysis of the cases 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) 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 110, 28.4.1992

(7) Follow-up work

(8) Commission implementing measures

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.
- (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

Amended 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 all financial institutions within the Community.
<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"> 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"> — Greece: Eteba (National Investment Bank for Industrial Development); — Ireland: industrial and provident societies. 2. Standard balance sheet layout. Assets and liabilities are presented in decreasing order of liquidity. 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. 4. Two standard profit-and-loss account layouts: there is a vertical layout and a horizontal layout. 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. 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. 7. Detailed list of the required contents of the notes on the accounts. 8. Separate provisions relating to the drawing up of consolidated accounts. 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. 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.
<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.
<i>(6) References</i>	Official Journal L 372, 31.12.1986
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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.
- (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 at paragraph 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).

(6) References

(7) Follow-up work

*(8) Commission
implementing
measures*

Official Journal L 44, 16.2.1989

1. BANKING

1.7. Own funds

(1) Objective

To lay down common basic rules for the own funds of all credit institutions authorized to do business in the Community.

(2) Community measures

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

Council Directive 91/633/EEC of 3 December 1991 implementing Directive 89/299/EEC on the own funds of credit institutions.

Council Directive 92/16/EEC of 16 March 1992 amending Directive 89/299/EEC on the own funds of credit institutions.

(3) Contents

1. The Directives include 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). Funds for general banking risks (FGBR) also fall into this category;
 - 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 Directives also list 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. Directive 92/16/EEC introduces a temporary derogation for Danish mortgage credit institutions and sets up a regulatory committee to assist the Commission in making future technical adaptations.

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

Directive 89/299/EEC : 1.1.1991
Directive 91/633/EEC : 1.1.1993
Directive 92/16/EEC : 1.1.1993

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



(6) References

Official Journal L 124, 5.5.1989
Official Journal L 339, 11.12.1991
Official Journal L 75, 21.3.1992

(7) Follow-up work

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

- (1) *Objective* To lay down harmonized minimum requirements for deposit-guarantee schemes and to encourage the introduction of such schemes by all Member States.
- (2) *Community measures* Commission Recommendation 87/63/EEC of 22 December 1986 concerning the introduction of deposit-guarantee schemes in the Community.
- (3) *Contents*
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.
 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.
 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.
- (4) *Deadline for implementation of the legislation in the Member States* 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.
- (5) *Date of entry into force (if different from the above)* Not applicable.
- (6) *References* Official Journal L 33, 4.2.1987
- (7) *Follow-up work* A proposal for a Directive drawn up by the Commission (summary 1.9).
- (8) *Commission implementing measures*

1. BANKING

1.9. Deposit-guarantee schemes (Directive)

<i>(1) Objective</i>	To protect the depositors of all credit institutions and to safeguard the stability of the banking system as a whole.				
<i>(2) Proposal</i>	Proposal for a Council Directive on deposit-guarantee schemes.				
<i>(3) Contents</i>	<p>1. Definition of the term 'deposit': credit balances which result from funds left in accounts or from temporary situations deriving from normal banking transactions and which the credit institution must repay under the legal and contractual conditions applicable, and claims for which negotiable certificates have been issued by a credit institution. Interbank deposits and subordinated loans are excluded from the guarantee. Certain other deposits may be excluded by Member States.</p> <p>2. Two principles underlie the proposal for a Directive:</p> <ul style="list-style-type: none"> — All authorized institutions must take part in a deposit-guarantee scheme, and the guarantee scheme in the home Member State must cover the deposits of branches. In addition, branch depositors may benefit, by way of an additional safeguard, from the advantages of the host country's guarantee scheme. — A minimum level per depositor must be guaranteed at Community level. The minimum cover per depositor is ECU 15 000. <p>3. The depositors of branches of institutions with head offices outside the Community must be provided with information enabling them either to identify the guarantee scheme to which the branch belongs and the limits or ceilings applicable under that scheme or to note the absence of any such guarantee.</p> <p>4. One of the main aims of the proposal is to ensure the promptest possible payout of the guarantee provided for by the scheme. Payments are to be made within three months of the date on which the deposit becomes unavailable or of a court or other authority finding that payment has ceased. Provision is made for an extension of the time-limit where difficulties are encountered in settling special cases. These time-limits may not be invoked by the guarantee scheme in order to deny individuals the opportunity to assert their claims later if that is justified. Payment is made in national currency or in ecus.</p>				
<i>(4) Opinion of the European Parliament</i>	Not yet delivered.				
<i>(5) Current status</i>	The proposal has been sent to the European Parliament for their opinion.				
<i>(6) References</i>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Commission proposal COM(92) 188 final</td> <td style="width: 50%;">Official Journal C 163, 30.6.1992</td> </tr> <tr> <td>Economic and Social Committee opinion</td> <td>Official Journal C 332, 16.12.1992</td> </tr> </table>	Commission proposal COM(92) 188 final	Official Journal C 163, 30.6.1992	Economic and Social Committee opinion	Official Journal C 332, 16.12.1992
Commission proposal COM(92) 188 final	Official Journal C 163, 30.6.1992				
Economic and Social Committee opinion	Official Journal C 332, 16.12.1992				

1. BANKING

1.10. 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">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.2. Credit institutions may not incur an exposure to a single client or group of clients that exceeds 40% of own funds.3. Aggregate large exposures may not exceed 800% of own funds.4. Large exposures must be reported to the regulatory authorities at least once a year.5. Special provisions for EEC branches of third-country banks when they are covered by bilateral agreements.6. Exchanges of information between Member States.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.
<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 Directive was adopted by the Council on 21 December 1992. It contains stricter standards than those in the Recommendation (summary 1.11).
<i>(8) Commission implementing measures</i>	

1. BANKING

1.11. Monitoring of large exposures: new standards

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| (1) <i>Objective</i> | To harmonize essential supervisory rules in order to prevent distortion of competition. |
| (2) <i>Community measures</i> | Council Directive 92/121/EEC of 21 December 1992 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 all new large exposures and any increase in existing large exposures of at least 20% compared with the last communication. 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. However, the reporting of certain exposures is not compulsory; in other cases, the reporting frequency may be reduced to twice a year.</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 the subsidiaries of that parent undertaking. It need not be complied with if the Member States provide for specific monitoring of such exposures by other measures or procedures (in such cases, they inform the Commission and the Banking Advisory Committee of the content of those measures or procedures). 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 above mentioned limits as follows:</p> <ul style="list-style-type: none"> — Member States may impose more stringent rules than those laid down in the Directive; where the limits laid down are exceeded and circumstances warrant it, Member States may also allow the credit institution a short period of time in which to comply with those limits; — 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 secured by special guarantees.

6. Credit institutions may not increase exposures already incurred at the date of publication of the Directive beyond the limits laid down by the Directive. The competent authorities will require credit institutions to take the necessary measures to bring the exposures in question into line with the levels laid down by the Directive by 31 December 2001 at the latest. The competent authorities must inform the Commission and the Banking Advisory Committee of the schedule for the general process adopted. Until 31 December 1998, Member States have the option of laying down less strict exposure limits than those provided for in the Directive (40% instead of 25%, and 30% instead of 20%). The deadline for bringing the exposures existing at the end of this period into line with the general levels laid down in the Directive is 31 December 2001.

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

1.1.1994

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

(6) References

Not yet published

(7) Follow-up work

(8) Commission implementing measures

1. BANKING

1.12. 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>	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>								
<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="padding-right: 20px;">Commission proposal COM(84) 730 final</td> <td>Official Journal C 42, 14.2.1985</td> </tr> <tr> <td style="padding-right: 20px;">Amended proposal COM(87) 255 final</td> <td>Official Journal C 161, 19.6.1987</td> </tr> <tr> <td style="padding-right: 20px;">European Parliament opinion First reading</td> <td>Official Journal C 76, 23.3.1987</td> </tr> <tr> <td style="padding-right: 20px;">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								

1. BANKING

1.13. 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 counterpart 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.

1. BANKING

1.14. Money laundering

- (1) *Objective* To eliminate the dangers associated with the laundering of the proceeds of criminal activities to safeguard the integrity of the European financial market.
- (2) *Community measures* Council Directive 91/308/EEC of 10 June 1991 on prevention of use of the financial system for the purpose of money laundering.
- (3) *Contents*
1. Definitions of the terms 'credit institution', 'financial institution', 'money laundering', 'property', 'serious crime' and 'competent authorities'.
 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.
 3. Member States must prohibit money laundering and introduce appropriate penalties.
 4. Credit and financial institutions must require identification of all their customers by means of supporting evidence:
 - when entering into business relations, particularly when opening an account or savings accounts, or when offering safe-custody facilities;
 - 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.
 5. Identification is not required in the case of:
 - 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;
 - 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;
 - 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.
 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.
 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.
 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.

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

1.15. Transparency of banking conditions relating to cross-border financial transactions

<i>(1) Objective</i>	To enhance the transparency of information and invoicing rules relating to cross-border financial transactions.
<i>(2) Community measures</i>	Commission Recommendation 90/109/EEC of 14 February 1990 on the transparency of banking conditions relating to cross-border financial transactions.
<i>(3) Contents</i>	<p>1. 'Institutions' means all legal persons, and in particular credit institutions and postal services, providing facilities for effecting or facilitating cross-border transfers.</p> <p>2. Institutions which carry out cross-border financial transactions are encouraged to apply the following principles:</p> <ul style="list-style-type: none">— supply customers with easily understandable and readily available information on cross-border financial transactions;— give details of the commission fees and charges invoiced and the exchange rate applied in the statement relating to the transaction;— execute transfer orders very swiftly in order to avoid penalizing cross-border transactions;— deal rapidly with complaints in connection with the execution of a transaction or the statement relating to it;— ask the Member States to appoint the body (or bodies) to whom complaints should be directed with a view to publishing a list in the Official Journal of the European Communities (to be notified prior to 30 September 1990).
<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 67, 15.3.1990
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

2. INSURANCE

1992 target: current position and outlook

The creation of a single market in insurance has been one of the Commission's priorities for a long time. Over the last decade, the insurance market has been characterized in all Member States by a steady increase in turnover, reflecting growing demand for this type of product and the increasingly important part played by the insurance sector in the development of economic activity in general.

In accordance with Article 8a of the EEC Treaty the internal market in insurance activities comprises an area without internal frontiers in which insurance undertakings are free to carry out their activities.

The objective to be achieved, on the basis initially of the Treaty of Rome and then of the Single European Act, was twofold: firstly, to provide all Community citizens with access to the widest possible range of insurance products on offer in the Community, while at the same time guaranteeing them the legal and financial protection required for an insurance transaction; and secondly, to guarantee that an insurance company authorized to operate in any of the Member States can pursue its activities throughout the Community as regards both the right of establishment and the right to supply services.

In order to achieve these objectives, the Community has dealt with life assurance and non-life insurance separately in order to take account of their specific characteristics and the important role which life assurance plays in long-term savings and provident schemes.

1. The life assurance sector

In 1979 the Council adopted the first coordinating Directive on direct life assurance (79/267/EEC), the aim of which was to lay down the rules necessary to facilitate the effective exercise of the right of establishment provided for in the Treaty of Rome in respect of such insurance activities. This left the need to facilitate the effective exercise of the right to supply life assurance services: such was the aim of the second coordinating Directive (90/619/EEC) on life assurance (summary 2.8).

This second Directive lays down two sets of arrangements in respect of freedom to provide services: the first, based on the White Paper strategy (application of the rules of, and supervision by, the Member State of origin of the insurance undertaking or home country control) covers those policy-holders not requiring specific protection arising from the application of the rules of their Member State of residence; the second, which covers other policy-holders requiring such specific protection, is based on the application of the rules of, and supervision by, the Member State in which the service is supplied in order to guarantee that such protection is provided (risk country control).

On 10 November 1992 the Council adopted a third coordinating Directive on direct life assurance (2.9). Its aim is to complete the internal market in this form of insurance activity on the basis of the principles of a single administrative licence and supervision of the insurance undertaking's activities by the authorities in the Member State in which that undertaking has its head office.

2. Insurance other than life assurance

In 1973 the Council adopted Directive 73/239/EEC which establishes the appropriate legal framework for exercising freedom of establishment in the Community in respect of direct non-life insurance.

The arrangements necessary to guarantee the effective exercise of freedom to provide non-life insurance services are laid down in Directive 88/357/EEC (summary 2.10). This Directive covers all non-life insurance, including compulsory insurance. However, a number of branches or operations are excluded from the provisions of this second Directive on freedom to provide services. For example, compulsory motor vehicle insurance is excluded, this being covered in a specific Directive (summary 2.6). Finally, a third coordinating Directive on direct non-life insurance has been adopted by the Council (summary 2.11). This covers the coordination of national rules governing the investment, spread and localization of the assets used to cover technical provisions, the law applicable to insurance supervision, the terms of insurance and the physical inspection of policies and contract documents, access to and pursuit of insurance activities, and supervision according to the principle of home country control.

3. Car insurance

Alongside these major Directives designed to safeguard both the right of establishment and freedom to provide services, the Community has legislated in the following areas in addition to the motor vehicle liability insurance already referred to: annual accounts and consolidated accounts of insurance undertakings (summary 2.1), legal protection insurance (summary 2.4) and credit and suretyship insurance (summary 2.5). It has also set up an Insurance Committee to assist the Commission in its task of cooperating with national supervisory authorities in this field (summary 2.12).

Finally, the Commission has presented to the Council two proposals for Directives on the coordination of laws, regulations and administrative provisions relating, firstly, to the compulsory winding-up of direct insurance companies (summary 2.2) and, secondly, to insurance contracts (summary 2.3).

These Community measures, and in particular the third life and non-life Directives, provide the legislative framework for completing the internal market in the insurance sector through the establishment of freedom to provide services to potential policyholders, who will thus benefit from a wider choice of products at the lowest possible prices thanks to increased competition.

2. INSURANCE

2.1. Insurance companies: annual accounts

<i>(1) Objective</i>	To provide for the same layout and the same item headings for the balance sheets of all Community insurance companies in order to ensure comparability.
<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"> 1. The Directive applies to all insurance companies or firms except small mutual associations. 2. A precise layout for the balance sheet is prescribed. There are special provisions relating to certain balance-sheet items. 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. 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. 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. 6. A number of provisions are included on the presentation of consolidated accounts. 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.
<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>	

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

2. INSURANCE

2.3. Insurance contracts

<i>(1) Objective</i>	To promote the cross-frontier provision of non-life insurance.								
<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">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.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.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.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.5. In the event of an increase in risk the contract shall be amended; in the event of a decrease in risk there shall be a reduction in premium.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.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.								
<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</td></tr><tr><td></td><td>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.
<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>	<ol style="list-style-type: none"> 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. 2. Obligation on insurance undertakings to provide for a separate contract or a separate section of a single policy for legal expenses insurance. 3. Obligation on insurance undertakings either : <ul style="list-style-type: none"> — to have separate management for legal expenses insurance ; — to entrust the management of claims in respect of legal expenses insurance to an undertaking having separate legal identity ; or — 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. 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.
<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

2.5. Credit and suretyship insurance

- (1) *Objective* To provide additional financial guarantees for credit insurance and to abolish the provisions permitting Germany to prohibit suretyship insurance from being combined with other classes of insurance.
- (2) *Community measures* 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.
- (3) *Contents*
1. Removal of German specialization requirements.
 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.
 3. Obligation on insurance companies to increase their reserves within a set period of time as a result of these amendments.
 4. Annex containing the four permitted methods of calculating the equalization reserve for credit insurance.
- (4) *Deadline for implementation of the legislation in the Member States* 1.1.1990
- (5) *Date of entry into force (if different from the above)* 1.7.1990
- (6) *References* Official Journal L 185, 4.7.1987
- (7) *Follow-up work*
- (8) *Commission implementing measures*

2. INSURANCE

2.6. Motor vehicle liability insurance: freedom to provide services

- (1) *Objective* 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).
- (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

(7) Follow-up work

*(8) Commission
implementing
measures*

Official Journal L 330, 29.11.1990

2. INSURANCE

2.7. Motor vehicle liability insurance: coverage of passengers

<i>(1) Objective</i>	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>	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
<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 129, 19.5.1990
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

2. INSURANCE

2.8. Life assurance: freedom to provide services

(1) Objective

To lay down special rules relating to freedom to provide cross-frontier services in the life assurance field.

(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' 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 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 insurer 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.

2. INSURANCE

2.9. Life assurance: third Directive

- (1) *Objective* To enable potential policy-holders to have access to any assurance undertaking whose head office is in the Community, while at the same time guaranteeing them adequate protection.
- (2) *Community measures* Third Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (third Directive).
- (3) *Contents*
1. The Directive contains 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 the activities referred to in the Directive in all 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 enables the undertaking to carry on business there under either the right of establishment or the freedom to provide services. 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 business to other classes has to obtain a fresh authorization.
 4. The granting 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, the content of which is specified in the Directive, and possess the minimum guarantee fund. It must be run by technically qualified persons of good repute. Member States may not require, for supervision purposes, systematic notification of general and special policy conditions, scales of premiums and forms and other printed matter: the competent authorities in the home Member State may require notification only of the technical bases used for calculating scales of premiums and technical provisions, without that requirement constituting a prior condition for an undertaking to carry on its business. 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. The supervisory authorities may withhold authorization if they are not satisfied with the qualifications of shareholders or members.
 5. The financial supervision of the assurance undertaking is the exclusive responsibility of the home Member State. It 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. The home Member State may carry out spot checks on branches established in another Member State, after having first informed the latter's competent authorities.

6. The Directive strengthens the competent authorities' supervisory powers and provides that Member States must take all steps necessary to enable those authorities to make detailed enquiries regarding an undertaking's situation, take measures with regard to the undertaking or its directors or managers and ensure that those measures are carried out, if need be by enforcement.

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. Member States may also authorize the formation of undertakings which transact both life assurance and the 'accident' and 'sickness' classes of non-life insurance. In all cases, such composite undertakings must place their life and non-life activities under separate management.

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 14-30 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 country in which the branch is to be opened 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.

16. Implementing powers are conferred on the Commission, which will be assisted by the Insurance Committee (Directive 91/675/EEC).

(4) Deadline for implementation of the legislation in the Member States 31.12.1993

(5) Date of entry into force (if different from the above) 1.7.1994

(6) References

Official Journal L 360, 9.12.1992

(7) Follow-up work

(8) Commission implementing measures

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.
- (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).

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.

8. Special rules apply to compulsory insurances: policies must comply with the rules of the State which makes such insurances compulsory.

9. A number of rules strengthen and amplify those in the first non-life insurance coordination Directive of 1973. These concern in particular:

- the powers of the supervisory authorities;
- the determination of currencies in which assets have to be held;
- the transfer of portfolios.

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.

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

30.12.1989

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

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).

(6) References

Official Journal L 172, 4.7.1988

(7) Follow-up work

See summary 2.11.

(8) Commission implementing measures

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

To introduce a single authorization system whereby any insurance undertaking whose head office is in one of the Member States of the Community can establish branches in other Member States and carry on business by way of provision of cross-border services under the supervision of the Member State in which its head office is situated. To enable persons seeking insurance to find the cover best suited to their needs.

(2) Community measures

Third Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life assurance Directive).

(3) Contents

1. 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, under either the right of establishment or the freedom to provide services. Authorization is to be granted for a particular class of insurance or, if the applicant so wishes, for only some of the risks pertaining to that class, as listed in the Annex. Conditions governing the grant of authorization.
2. Harmonization of the conditions governing the business of insurance. This covers the following areas:
 - supervision of insurance undertakings: financial supervision, including verification of the state of solvency and verification of the establishment of technical provisions and the assets covering them; supervision of transfers of portfolios; supervision of major shareholders or members; provision of documents and statistics;
 - technical provisions and investments: home-country control of technical provisions and investments, investment of the assets covering the technical provisions, admissible investments, diversification of investments, localization of investments, currency matching;
 - inclusion in the list of assets recognized for the purpose of covering the solvency margin of securities with no specified maturity date, subordinated loan capital, cumulative preferential share capital and members' accounts;
 - provisions on insurance contract law and policy conditions: the choice of law applicable to the contract is to be left to the parties; in the case of large industrial and commercial risks, there is to be no prior vetting of scales of premiums and policy conditions; if the policy-holder is a natural person, he must be informed of the law applicable to the contract, the existence of a complaints body and his right to institute legal proceedings.
3. Provisions on the right of establishment and the freedom to provide services:
 - right of establishment: the Directive provides that an insurance undertaking which wishes to establish a branch in another Member State must notify the authorities in its home Member State. When effecting the notification, it must provide certain information

- including a scheme of operations, the name of the Member State in which it proposes to establish a branch and the name of the branch's authorized agent. This information is then sent to the Member State in which the branch is to be opened so that it can inform the home Member State of the conditions under which, in the interest of the general good, business must be carried on;
- specific rules on compulsory insurance against accidents at work;
 - 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. The home-country authorities must transmit this information to each Member State in which services are to be provided. The undertaking may start business as soon as this information is received;
 - technical adjustments and abolition of the prohibition on the simultaneous pursuit of business under the right of establishment and the freedom to provide services so as to introduce a uniform system of supervision applicable to all direct non-life insurance business.
4. The Directive also contains a set of measures concerning:
- approval of the contract documents used by the insurer: the Directive prohibits provisions requiring the prior approval or systematic notification of policy conditions and scales of premiums. Member States may require only non-systematic notification after the event. Exceptions: compulsory insurances and health cover serving as an alternative to the health cover provided by the statutory social security system;
 - 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;
 - participation, in respect of business done under the right of establishment and the freedom to provide services;
 - 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.
 - abolition of all insurance monopolies in the Community as from 1 July 1994;
 - specific rules on health cover serving as a substitute for the health cover provided by the statutory social security system.

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

31.12.1993

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

1.7.1994

(6) References

(7) Follow-up work

*(8) Commission
implementing
measures*

Official Journal L 228, 11.8.1992

2. INSURANCE

2.12. Insurance Committee

- (1) *Objective* 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.
- (2) *Community measures* Council Directive 91/675/EEC of 19 December 1991 setting up an Insurance Committee.
- (3) *Contents*
1. Setting-up of an Insurance Committee made up of representatives of the Member States and chaired by the Commission's representative.
 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).
 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.
 4. The Committee is to commence its work on 1 January 1992.
- (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 374, 31.12.1991
- (7) *Follow-up work*
- (8) *Commission implementing measures*

3. TRANSACTIONS IN SECURITIES

1992 target: current position and outlook

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 will 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 connection: coordination of the conditions for admission of securities to official stock-exchange listing (summaries 3.1 and 3.2); contents, scrutiny and method of publication of the listing particulars and publication of information by listed companies (summary 3.3). This has taken place in parallel with work on liberalizing capital movements.

The Community has also been active in the following areas:

- information on major holdings (summary 3.4);
- regulation of insider trading (summary 3.5);
- investment services (summaries 3.6 — 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 States 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 coordinate the listing particulars to be published for the admission of securities to stock-exchange listing.
<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"> 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. 2. Mutual recognition of one Member State's approval of listing particulars by the others. 3. Cooperation between the competent authorities of the relevant Member States in the exchange of information necessary to carry out their duties. 4. Negotiations with non-member countries for reciprocal recognition of listing particulars.
<i>(4) Deadline for implementation of the legislation in the Member States</i>	<ul style="list-style-type: none"> — 1.1.1992: Portugal — 1.1.1991: Spain — 1.1.1990: Others
<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>	

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>	Implementation of a Community policy of information on securities offered to the public for the first time in a Member State.
<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"> 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. 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. 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. 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.
<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>	

3. TRANSACTIONS IN SECURITIES

3.4. Information on major holdings

<i>(1) Objective</i>	To inform investors of major holdings in listed Community companies and of changes in such holdings.
<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">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.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%, 1/3, 50% and 2/3, the shareholder must notify the company of the percentage he holds within seven calendar days. The company must then publish this information.3. Rules for calculating the percentage holdings, e.g. indirect holdings to be counted.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.
<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 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"> 1. Member States are required to prohibit primary insiders from buying or selling transferable securities while knowingly making use of inside information. 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. 3. Primary insiders are persons who possess inside information: <ul style="list-style-type: none"> — either by virtue of their membership of the administration, management or supervisory bodies of the issuer; or — by virtue of their holdings in the capital of the issuer; or — because they have access to such information by virtue of the exercise of their employment, profession or duties. 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. 5. Cooperation between the competent national authorities. 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. 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. 8. Member States may adopt provisions more stringent than those laid down by the Directive or additional provisions. |
| <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> | |

(6) References

(7) Follow-up work

*(8) Commission
implementing
measures*

Official Journal L 334, 18.11.1989

3. TRANSACTIONS IN SECURITIES

3.6. Investments: collective investment undertakings (Ucits)

<i>(1) Objective</i>	To achieve approximation at Community level of the conditions of competition between Ucits and to give unit-holders more uniform and more effective protection.
<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"> 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. 2. Ucits must be authorized by the Member State in which they are situated. The authorization is valid for all Member States. 3. Structure of Ucits. Specific obligations concerning management, investment and depositaries. 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. 5. Requirement to publish a prospectus, regular reports, and information on the sale price of units. 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. 7. Designation of authorities responsible for authorization and supervision in each Member State.
<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>	

3. TRANSACTIONS IN SECURITIES

3.7. Investments: special measures for certain investments by Ucits

- (1) Objective* To introduce a derogation for private-sector bonds similar to that for bonds issued or guaranteed by a State.
- (2) Community measures* 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).
- (3) Contents*
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.
 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.
 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.
 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.
 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.
- (4) Deadline for implementation of the legislation in the Member States*
- 1.10.1989
 - 1.4.1992: Greece and Portugal
- (5) Date of entry into force (if different from the above)*
- (6) References* Official Journal L 100, 19.4.1988
- (7) Follow-up work*
- (8) Commission implementing measures*

3. TRANSACTIONS IN SECURITIES

3.8. Investment services

- (1) *Objective* To liberalize access to stock-exchange membership and financial markets in host Member States for investment firms authorized to provide the services concerned in their home Member States.
- (2) *Proposal* Proposal for a Council Directive on investment services in the securities field.
- (3) *Contents*
1. The Directive will apply to all investment firms. However, some provisions of the present Directive are not applicable to credit institutions whose authorization covers one or more of the investment services listed in the annex.
 2. 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. Member States have to grant or refuse authorization within six months of submission of a complete application.
 3. 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.
 4. 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.
 5. The competent authorities of the home Member State are responsible for the prudential supervision of an investment firm. However, responsibility for implementing the rules of conduct and for monitoring compliance with them remains within the competence of the host Member State, which, when applying the rules, has to respect the principle of the public interest.
 6. 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.
 7. The investment firm is required to indicate to investors which compensation scheme applies. It is envisaged that the various compensation schemes will be harmonized as soon as possible.
 8. An investment firm authorized in another Member State is permitted to advertise by all means of communication available in the host Member State.

9. 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 providing services without a branch.

10. 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 endowment capital or any other measure having equivalent effect.

11. In certain circumstances, a Member State may require that the transactions connected with investment services be carried out on an organized market. However, investment firms, irrespective of whether they are banks, may become members of such an organized market. This provision enters into force not later than 1 January 1997, except for Spain, Greece and Portugal, which are exempt until 31 December 1999.

12. 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.

13. 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.

14. Annex defining investment activities, other services and financial instruments coming within the scope of the Directive.

(4) Opinion of the European Parliament First reading: Parliament approved the proposal subject to certain amendments, some of which have been accepted by the Commission.

(5) Current status The Council adopted a common position on 21 December 1992. Under the cooperation procedure this is now before Parliament for a second reading.

<i>(6) References</i>	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 achieve quality of treatment between credit institutions and investment firms by harmonizing capital requirements.
- (2) *Proposal* Proposal for a Council Directive on capital adequacy of investment firms and credit institutions.
- (3) *Contents*
1. Investment firms which hold clients' money and/or securities and which receive, transmit and execute investors' orders for financial instruments and manage portfolios of investments in financial instruments must have initial capital of ECU 125 000. All other investment firms must have initial capital of ECU 730 000. 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. 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).
 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 that may not be carried out.
 6. The Directive also lays down a 'base' requirement according to which each firm is required to uphold 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.
Second reading: Parliament approved the Council's common position subject to one amendment. The Commission did not accept this amendment.
- (5) *Current status* The proposal is currently before the Council for final adoption.

(6) References

Commission proposal COM(90) 141 final	Official Journal C 152, 21.6.1990
Amended proposal COM(92) 13 final	Official Journal C 50, 25.2.1992
Amended proposal COM(92) 13 final/2 DE, FR, GR and PT versions	Not yet published in the Official Journal
European Parliament opinion First reading	Official Journal C 326, 16.12.1991
Second reading Economic and Social Committee opinion	Not yet published Official Journal C 69, 18.3.1991

4. TRANSPORT SERVICES

1992 target: current position and outlook

The transport industry occupies an important position in the Community. This sector accounts for 7% of its GNP, 7% of total employment, 40% of Member States' investment and 30% of Community energy consumption.

Statistics alone cannot convey the full importance of the transport sector: it is the operation of transport regulation that will determine the flexibility of enterprise management. But the degree of liberalization has taken various constraints into account:

- a social constraint, so that the freedom to provide services does not result in the strictest national legislation being bypassed. Liberalization of services has therefore been accompanied by harmonization of social conditions, of the rules governing the provision of services and of qualifications;
- an economic constraint, so that investment in infrastructure is not exploited by transport undertakings which play no part in their financing: this is of particular concern to the road transport sector. Measures should also be taken to make sure that the way rail transport is organized does not perpetuate the current fragmented state of this form of transport;
- a route-guarantee constraint, so that the introduction of new factors of competition does not put in doubt the continuity of transport links between peripheral (island) and central (mainland) areas.

Measures already taken on transport liberalization have been adapted, in the way that they are applied, to the specific nature of each mode of transport. For each mode, the aim was to proceed from the provision of an international service (between two Member States) to cabotage (transport in another Member State).

1. Carriage of goods by road

As from 1 January 1993, a haulier established in a Member State of the Community may freely transport goods to another Member State. Whereas, until this date, such an operation would require special authorization in application of bilateral agreements or Community quotas, from that date on, the right to conduct this business is based on quality conditions, which transport operators must observe and which entitle them to receive a Community transport licence (summary 4.1).

However, such transnational activity must not result in serious disruption to the transport market and, for that reason, the Council has introduced a surveillance system offering a safeguard mechanism against market disruption (summary 4.2).

However, in a single market, a haulage operator should also be able to carry out transport in another Member State (cabotage). This natural progression has given rise to fears of distortion of competition and, for that reason, the system of cabotage has been introduced gradually since 1 July 1990 in the form of progressive Community quotas (summary 4.3). The final entry into force of the cabotage system should take place at the same time as the adoption of supporting arrangements on motorway taxes, thus allowing use of the infrastructure to be subject to taxation, but on a non-discriminatory basis (summary 4.4).

2. Carriage of passengers by road

Although cross-border passenger transport has been able to proceed with few restrictions, transport by an operator in one Member State to another Member State, on the other hand, was only possible in border areas on the basis of bilateral agreements. The new legislation defines the different types.

The Community has also introduced legislation on the free movement of passengers on the same principle as for the transport of goods, i.e. the freedom to provide services and cabotage (summaries 4.5 and 4.6). The interest of this legislation lies in the fact that it defines the various types of passenger transport and provides for a Community licence and the conditions for obtaining it. The cabotage system sees the immediate liberalization of special services in border areas and a review of the situation on the basis of a report to be presented by the Commission before 31 December 1995. As far as non-scheduled services are concerned, the system brings about the immediate liberalization of 'closed-door' services and the liberalization of all other services as from 1 January 1996.

Cross-border transport will continue to be subjected to various tax procedures (VAT) as a result of differences in assessment bases and rates.

3. Inland waterway transport

As from 1 January 1993, inland waterway transport may also benefit from the liberalization of cabotage, the main effect of which is the end of the rota system which prevented companies employing these services from having a free choice of carrier. Germany and France, however, have been granted a period of transition lasting until 1995.

4. Maritime transport

International maritime transport is, by definition, a liberalized activity. If it were not, then nobody would benefit from the role that this form of transport plays in the development of international trade. However, cabotage by sea has only begun to be introduced progressively as from 1 January 1993 on the basis of stages agreed in 1992 (summary 4.9). The introduction of cabotage and the need for the Community to take part in the consolidation of the conditions for international maritime transport have resulted in the adoption of measures relating to competition policy, to the prevention of unfair pricing practices, to standards for ships engaged in the transport of dangerous goods and to working conditions (summary 4.8).

5. Air transport

The Community policy for liberalization of air transport covers four main areas: market access and capacity control (summary 4.10), fares (summary 4.11) and the issue of operating licences for companies.

The Community has taken measures (the so-called 'second air transport package') in these areas with the aim of continuing the first liberalization of the Community market, which started in 1980. Firstly, these measures provide for the application of the principle of 'double disapproval' to the system for approval of air fares, which allows fares to be approved automatically within certain fixed zones provided that the two Member States concerned are not both opposed to its entry into force. Secondly, they give access to the Community market to those who offer third-freedom or fourth-freedom services (the right to put down, in the territory of another Member State, passengers or freight taken up in the territory of the Member State issuing the licence, and vice versa). It also permits the limited exercise of fifth-freedom rights (the right to undertake the transport of passengers or goods between two Member States other than the one issuing the licence). The second package also encourages the opening of routes by increased use of the system of 'multiple designation' (allowing several companies to operate a specific route); it relaxes the obligation to share seats (the States concerned traditionally insisted on an equal share of the seats available on a given route between two Member countries).

With the entry into force on 1 January 1993 of the third air transport package, the last stage of the opening of the market has entered into force. Cabotage by air will be finalized as from 1 April 1997 (summaries 4.19 — 4.21). The main pillars on which this process resides are:

- the introduction of a single air transport licence issued to air transport undertakings established in the Community;
- conditions for access to routes within the Community for air carriers;
- passenger fares including ways for the Commission to intervene directly in case of unfair pricing (predatory practices);
- freight services.

As liberalization leads to the creation of a genuine single market for air transport, the Community has harmonized many rules and regulations so as to create a level playing field for all airlines. The legislation that has been introduced includes notably technical standards and administrative procedures for fixing common standards for the airworthiness of aircraft (summary 4.17) and mutual recognition of licences for people working in the civil aviation industry, which allows pilots to be recruited directly from any Member State (summary 4.16). Lastly, the Community has legislated on the procedures for implementing competition rules in relation to air transport undertakings (summary 4.14) and on types of agreement and concerted practice (summary 4.12).

On 2 December 1992 the Commission presented a White Paper on the 'Future development of the common transport policy', in which it puts forward a new, 'global' approach for optimizing the Community transport system. This paper makes proposals about the measures that will be necessary to facilitate the free movement of goods and persons under the best possible conditions throughout the Community without detriment to safety, without altering the environment or challenging existing social legislation. To be precise, the Commission's new global policy includes the following aims:

- the improvement and more rational utilization of transport infrastructure and means;
- increased safety for users;
- fairer working conditions;
- improved environmental protection.

This White Paper has been submitted to political bodies and professional organizations for their opinion so as to put into action a modern transport policy based on prior examination and consultation.

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>	<p>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.</p> <p>Council Regulation (EEC) No 1053/90 of 25 April 1990 amending Council Regulation (EEC) No 3164/76 concerning access to the market in the international carriage of goods by road.</p> <p>Council Regulations (EEC) Nos 3914/90 and 3915/90 of 21 December 1990 amending Council Regulation (EEC) No 3164/76 concerning access to the market in the international carriage of goods by road.</p> <p>Council Regulation (EEC) No 881/92 of 26 March 1992 on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States.</p>
<i>(3) Contents</i>	<ol style="list-style-type: none">1. The Community quota has been increased by 40% for 1988 and 1989 as the result of a Council Decision.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.3. Bilateral quotas have been increased for 1990, 1991 and 1992.4. The Community quota has been increased for 1991 and 1992 as a result of German unification.5. Regulation (EEC) No 881/92 allows the Council to adopt the measures necessary for the implementation of Regulation (EEC) No 1841/88.
<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>	<p>Regulation (EEC) No 1841/88: 1.7.1988</p> <p>Regulation (EEC) No 1053/90: 1.5.1990</p> <p>Regulations (EEC) Nos 3914/90 and 3915/90: 1.1.1991</p> <p>Regulation (EEC) No 881/92: 1.1.1993</p>
<i>(6) References</i>	<p>Official Journal L 163, 30.6.1988</p> <p>Official Journal L 108, 28.4.1990</p> <p>Official Journal L 375, 31.12.1990</p> <p>Official Journal L 95, 9.4.1992</p>
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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.
<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"> 1. The safeguard clause is an important back-up measure for the complete dismantling of the system of quotas currently regulating access to the market. 2. The Regulation applies to the carriage of goods by road in the territory of the Community between Member States for hire or reward. 3. Definition of 'crisis'. 4. The Commission collects the data required to monitor market developments and spot the existence of a crisis. 5. 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. 6. The composition and tasks of the Advisory Committee set up to assist the Commission with the implementation of this Regulation.
<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): transitional system

(1) Objective

To implement the freedom to provide services by setting out the conditions under which non-resident carriers will be authorized to operate national road-haulage services.

(2) Community measures

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.

Council Regulation (EEC) No 296/91 of 4 February 1991, amending Council Regulation (EEC) No 4059/89, laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State.

(3) Contents

1. This Regulation is a significant first step towards a Community road cabotage system, an essential element in building a Europe without frontiers.

2. The transitional arrangements allow:

- 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.
- for all carriers established in a Member State empowered to carry out international road-haulage of goods.

3. 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:

— 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

4. 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%.

5. 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.

6. An increase in the Community quota was fixed to take account of German unification.



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

Not required

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

The transitional arrangements apply from 1 July 1990 until 31 December 1992.

(6) References

Official Journal L 390, 30.12.1989
Official Journal L 36, 8.2.1991

(7) Follow-up work

(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.

Decision 92/258/EEC — Official Journal L 128, 14.5.1992
Commission Decision of 27 April 1992 on the increase for 1 July 1992 to 31 December 1992 in the Community cabotage quota for national road haulage services performed by non-resident carriers.
This Decision increases by 10% the cabotage quota for national road haulage services in the Member States for the six months from 1 July to 31 December 1992.

Commission report to the Council on the use of cabotage authorizations 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 (inland trading): definitive system

<i>(1) Objective</i>	To lay down a definitive system for inland cabotage with effect from 1 January 1993.						
<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">— binding legal provisions concerning the transport contract;— weights and dimensions of vehicles, and environmental standards;— requirements relating to the carriage of certain categories of goods;— driving and rest time for drivers;— traffic laws and the highway code. <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>	Parliament approved the Commission's proposal subject to certain amendments. The Commission 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(91) 377/I final</td><td>Official Journal C 317, 7.12.1991</td></tr><tr><td>Amended proposal COM(92) 283 final</td><td>Official Journal C 172, 8.7.1992</td></tr><tr><td>European Parliament opinion</td><td>Not yet published.</td></tr></table>	Commission proposal COM(91) 377/I final	Official Journal C 317, 7.12.1991	Amended proposal COM(92) 283 final	Official Journal C 172, 8.7.1992	European Parliament opinion	Not yet published.
Commission proposal COM(91) 377/I final	Official Journal C 317, 7.12.1991						
Amended proposal COM(92) 283 final	Official Journal C 172, 8.7.1992						
European Parliament opinion	Not yet published.						

4. TRANSPORT SERVICES

4.5. Carriage of passengers by road: international carriage

<i>(1) Objective</i>	To ensure that road passenger transport services are freely provided on journeys within the Community, and that road safety is improved.
<i>(2) Community measures</i>	Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus.
<i>(3) Contents</i>	<ol style="list-style-type: none"> 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. 2. Definitions of 'regular services', 'shuttle services', 'occasional services' and own-account transport operations are given. 3. Community carriers are permitted to operate passenger transport services between any Member States without discrimination on the grounds of nationality or place of establishment. 4. Regular services and shuttle services without accommodation: authorization application and issuing procedures are set out. 5. Transport undertakings operating occasional services and shuttle services with accommodation are required to produce control documents. 6. Certificates are required for own account operations. 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.
<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>	1.6.1992
<i>(6) References</i>	Official Journal L 74, 20.3.1992
<i>(7) Follow-up work</i>	In 1995 the Commission is required to submit a report on the application of the Regulation and a proposal for a Regulation simplifying the procedures.
<i>(8) Commission implementing measures</i>	Commission Regulation on the documents referred to in Regulation (EEC) No 684/92.

4. TRANSPORT SERVICES

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

<i>(1) Objective</i>	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.
<i>(2) Community measures</i>	Council Regulation (EEC) No 2454/92 of 23 July 1992 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State.
<i>(3) Contents</i>	<ol style="list-style-type: none">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.
<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>	— 1.1.1993 — 1.1.1996: Articles 8 and 9
<i>(6) References</i>	Official Journal L 251, 29.8.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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 organize maritime transport in accordance with the basic principles of Community law.

(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.

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 up to 1 January 1995, pursuant to Council Regulation (EEC) No 90/3573 (Official Journal L 353, 17.12.1990), of the agreements concluded 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 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>	To eliminate restrictions on the freedom to provide maritime transport services within Member States.
<i>(2) Community measures</i>	Council Regulation No 3577/92/EEC of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage).
<i>(3) Contents</i>	<ol style="list-style-type: none">1. This Regulation grants freedom to provide maritime transport services within a Member State (maritime cabotage) for Community shipowners operating ships registered in a Member State, flying the flag of that Member State, and registered in Euros (as soon as Euros is approved by the Council); subject to these ships complying with all the conditions for carrying out cabotage within that Member State.2. Definitions of 'maritime transport services within a Member State (maritime cabotage)', 'Community shipowners', 'public service contract', 'public service obligations', and 'serious disturbance of the internal transport market'.3. Depending on the kind of transport service, matters relating to manning are the responsibility either of the Member State of registration or of the Member State in which the cabotage service is performed.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.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.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.7. Maritime cabotage will be liberalized in the first instance with certain exceptions expiring in 1999. Inter-island cabotage and mainland/island cabotage will not be liberalized until 1999, with a derogation for Greece until 2004.
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1993
<i>(5) Date of entry into force (if different from the above)</i>	

(6) References

(7) Follow-up work

*(8) Commission
implementing
measures*

Official Journal L 364, 12.12.1992

4. TRANSPORT SERVICES

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

- (1) *Objective* To implement the principles governing relations between the States of registration and air carriers holding a licence on their territory, on the basis of common specifications and criteria.
- (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 Decision 87/602/EEC and Directive 83/416/EEC.

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

(8) Commission implementing measures

4. TRANSPORT SERVICES

4.11. Air transport: fares (second phase)

- (1) *Objective* To establish precise criteria which the Member States must use to evaluate proposed air fares.
- (2) *Community measures* Council Regulation (EEC) No 2342/90 of 24 July 1990 on fares for scheduled air services.
- (3) *Contents*
1. The Regulation applies to the establishment of scheduled air fares charged on any route operated by the Community and, as regards Community air carriers, between the Community and any third country.
 2. Definitions of 'scheduled air fares', 'scheduled air service', 'flight', etc.
 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 may be 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.
 4. Only Community air carriers shall be authorized to introduce air fares lower than existing fares on routes between Community airports.
 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.
 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.
 7. Once adopted the Regulation repeals and replaces Directive 87/601/EEC with effect from 1 January 1991.
 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.
- (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

*(8) Commission
implementing
measures*

Decision 92/8/EEC — Official Journal L 5, 10.1.1992

Commission Decision of 27 November 1991 on the compliance of certain air fares with the requirements of Article 3(1) of Regulation (EEC) No 2342/90.

This Decision was supplemented by a Commission Decision of 6 July 1992 (Decision 92/398/EEC — Official Journal L 220, 5.8.1992).

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.
<i>(2) Community measures</i>	<p>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.</p> <p>Council Regulation (EEC) No 2411/92 of 23 July 1992 amending Council Regulation (EEC) No 3976/87 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector.</p>
<i>(3) Contents</i>	<ol style="list-style-type: none">1. The Regulations apply to all international air transport between Community airports, including transport within a Member State.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:<ul style="list-style-type: none">— the allocation of seat capacity and the coordination of time-tables;— consultations on tariffs;— certain agreements on joint operation of new services;— slot allocation in airports;— computer reservation systems.3. Any Regulation adopted in point (2) above will apply for a specified period.4. The Commission may withdraw the benefit of exemptions specified in point (2) in individual cases.
<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>	<ul style="list-style-type: none">— Regulation (EEC) No 3976/87: 1.1.1988— Regulation (EEC) No 2411/92: 27.8.1992
<i>(6) References</i>	Official Journal L 374, 31.12.1987 Official Journal L 240, 24.8.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	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.

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.

This Regulation has been amended by Commission Regulation (EEC) No 3618/92 on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the air transport sector (Official Journal L 367, 16.12.1992).

Regulation (EEC) No 84/91 — 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 joint planning and coordination of capacity, consultations on passenger and cargo tariff rates on scheduled air services and slot allocation at airports.
This Regulation has been amended by Commission Regulation (EEC) No 3618/92 on the application of Article 85(3) of the Treaty to certain categories of agreements, Decisions and concerted practices in the air transport sector (Official Journal L 367, 16.12.1992).

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">1. This Regulation applies to international air transport between the Community and third countries.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.3. All Council Regulations will apply for a specified period.4. 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.				
<i>(4) Opinion of the European Parliament</i>	Parliament approved the Commission's proposal subject to certain amendments. The Commission 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>European Parliament opinion Amended proposal COM(91) 183 final</td><td>Not yet published Official Journal C 225, 30.8.1991</td></tr></table>	Commission proposal COM(89) 417 final	Official Journal C 248, 29.9.1989	European Parliament opinion Amended proposal COM(91) 183 final	Not yet published Official Journal C 225, 30.8.1991
Commission proposal COM(89) 417 final	Official Journal C 248, 29.9.1989				
European Parliament opinion Amended proposal COM(91) 183 final	Not yet published Official Journal C 225, 30.8.1991				

4. TRANSPORT SERVICES

4.14. Air transport: procedure for application of competition rules

(1) Objective

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.

(2) Community measures

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.

Council Regulation (EEC) No 1284/91 of 14 May 1991 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.

Council Regulation (EEC) No 2410/92 of 23 July 1992 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.

(3) Contents

1. The Regulations apply to all international air transport between Community airports, including transport within a Member State.
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.
3. Procedures instituted in response to a complaint or on the Commission's own initiative to deal with infringements of the competition rules.
4. Application by undertakings for exemption under Article 85(3) of the Treaty.
5. Duration, renewal and revocation of exemption decision.
6. Procedures carried out by the Commission in close and constant liaison with the competent authorities of the Member States.
7. Commission procedures for requesting information.
8. Commission's investigating powers exercised in consultation with the Member States.
9. Penalties (fines and periodic penalty payments), e.g. where an undertaking supplies incorrect information in response to a request by the Commission.
10. Information of a kind covered by the obligation of professional secrecy and acquired in connection with investigations may not be disclosed.
11. Publication of Commission decisions.

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

Not applicable.

(5) *Date of entry into force (if different from the above)* — Regulation (EEC) No 3975/87: 1.1.1988
— Regulation (EEC) No 1284/91: 18.5.1991
— Regulation (EEC) No 2410/92: 25.8.1992

(6) *References*

Official Journal L 374, 31.12.1987
Official Journal L 122, 17.5.1991
Official Journal L 240, 24.8.1992

(7) *Follow-up work*

(8) *Commission implementing measures*

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

- (1) *Objective* To extend the network of air services within the Community to develop services between regions in different Member States.
- (2) *Proposal* 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.
- (3) *Contents*
1. Amendment of the original 1983 Directive to include long-haul services and to introduce easier access to the market.
 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.
 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.
 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.
- (4) *Opinion of the European Parliament* Parliament has approved the proposition.
- (5) *Current status* The proposal is currently before the Council for examination and adoption.
- (6) *References*
- | | |
|---|-----------------------------------|
| 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 |

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">1. The Directive applies to procedures for the mutual acceptance of licences issued by the Member States to flight crews in civil aviation.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.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.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.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.6. Member States may choose whether to accept licences issued by Member States on the basis of licences issued by third countries.
<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 JAR 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

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>	

4. TRANSPORT SERVICES

4.19. Air carriers: licensing of air carriers

<i>(1) Objective</i>	To lay down transparent, non-discriminatory rules on the criteria for economic and technical competency which must be met before air carriers can be granted licences to operate in the Community.
<i>(2) Community measures</i>	Council Regulation (EEC) No 2407/92 of 23 July 1992 on licences for air carriers.
<i>(3) Contents</i>	<ol style="list-style-type: none">1. This Regulation lays down the economic and technical competency criteria which must be met by air carriers wishing to obtain or maintain an operating licence or air operator's certificate.2. Only undertakings that are holders of the appropriate operating licence or air operator's certificate are permitted to carry passengers, mail and/or cargo for remuneration within Community territory.3. Operating licences: Member States may not grant operating licences unless air transport is the main activity of the undertaking concerned and its registered office and principal place of business are located in the issuing Member State and unless effective control is exercised by Community nationals.4. Hence, whenever the State that issued the licence, or the Commission, so request, an air carrier must be able to demonstrate that it meets the requirements laid down in the Regulation. A carrier granted an operating licence for the first time must meet certain conditions with regard to start-up capital, business costs, financial obligations, seating capacity of the aircraft he intends to operate, etc.5. At the beginning of each financial year air carriers must provide the following:<ul style="list-style-type: none">— the audited accounts of the undertaking;— a three-year business plan;— quarterly management accounts;— documentation concerning insurance cover.6. Air carriers must have civil liability insurance to cover risks in the event of an accident, particularly with regard to passengers, cargo and third parties.7. Air operator's certificate: to obtain, or maintain the validity of, an air operator's certificate undertakings must provide evidence that:<ul style="list-style-type: none">— their ability to maintain an adequate organization,— their control and supervision methods,— their training programmes, and— their maintenance programmesare consistent with the nature and extent of the operations described in the licence.8. Any undertaking which provides an aircraft and complete crew to an air carrier but retains the functions and responsibility for the operation of the aircraft is itself subject to the safety requirements of the Regulation.9. The operating licence and the air operator's certificate remain valid as long as the air carrier meets the obligations. Licences and certificates not used for six months must be resubmitted for approval by the competent authorities. Similarly, in the event of a merger or

take-over, licences and certificates must be resubmitted for approval by the competent authorities.

10. Application procedure for licences and certificates: the Member States must make these public and must take decisions on applications not later than one month after receiving all the necessary information. There is provision for the Commission to review rejected applications upon the request of the undertaking concerned.

11. The Commission may request all necessary information from air carriers. Where an air carrier provides incomplete or incorrect information the Commission may impose a fine of ECU 1 000 to ECU 50 000. Air carriers may refer the decision for review by the Court of Justice which may cancel, reduce or increase the fine.

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

Not applicable.

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

1.1.1993

(6) References

Official Journal L 240, 24.8.1992

(7) Follow-up work

(8) Commission implementing measures

4. TRANSPORT SERVICES

4.20. Air carriers: access for air carriers to intra-Community air routes (third phase)

<i>(1) Objective</i>	Gradually to phase out the restrictions on multiple designation, fifth freedom and cabotage rights.
<i>(2) Community measures</i>	Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes.
<i>(3) Contents</i>	<ol style="list-style-type: none">1. This Regulation covers access for scheduled and non-scheduled air services to routes between airports, other than Gibraltar, located within the Community.2. Community air carriers may exercise traffic rights between airports or airport systems within the Community where these are open to civil air services.3. A Member State may impose a public service obligation (air services meeting fixed standards to which the air carrier would not operate if he were considering nothing but his commercial interest) in respect of scheduled air services to a regional airport on a route which is considered vital for the economic development of the region.4. If no air carrier is yet providing a scheduled service on a route for which a public service obligation has been imposed, the Member State may limit access to that route to only one air carrier for a period of up to three years. The right to operate must be offered by public tender. The selection must be made as quickly as possible. In spite of this provision, two months must elapse between publication and selection but this constraint does not apply where another Member State whose interests are involved proposes a satisfactory alternative means of fulfilling the same public service obligation.5. The Regulation does not affect a Member State's right to regulate, without discrimination, the allocation of traffic to airports forming part of an airport system. The exercising of traffic rights is subject to Community, national, regional or local rules relating to safety, the protection of the environment and slot allocation.6. When the conditions listed in point 5 are not met, a Member State may limit, or refuse, the exercising of those traffic rights but must first inform the Commission of its intention. Any Member State may refer the Commission's decision on such a situation to the Council within one month.7. In order to carry out its duties under the Regulation, the Commission may obtain all necessary information from the Member States and air carriers concerned. Where the information supplied is incomplete or incorrect, the Commission may impose a fine of ECU 1 000 to ECU 50 000. Air carriers may refer the decision for review by the Court of Justice which may cancel, reduce or increase the fine.
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.

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

1.1.1993

(6) *References*

Official Journal L 240, 24.8.1992

(7) *Follow-up work*

(8) *Commission implementing measures*

4. TRANSPORT SERVICES

4.21. Air carriers: air fares and air cargo rates (third phase)

- (1) *Objective* To liberalize price formation for Community air services.
- (2) *Community measures* Council Regulation (EEC) No 2409/92 of 23 July 1992 on passenger fares and air cargo rates.
- (3) *Contents*
1. The Regulation applies to the criteria and procedures governing establishment of the air fares and air cargo rates charged by air carriers on air services within the Community.
 2. Member States may not withhold approval of fares and rates charged by Community carriers if the fares and rates are reasonably related to the applicant carrier's total costs. If they withhold approval, Member States must also take into account other factors such as consumers' needs, the competitive situation in the market and the need to prevent dumping. The fact that a proposed air fare is lower than that offered by another carrier is not sufficient reason for withholding approval. Air carriers may not charge fares or rates that are so excessively high as to disadvantage users or so low as to be unjustifiable.
 3. Air fares offered to tour operators or the public and specifically combined with accommodation arrangements for the duration of the trip, and air fares for groups larger than six persons, will receive automatic approval.
 4. Cargo rates may be set by free agreement between the parties to the contract of carriage.
 5. Air carriers must submit their proposed air fares for scheduled air services in the form prescribed by the Member State concerned. An air fare for a scheduled air service will be considered as approved unless, within 30 days of submission, the Member State(s) concerned has (have) notified disapproval to the applicant carriers in writing, giving reasons.
 6. Member States have one month to refer the Commission's decision to the Council.
 7. A Member State may permit a Community air carrier to match an air fare already approved for a scheduled air service between the same pair of cities, it being understood that this does not apply to indirect air services which exceed by more than 40% the length of the shortest direct service.
 8. For a scheduled air service where competition is limited, a Member State whose interests are involved may request the Commission to examine whether an air fare complies with the conditions described in point 2 above.
Competition will be taken to be limited where:
 - there are significant barriers to market entry;
 - there are public service obligations;
 - at most 30 000 seats are offered for sale per year in that Member State by a single air carrier.The Commission has two months to issue its decision on whether the air fare complies with the conditions.
 9. The Commission may investigate on its own initiative whether an air fare conforms to the provisions of the Regulation. Any Member State whose interests are involved has one month to refer the resulting

Commission decision to the Council. The Commission is required to consult the representatives of air transport user organizations at least once a year on scheduled air fares.

10. Air carriers from third countries with traffic rights between Community airports are permitted to match the normal economy air fare or its closest equivalent, unless otherwise provided in an agreement between the Community and the third country.

11. In order to carry out its duties under this Regulation the Commission may obtain all necessary information. Where the information supplied is incomplete or incorrect the Commission may impose a fine of ECU 1 000 to ECU 50 000. Also, where air carriers infringe the provisions of this Regulation, a fine of up to 10% of annual turnover may be imposed. The decision may be referred for review by the Court of Justice which may cancel, reduce or increase the fine.

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

Not applicable.

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

1.1.1993

(6) References

Official Journal L 240, 24.8.1992

(7) Follow-up work

(8) Commission implementing measures

5. NEW TECHNOLOGIES AND SERVICES

1992 target: current position and outlook

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.

1. Liberalization and harmonization

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). For the Green Paper, the Commission concentrated on opening up the market in services and on standardization and networks. The approach adopted was a combination of opening up the market and harmonization to complete the internal market in telecommunications for the people of the Community.

Opening up the market and harmonization of conditions for providing 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 (summary 5.20) and for telecommunications terminal equipment.

The Council has adopted a Directive on harmonized conditions for open network provision (ONP) (summary 5.12). Following the adoption of this framework Directive in June 1990, the Commission put forward a number of specific proposals which led to the adoption, on 5 June 1992, of a Directive on the application of the provision of an open network as regards leased lines (summary 5.13), the aim of which is to improve access to leased lines and their use and to ensure the availability of a system of harmonized leased lines throughout the Community. Two recommendations on harmonized access to the ISDN and the harmonized provision of a minimum system of packet-switched data services completed the work programme agreed in the ONP framework Directive. Lastly, the Commission put forward, on 15 July 1992, a proposal for a Directive on the application of the principles of ONP to voice telephony.

The 'television without frontiers' Directive, which lays down rules for the freedom of television broadcasting (summary 5.1) was adopted in 1989.

Furthermore, two Decisions have been adopted with regard to the opening-up of market information services. The second, adopted in December 1991, lays down a work programme to complete the information services market (summary 5.25). The Commission approved in this respect, in September 1992, an action programme to improve access to information at European level for all parties concerned.

The policy of opening up the telecommunications markets subject to objective, non-discriminatory rules by the Community and the Member States has given rise to more competition in a number of market areas. In these areas, operators have been innovative, costs have fallen and the quality of products and services to users has increased.

However, the absence of trans-European structures and the existence of special, exclusive rights in major sectors of the Community market still constitute obstacles to the development of telecommunications in the Community.

Harmonization of technical rules

Technical harmonization is based on the mutual recognition of certificates and the definition of joint specifications to ensure, in particular, interoperability between equipment. This is based on guidelines in the sector (summary 5.9):

- Type approvals granted in one Member State are recognized in all other Member States therefore providing the free movement of telecommunications terminal equipment (summaries 5.10 and 5.11). This approach has been proposed to the Council for the mutual recognition of licences and other national telecommunications services permits for the purpose of agreeing on a single licence.
- Specific harmonization measures have been adopted with regard to high-definition television (HDTV) standards, mobile telephony, the introduction of a single number for emergency calls and international communications.

2. 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 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.

On 5 June 1992, the Council adopted a resolution on the development of ISDN and the publication by the European Technical Standards Institute (ETSI) of telecommunications standards defining Euro-ISDN. In the resolution, the Council asks the telecommunications bodies to harmonize and to publish their plans for the change-over from the present ISDN to Euro-ISDN. It also asks the Member States to encourage the rapid introduction of ISDN.

The Community has also taken the following actions:

- defining guidelines for the operation of electronic payments systems (summaries 5.7 and 5.8);
- strengthening coordination procedures in Europe to ensure that the Community's reserved frequencies do not hinder future developments (summary 5.18);
- 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 5.23);
- on 19 November 1992, the Council adopted a resolution on the application of the decisions of the European Radio Communications Committee on the land-based telecommunications system for aircraft (summary 5.27) and to telematic systems for road haulage.

3. Satellite communications

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

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.

Two Directives were adopted in 1986 and 1992. The first concerns the harmonization of joint standards for the manufacture of television sets, enabling programme reception by satellite (summary 5.2) and the second defines a European standard for the satellite broadcasting of television signals (summary 5.3).

4. Postal services

On 5 June 1992 the Commission adopted a Green Paper on the development of the postal services market, the aim of which is to stimulate thinking on the present situation in, and the development of, Community postal services. It also looks at the advisability of action at Community level and the aims and methods which would be most appropriate. Having submitted the Green Paper to the Council, the Commission has to put forward a more specific report on the subject during the course of 1993.

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.

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 5.21);
- 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 5.22).

5. NEW TECHNOLOGIES AND SERVICES

5.1. Television: pursuit of televisual broadcasting

(1) *Objective* To ensure that all residents in the EC have access to all EC broadcasts which have become possible with satellite and cable technology.

(2) *Community measures* 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.

(3) *Contents*

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).
2. Harmonization in the area of advertising concerns:
 - the duration (15% of daily broadcasting time, 20% per hour);
 - methods of programme interruptions;
 - the form of natural breaks, ethical considerations (particularly for children); and
 - advertisements for alcohol.
 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.
3. Sponsorship of television programmes is possible provided that certain rules are respected.
4. Television programmes must not seriously impair the development of minors.
5. A right of reply must be granted where the legitimate interests of the individual have been damaged.
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.

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

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.
<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>	<p>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.</p> <p>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.</p>
<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>	This Directive is applicable until 31 December 1991 at the latest. The Council has adopted a Directive replacing this (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) Community measures* Council Directive 92/38/EEC of 11 May 1992 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 not completely digital HDTV transmission and the D2-MAC standard for other not completely digital transmission in the 16:9 aspect ratio format.
 2. For any transmission of an HDTV television service that is not completely digital only the HD-MAC standard may be used.
 3. For completely digital transmissions receivable by domestic satellite receiver equipment, even if intended to be redistributed by cable networks, only a system standardized by the European Telecommunications Standards Institute (ETSI) may be used. These transmissions, however, are not covered by the other measures of the Directive.
 4. For any not completely digital transmission of a 625-line satellite television broadcast in respect of any service in the 16:9 aspect ratio format, only the D2-MAC standard may be used. For any other service introduced from 1 January 1995, the D2-MAC standard must be used. Such services may also be transmitted simultaneously in PAL, Secam or D-MAC. This measure will take effect three months after the adoption by the Council of a Commission proposal aiming to give the above services financial support.
 5. As from 1 January 1994, all new 16:9 format television sets must be equipped with a built-in D2-MAC decoder. New domestic satellite receiver equipment and new video-recorders for sale or rent in the European Community must possess at least a socket conforming to a standard issued by Cenelec, for connection of a D2-MAC decoder permitting an open interface standard.
 6. Any cable redistribution system, or any existing terrestrial redistribution system with the necessary technical capability, must be designed 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.
 7. 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.
 8. The Directive is applicable until 31 December 1998. Every two years the Commission will submit an assessment report to the Council, the European Parliament and the Economic and Social Committee.
- (4) Deadline for implementation of the legislation in the Member States* Six months after the notification date to different 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 137, 20.5.1992

5. NEW TECHNOLOGIES AND SERVICES

5.4. Television: 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">— 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;— to promote the adoption of the European proposal (1 250 lines, 50 complete frames per second) as the single world standard;— to promote the widest use of the European HDTV system throughout the world;— to promote the introduction, as soon as possible, of HDTV services in Europe;— 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. <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.

5. NEW TECHNOLOGIES AND SERVICES

5.5. Television: high-definition television: single world-wide production standard

(1) Objective 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).

(2) Community measures 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.

(3) Contents 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.

(4) Deadline for implementation of the legislation in the Member States Not required.

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

(6) References

Official Journal L 363, 13.12.1989

(7) Follow-up work

(8) Commission implementing measures

5. NEW TECHNOLOGIES AND SERVICES

5.6. Television: action plan for the introduction of advanced television services in Europe

<i>(1) Objective</i>	To ensure the accelerated development of the market for advanced satellite and cable television services in Europe using the D2-MAC and HD-MAC standards.
<i>(2) Proposal</i>	Proposal for a Council Decision on an action plan for the introduction of advanced television services in Europe.
<i>(3) Contents</i>	<ol style="list-style-type: none">1. To ensure the accelerated development of the market for advanced television services by satellite and cable based on the D2-MAC standard, particularly in its 16:9 format, and the HD-MAC standard, the Decision provides for an action plan commencing on the date of adoption and concluding on 31 December 1996.2. The basic principles to be followed, set out in the Annex, are as follows:<ul style="list-style-type: none">— Setting-up, with a service focus, of all the parts needed to provide advanced satellite or cable television services. Proposals for services, which must therefore embrace all aspects of the provision of services to the consumer, will be examined from the point of view of how they propose to market television services in D2-MAC, in particular in its 16:9 format, or in HD-MAC.— Outline description of the service chain and preliminary identification of potential sources of costs under three headings: broadcasters' operations, including studio upgrading and satellite transmission, cable redistribution and programme production and conversion.3. Targets for the impact of Community funding which will be used to accelerate the development of the market during the action plan are as follows:<ul style="list-style-type: none">— a critical mass of satellite television services, using the D2-MAC standard, particularly in its 16:9 format, or the HD-MAC standard;— a significant and constantly increasing number of cable TV networks carrying high-quality 16:9 D2-MAC services to their customers;— a significant and increasing volume of programming in the 16:9 format and with high technical quality.The broad areas at which Community funding will be targeted are broadcasters' operations, including studio upgrading and satellite transmission, cable redistribution, and programme production and conversion.4. To be eligible, project proposals must show a spread of projects between entities and have a wide geographical distribution. They must involve, to a reasonable degree, programme producers independent of the broadcasters in the projects, and must comply with Community competition rules.
<i>(4) Opinion of the European Parliament</i>	Parliament approved the Commission's proposal subject to certain amendments. The Commission accepted some of these amendments.
<i>(5) Current status</i>	An amended proposal including Parliament's amendments accepted by the Commission is awaited.

(6) References

Commission proposal

COM(92) 154 final

European Parliament opinion

Economic and Social

Committee opinion

Official Journal C 139, 2.6.1992

Not yet published

Official Journal C 332, 16.12.1992

5. NEW TECHNOLOGIES AND SERVICES

5.7. Payment systems: electronic payments

<i>(1) Objective</i>	Standardization of payment card systems for all electronic card-holders to all distribution networks.
<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">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">— security and convenience for consumers;— greater security and efficiency for traders and issuers.2. Definitions of 'electronic payment', 'issuer' (bank), 'trader', 'consumer' and 'interoperability'.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.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.5. Respect of privacy of information given by consumer. Right of fair access to the system for traders, irrespective of their size.6. Obligations concerning relations between issuers and traders:<ul style="list-style-type: none">— including a ban on any exclusive trading clause which requires the trader to operate only one system, and— an obligation on card-holders to take all reasonable precautions to ensure the safety of the payment card.
<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 365, 24.12.1987
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

5. NEW TECHNOLOGIES AND SERVICES

5.8. Payment systems: relationship between card-holders and card-issuers

- (1) *Objective* 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.
- (2) *Community measures* Commission Recommendation 88/590/EEC of 17 November 1988 concerning payment systems, and in particular the relationship between card-holder and card-issuer.
- (3) *Contents*
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.
 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.
 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.
 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.
 5. The contracting holder must receive a written statement of the operations effected by means of a payment device.
 6. The Recommendation provides for the fixing of common rules concerning the issuer's liability:
 - for non-execution or erroneous execution of a contracting holder's payment instructions and allied operations;
 - 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.
 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.
 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.
 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'.
- (4) *Deadline for implementation of the legislation in the Member States* Not 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

5.9. Standardization: information and telecommunications

<i>(1) Objective</i>	To promote closer cooperation in establishing EEC technical standards in the information technology and telecommunications sectors.
<i>(2) Community measures</i>	Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications.
<i>(3) Contents</i>	<ol style="list-style-type: none"> 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: <ul style="list-style-type: none"> — 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).
<i>(4) Deadline for implementation of the legislation in the Member States</i>	7.2.1988
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 36, 7.2.1987
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	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

5.10. 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">1. Member States to implement the mutual recognition of the results of tests for conformity with common specifications in mass-produced telecommunications terminal equipment.2. Definitions of terms relating to 'telecommunications', 'administration', 'standards', 'technical specification', 'conformity', etc.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.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.5. Member States to accept certificates of conformity for a particular type of terminal equipment and not to carry out further tests.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.
<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 5.11.
<i>(8) Commission implementing measures</i>	

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

- (1) *Objective* To establish harmonized procedures for the certification, testing, marking, quality assurance and inspection of products.
- (2) *Community measures* Council Directive 91/263/EEC of 29 April 1991 on the approximation of the laws of the Member States concerning telecommunications terminal equipment, including the mutual recognition of their conformity.
- (3) *Contents*
1. Definitions of the concepts 'public telecommunications network', 'technical specification' and 'standard'.
 2. The objective of this Directive is to ensure compliance with the essential requirements defined by Council Directive 86/361/EEC (see summary 5.10).
 3. 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.
 4. 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.
 5. The Directive specifies the essential requirements to be met by terminal equipment.
 6. 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 drawn up by the manufacturer.
 7. 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.
 8. 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.
 9. A standing committee for terminal equipment called the Approvals Committee for Terminal Equipment (ACTE) shall be set up.

10. 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.

11. This Directive shall annul Council Directive 86/361/EEC by 6 November 1992 at the latest.

12. 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 128, 23.5.1991

(7) Follow-up work

On 10 December 1992, the Commission adopted a proposal for a Council Directive on the approximation of the laws of the Member States concerning satellite earth station equipment, extending the scope of Council Directive 91/263/EEC (COM(92) 451 final). By extending the scope of Directive 91/263/EEC, this Directive accommodates one of the goals of the Council resolution on the development of the common market for satellite communications services and equipment, in particular by introducing measures designed to approximate the laws of the Member States concerning satellite earth station equipment.

(8) Commission implementing measures

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5.12. 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"> 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. 2. Definitions of the terms 'telecommunications organizations', 'exclusive or special rights', 'public telecommunications network', etc. 3. Open network provision conditions must respect the following principles: <ul style="list-style-type: none"> — objectivity; — transparency; — non-discrimination. 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"> — security of network operations; — maintenance of network integrity; and, where justified, <ul style="list-style-type: none"> — interoperability of services; — data protection. 5. Open network provision conditions (several stages). 6. Provision for a gradual process of mutual recognition of declaration and/or licensing procedures ('authorizations') within the Community. 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.
<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.

*(8) Commission
implementing
measures*

This is the background to the proposal on the application of open network provision to leased lines (summary 5.13), 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 5 June 1992 the Council adopted a Recommendation on the provision of harmonized ISDN access arrangements and a minimum set of ISDN functionalities in accordance with open network provision (ONP) principles.

This Recommendation concerns the provision of technical interfaces, conditions for use and tariff principles.

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.

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5.13. Open network provision: application

<i>(1) Objective</i>	To define conditions for the provision of an open telecommunications network as regards leased lines.
<i>(2) Community measures</i>	Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines.
<i>(3) Contents</i>	<ol style="list-style-type: none"> 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'. 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. 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. 4. At least five types of leased lines must be available throughout the Community. 5. The national regulatory authorities will determine the monitoring procedures applicable to the telecommunications organizations. 6. The telecommunications organizations must use transparent cost accounting systems in compliance with the basic principles of cost orientation and transparency. 7. The Directive lays down a conciliation procedure to deal with any user complaints. 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.
<i>(4) Deadline for implementation of the legislation in the Member States</i>	5.6.1993
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 165, 19.6.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

5. NEW TECHNOLOGIES AND SERVICES

5.14. Telecommunications: open network provision: voice telephony

- (1) *Objective* To provide open and efficient access to fixed public telephone networks and services and a harmonized voice telephony service for users throughout the Community.
- (2) *Proposal* Proposal for a Council Directive on the application of open network provision (ONP) to voice telephony.
- (3) *Contents*
1. The Directive defines 'fixed public telephone network', 'users', 'national regulatory authority', 'ONP Committee', 'public pay-telephone' and 'public telephone call box' and refers to Directive 90/387/EEC for all the other definitions (summary 5.12).
 2. The Member States must ensure that users have the right to be supplied with a connection to the public telephone network, to connect terminal equipment and to use the network. The national regulatory authorities must ensure that users have a contract which specifies the service to be provided and the detailed arrangements. The Directive makes these regulatory authorities responsible for publishing information on access to the public telephone network and the voice telephony service, targets for supply time and quality of service and the conditions for termination of offerings.
 3. An annex lists the features which users may request, in accordance with the technical standards specified in the Directive, subject to technical feasibility. The national regulatory authorities must also encourage provision of the other features listed in the annex. They must ensure that telecommunications organizations respond to requests from users for access to the public telephone network at network termination points other than the points referred to in the annex. The Directive also gives details of the procedure for requesting and granting such special network access. Reasonable requests for network interconnection from authorized providers of voice telephony services must be met, in particular to ensure Community-wide provision of a voice telephony service. The Directive lays the foundation for the technical and commercial arrangements covering such interconnection agreements.
 4. The Directive lays down rules designed to ensure that the tariffs for use of the public telephone network follow the basic principles of cost orientation and transparency. To apply these tariff principles, the Member States must ensure that their telecommunications organizations formulate and put into practice a cost accounting system. The Directive also allows discount schemes, separate tariffs for low-usage subscribers and other special tariffs.
 5. The national regulatory authorities must ensure that itemized billing is available to users on request. Users must be provided with a regularly updated directory, in which they must have the right to be included or not as they wish. Sufficient numbers of public telephone call boxes must be installed and it must be possible to make emergency calls from them. The Commission will ensure development of a telephone pre-payment card usable throughout the Community. The national regulatory authorities may introduce specific facilities for handicapped users and people with special needs. The Commission

will study the technical and economic feasibility of harmonized specifications for network access, including the socket.

6. The Member States must ensure that the measures taken to control the national telephone numbering plans guarantee that numbers and numbering ranges are allocated fairly, equitably and promptly. The plan must be published, subject to any limitations imposed on the grounds of national security. The Commission will promote Community-wide telephone numbering. Within this numbering scheme, a mechanism for allocating unique pan-European individual telephone numbers will be introduced.

7. The Directive lays down the conditions for usage of the public telephone networks or voice telephony services, plus the essential requirements and standards to be observed for provision of such services.

8. The Directive also contains a series of procedural provisions covering:

- Community-wide convergence of targets and implementation of common services and facilities within the Community;
- notification and reporting by the national regulatory authorities and the Member States to the Commission in connection with the measures taken to implement the Directive;
- the conciliation and dispute resolution procedure;
- the possibility of deferment of some of the Member States' obligations;
- the technical modifications necessary to adapt to technical progress and to changes in market demand.

The Commission will be assisted by the Committee set up by Directive 90/387/EEC (summary 5.12).

(4) Opinion of the European Parliament

Not yet delivered.

(5) Current status

The proposal has been sent to the European Parliament and the Economic and Social Committee for their opinions.

(6) References

Commission proposal
COM(92) 247 final

Official Journal C 263, 12.10.1992

5. NEW TECHNOLOGIES AND SERVICES

5.15. Telephone: pan-European mobile telephone

(1) Objective

To promote the development of pan-European land-based cellular communications by ensuring the free movement of mobile telephones and 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.

Council Directive 90/544/EEC of 9 October 1990 on the frequency bands designated for the coordinated introduction of pan-European land-based public radio paging in the Community.

Council Recommendation 90/543/EEC of 9 October 1990 on the coordinated introduction of pan-European land-based public radio paging 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.

Directive 90/544/EEC

The aim of the Directive is to ensure the availability in due course of the 169 MHz frequency band for the European radio messaging system (Ermes).

Recommendation 90/543/EEC

The aim of the Recommendation is to speed up the action required by the Member States, the telecommunications administrations and manufacturers for the development, introduction and progressive extension of European radio paging.

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

- Directive 87/372/EEC: 25.12.1988
- Recommendation 87/371/EEC: Member States to inform the Commission at the end of each year, beginning at the end of 1987, of actions taken and problems occurring
- Directive 90/544/EEC: 18.10.1991
- Recommendation 90/543/EEC: 31.12.1992

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

(6) References

Official Journal L 196, 17.7.1987
Official Journal L 310, 9.11.1990

(7) Follow-up work

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.

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5.16. Telephone: single European emergency call number

<i>(1) Objective</i>	To introduce a single emergency call number throughout the Community.
<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">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.2. The single European emergency call number will be introduced alongside any other existing national emergency call number, where justified.3. Where the complete introduction of the number by the given deadline 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 1996.4. 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.
<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>	

5. NEW TECHNOLOGIES AND SERVICES

5.17. Telephone: international telephone access code

<i>(1) Objective</i>	To harmonize the international telephone access code in the Community before 1998.
<i>(2) Community measures</i>	Council Decision 92/264/EEC of 11 May 1992 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 three months after the notification of the Decision (at a date no later than 31 December 1988).</p> <p>3. 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) 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>	
<i>(6) References</i>	Official Journal L 137, 20.5.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

5. NEW TECHNOLOGIES AND SERVICES

5.18. Radio frequencies

<i>(1) Objective</i>	To strengthen the coordination 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 development.
<i>(2) Community measures</i>	Council resolution of 28 June 1990 on ways of strengthening European cooperation in the allocation of radio frequencies, with special reference to the pan-European services.
<i>(3) Contents</i>	<ol style="list-style-type: none">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.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).3. The Council invites the Commission, the Member States and the European Conference of Postal and Telecommunications Administrations (ECPT) to support the new coordination structure created by the ECPT by providing the necessary resources to enable it to operate efficiently.
<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 C 166, 7.7.1990
<i>(7) Follow-up work</i>	On 19 November 1992 the Council adopted a resolution on the implementation in the Community of decisions by the European Radiocommunications Committee (ERC) (summary 5.27).
<i>(8) Commission implementing measures</i>	

5. NEW TECHNOLOGIES AND SERVICES

5.19. Digital European cordless telecommunications (DECT)

- (1) *Objective* To coordinate the cordless telephone systems currently used in the Community and the frequency bands in which they operate.
- (2) *Community measures*
- 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.
- Council Recommendation 91/288/EEC of 3 June 1991 on the coordinated introduction of digital European cordless telecommunications (DECT) in the Community.
- (3) *Contents*
- 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.
- 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 (ECPT) 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.

(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*

5. NEW TECHNOLOGIES AND SERVICES

5.20. 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.
- (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 granting 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 granting 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

Commission Decision of 26 November 1992 applying Article 3 of Directive 90/388/EEC not to object to the entry into force of the French Decree applying Article L 34-2 on support services and specific services communicated on 25 August 1992.

On 21 October 1992 the Commission adopted the 1992 review of the situation in the telecommunications services sector (SEC(92) 1048 final) in accordance with Article 10 of the Directive. The review sets out four possible options with regard to regulation:

- freezing of the present situation,
- direct regulation of tariffs and investment,
- the liberalization of all national and international voice telephony,
- opening competition in voice telephony between Member States.

The Commission concludes that at the present stage option 4 seems to be the best way of achieving its policy objectives in this sector and invites the parties concerned to submit their comments on the four options.

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5.21. 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

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) 314/V final	Official Journal C 277, 5.11.1990
European Parliament opinion First reading	Not yet published
Economic and Social Committee opinion	Official Journal C 159, 17.6.1991

5. NEW TECHNOLOGIES AND SERVICES

5.22. Information security

- (1) *Objective* 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.
- (2) *Community measures* Council Decision 92/242/EEC of 31 March 1992 in the field of information security.
- (3) *Contents*
1. The Decision provides for the establishment of a Committee of Senior Officials with a long-term mandate to advise the Commission on the action to be taken on information security and on the adoption of an action plan to last, initially, for 24 months. An estimated ECU 12 million will be needed for this initial 24-month period.
 2. The action plan comprises:
 - development of an information security strategy framework;
 - analysis of information security requirements;
 - solutions for certain priority needs;
 - specifications, standardization and verification of information security;
 - integration of technological and operational developments for information security within a general strategy;
 - integration of certain security functions in information systems.
 Details of the action plan are set out in the annex to the Decision.
 3. The Commission will regularly consult the Committee on information security issues, notably with a view to defining strategies and work programmes.
- (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 123, 8.5.1992
- (7) *Follow-up work*
- (8) *Commission implementing measures*

5. NEW TECHNOLOGIES AND SERVICES

5.23. 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.
- (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.
 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

5.24. 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">1. Definition of the concept of 'digital short-range radio system'.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.3. The Commission will report to the Council by the end of 1995 on the implementation of the Directive.	
<i>(4) Opinion of the European Parliament</i>	First reading: Parliament approved the Commission's proposal without amendments.	
<i>(5) Current status</i>	The proposal is currently before the Council for a common position.	
<i>(6) References</i>	Commission proposal COM(91) 215 final	Official Journal C 189, 20.7.1991
	European Parliament opinion First reading	Official Journal C 94, 13.4.1992
	Economic and Social Committee opinion	Official Journal C 40, 17.2.1992

5. NEW TECHNOLOGIES AND SERVICES

5.25. Information services market

- (1) *Objective* To eliminate the technical, administrative and legal obstacles to the establishment of a common market in information services.
- (2) *Community measures* Council Decision 88/524/EEC of 26 July 1988 concerning the establishment of a plan of action for setting up an information services market.
- Council Decision 91/691/EEC of 12 December 1991 adopting a programme for the establishment of an internal information services market.
- (3) *Contents* *Decision 88/524/EEC*
1. Launching of large-scale pilot and demonstration projects which will exert a catalytic effect on the development of the information services market. This action plan is called Impact (information market and policy actions).
 2. Measures to improve market conditions for electronic information services such as:
 - setting up a European information market observatory;
 - the elimination of technical, administrative and legal barriers to setting up an internal market in information services;
 - standardization and simplification for the improvement of conditions for transmitting and accessing information services;
 - initiative to improve the synergy between the public and private sectors;
 - the reinforcement of user-support initiatives;
 - the preparation of a specific action in favour of libraries.
 3. Provision of ECU 15 million for 1989 and ECU 21 million for 1990.
 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).
- Decision 91/691/EEC*
1. A new programme, proposed for a period of four years with a budget of ECU 64 million, which takes up the general objectives of the first plan of action and adds lines of action and intervention mechanisms in the light of experience gained and market developments.
 2. The proposed main changes 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 businesses and the less-favoured regions.
- (4) *Deadline for implementation of the legislation in the Member States* Not required.

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

(6) References

Official Journal L 288, 21.10.1988
Official Journal L 377, 31.12.1991

(7) Follow-up work

(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.

Commission Decision of 24 November 1992 selecting 59 pilot and demonstration projects for the granting of a Community contribution and two calls for proposals under the programme aimed at establishing an internal market in information services (1991-95).

These projects, which will receive Community financing, aim to contribute towards the establishment of new multimedia information services and to support strategic initiatives in the information sector. They were selected following a call by the Commission in the Official Journal of 2 June 1992 in accordance with Decision 91/691/EEC adopting a programme for the establishment of an internal information services market.

5. NEW TECHNOLOGIES AND SERVICES

5.26. Frequency bands: flight telecommunications

<i>(1) Objective</i>	To promote the development and interconnection of trans-European networks in the area of transport infrastructure and telecommunications, in particular by the availability of common frequency bands.
<i>(2) Proposal</i>	Proposal for a Council Directive on common frequency bands to be designated for the coordinated introduction of the terrestrial flight telecommunications system (TFTS) in the Community
<i>(3) Contents</i>	<p>1. The development and interconnection of trans-European networks, for example in the area of transport infrastructure and telecommunications, is one of the priorities for free movement in the Community. Mobile communications systems using radio frequencies will be an essential element of Europe's transport infrastructure. It is therefore essential to have common frequency bands available throughout the Community, together with harmonized standards to ensure interoperability of mobile communications equipment and services in the Community.</p> <p>2. Air transport is a vital trans-European network, but there is still no public telecommunications service for air passengers. However, the European Telecommunications Standards Institute (ETSI) is currently standardizing a terrestrial flight telecommunications system (TFTS). The Directive aims to introduce this system in the Community.</p> <p>3. The Directive defines the terms 'aeronautical public correspondence (APC)' and 'terrestrial flight telecommunications system (TFTS)'.</p> <p>4. The Member States are required to designate common frequency bands with priority for TFTS by 1 January 1993.</p> <p>5. The frequency bands to be allocated to TFTS are 1 670-1 675 MHz for the ground-to-air direction and 1 800-1 805 MHz for the air-to-ground direction. The bands will be made available as follows:</p> <ul style="list-style-type: none"> — 2 x 1 MHz with effect from 1993, in total, — 2 x 3 MHz with effect from 1994, in total, — 2 x 5 MHz with effect from 1998, in total. <p>6. The Commission will report to the Council on the implementation of the Directive not later than the end of 1995. Most of the organizations participating in the work on the TFTS feel that the main danger is the absence of a common frequency band available for use for the TFTS.</p>
<i>(4) Opinion of the European Parliament</i>	Not yet delivered.
<i>(5) Current status</i>	The proposal has been sent to the European Parliament and the Economic and Social Committee for their opinions.
<i>(6) References</i>	Commission proposal COM(92) 314 final
	Official Journal C 222, 29.8.1992

5. NEW TECHNOLOGIES AND SERVICES

5.27. Radio frequencies: telecommunications in aircraft and road- transport vehicles

- (1) *Objective* To confirm the role of the European Radio Communications Committee (ERC) in assigning the frequencies needed for new radio communications services at European level.
- (2) *Community measures* Council resolution of 19 November 1992 on the implementation, within the Community, of ERC decisions.
- (3) *Contents*
1. This resolution is a Council response to two proposals for Directives put forward by the Commission on common frequency bands to be designated for the coordinated introduction of the ground-based aircraft telecommunications system (summary 5.26) and road transport telematic systems (RTTs) within the Community.
 2. The resolution forms part of the extension of the Council resolution of 28 June 1990 on the bolstering of European cooperation on radio frequencies, the main political aim of which was to develop coordination within the structures set up by the European Conference of Postal and Telecommunications Administrations (ECPT) (summary 5.18).
 3. Among these structures the European Radio Communications Committee (ERC), consisting of representatives of the national radio communications inspectorates from all the member countries of the ECPT, adopts decisions on harmonization in the radio communications field. For this purpose it provides for broad prior consultation of the telecommunications bodies and other suppliers of services, industry and users, and close cooperation with the European Telecommunications Standards Institute (ETSI) and the Commission. The latter is involved in the activities with the status of adviser.
 4. The ERC has, in particular, adopted decisions on the assignment of frequency bands for the introduction in Europe of the terrestrial flight telecommunications system (TFTS) and road transport telematic systems (RTTs).
 5. The Council has therefore decided that the Member States shall actively participate in drawing up the ERC's decisions, account being taken of Community law, and shall commit themselves to implementing the ERC decisions concerning the TFTS and RTT systems.
 6. The Council invites the Commission to give thought to the ERC's decision-making machinery as the main method of assigning frequencies at European level.
- (4) *Deadline for implementation of the legislation in the Member States* Not required.
- (5) *Date of entry into force (if different from the above)*

(6) References

(7) Follow-up work

*(8) Commission
implementing
measures*

Official Journal C 318, 4.12.1992

5. NEW TECHNOLOGIES AND SERVICES

5.28. Licences for telecommunications services

- (1) *Objective* To establish a balanced and effective procedure for the mutual recognition of licences and other authorizations for the provision of telecommunications services issued by Member States.
- (2) *Proposal* Proposal for a Council Directive on the mutual recognition of licences and other national authorizations to operate telecommunications services, including the establishment of a single Community telecommunications licence and the setting-up of a Community Telecommunications Committee (CTC).
- (3) *Contents*
1. Scope and definitions
The purpose of the Directive is to establish a single market in telecommunications services. It will apply to all national authorizations relating to the provision of telecommunications services on public telecommunications networks, except to those for the provision of mobile radio services and satellite services. The Directive defines the terms 'national regulatory authority', 'national authorization' and 'single Community telecommunications licence', and for the remainder refers to the definitions given in Directive 90/387/EEC.
 2. Mutual recognition of national authorizations
Member States shall ensure that any national authorization to provide a telecommunications service under its national law may be granted recognition in the form of a single Community telecommunications licence.
 3. Mutual recognition by individual application
The national regulatory authority must forward applications for recognition of a national authorization to the Commission within one month of receiving them. After that period, or in the event of acceptance by the national authority, the applicant may submit his application for recognition direct to the Commission. The Directive specifies the information which these applications must contain. The national regulatory authorities have an opportunity to raise an objection. In the absence of a valid objection, recognition is granted and notified by the Commission to the national regulatory authorities and to the applicants without delay. Objections must be based on the grounds specified in the Directive. A conciliation procedure is established. The single licence may include supplementary conditions specific to some Member States.
 4. Recognition by service category
The Commission may, where appropriate, request the European Committee for Telecommunications Regulatory Affairs (Ectra) to determine harmonized licensing conditions for certain telecommunications services. There is a special procedure for granting recognition by service category.
 5. Procedural provisions
Member States may allow their national regulatory authority to impose a reasonable fee to cover the administrative costs incurred. The Directive also lays down the procedure for the withdrawal or amendment of licences.

6. Community Telecommunications Committee (CTC)

The Commission shall be assisted by the CTC, made up of representatives of the national regulatory authorities of the Member States and chaired by a representative of the Commission.

7. At least once a year, a list of the single Community telecommunications licences granted and a list of the national regulatory authorities shall be published by the Commission in the *Official Journal of the European Communities*.

(4) Opinion of the European Parliament

Not yet delivered.

(5) Current status

The proposal has been sent to the European Parliament and the Economic and Social Committee for their opinions.

(6) References

Commission proposal
COM(92) 254 final

Official Journal C 248, 25.9.1992

6. CAPITAL MOVEMENTS

1992 target: current position and outlook

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

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

The first Directive liberalized the capital movements involved in transactions in securities issued by undertakings for collective investment in transferable securities (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.

These two Directives were amended and replaced by the third Directive (Council Directive 88/361/EEC — summary 6.1), which lifted the remaining restrictions on capital movements between Member States. Its entry into force on 1 July 1990 was a decisive step towards the creation of an effective and stable financial system in the Community.

The Directive on the liberalization of capital movements (summary 6.1) has been in force in eight Member States since 1 July 1990.

Greece, Portugal, Spain and Ireland, which benefited from transitional arrangements for the removal of all restrictions on capital movements, have made considerable progress:

- in May 1991 Greece abolished the restrictions on capital movements and the limits on tourist expenditure which had been authorized on the basis of Article 108 of the Treaty;
- in Spain all restrictions have been removed since 1 February 1992, with the exception of physical exports of sums above a given amount;
- on 1 January 1992 Ireland considerably relaxed its exchange controls; its remaining controls relate to accounts held by Irish residents abroad.

Under the Directive on capital movements, all transitional arrangements ended on 31 December 1992.

In November Greece was the only country that asked for the transitional period allowed for completely liberalizing capital movements to be extended for two years to the end of 1994. On 21 December 1992 the Council adopted a Directive authorizing Greece to maintain temporarily restrictions on certain capital movements.



The liberalization of capital movements corresponds to the implementation of the first stage of monetary union. Overall, the Directive has been applied satisfactorily in the Member States; the abolition of restrictions has led to an increase in cross-border capital movements in recent years, including in those Member States which have only recently relaxed or abolished their controls.

However, obstacles remain owing to the measures or practices that favour national financial instruments or institutions, particularly through tax measures or prudential rules.

The Commission has instituted infringement proceedings whenever procedures for checking and controlling cross-border transfers of capital have been found to be contrary to the Directive.

6. CAPITAL MOVEMENTS

6.1. Complete liberalization of capital movements

- (1) *Objective* To remove remaining restrictions on capital movements between Member States as part of the procedure for completing the internal market.
- (2) *Community measures* Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty.
- Council Directive 92/122/EEC of 21 December 1992 authorizing Greece to defer the liberation of certain capital movements in accordance with Article 6(2) of Council Directive 88/361/EEC.
- (3) *Contents* *Directive 88/361/EEC*
1. Obligation on Member States to abolish restrictions on the movement of capital between persons resident in Member States.
 2. Obligation on Member States to ensure that capital transfers be made at the same exchange rates as those applying to current transactions.
 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.
 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.
 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.
 6. Deferred implementation of the Directive in the case of Greece, Ireland, Portugal and Spain.
 7. Authorization for Belgium and Luxembourg to continue to operate their two-tier exchange market until 31 December 1992, subject to specified conditions.
 8. Annex to the Directive containing a new classification of capital movements.
 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).

Directive 92/122/EEC

This Directive grants Greece's request that it be allowed to temporarily maintain certain restrictions on capital movements.

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

- Directive 88/361/EEC: 1.7.1990. Exemptions for Portugal, Spain, Greece and Ireland regarding certain provisions specified in the annexes
- Directive 92/122/EEC: 30.6.1994 regarding certain provisions specified in the annexes

*(5) Date of entry into force (if different from the above)**(6) References*

Official Journal L 178, 8.7.1988
Official Journal L 409, 31.12.1992

(7) Follow-up work

On 8 February 1989 the Commission presented to the Council a communication on the tax measures to be adopted by the Community in connection with the liberalization of capital movements (COM(89) 60 final, published in Official Journal C 141, 7.6.1989).

(8) Commission implementing measures

On 24 November 1992 the Commission transmitted a report to the Council on the monetary protection measures referred to in Article 3 of Directive 88/361/EEC.

In view of the fact that the Treaty on European Union, once ratified, will rule out the possibility of taking such measures from 1 January 1994, the Commission did not consider it worthwhile amending this provision for the period during which it will remain in force.

6. CAPITAL MOVEMENTS

6.2. Funds held by institutions for retirement provision

<i>(1) Objective</i>	To facilitate exercise of certain freedoms by institutions for retirement provision in respect of the investment of their assets and the choice of investment manager.				
<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">1. Definitions of the terms 'institution for retirement provision', 'retirement benefits' and 'sponsoring undertaking'.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).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.4. The proposal seeks to lay down the following prudential principles:<ul style="list-style-type: none">— assets to be invested in a manner appropriate to the nature and duration of the corresponding liabilities;— diversification of assets;— investment in the sponsoring undertaking or undertakings to be restricted.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.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%.7. Member States would be free to lay down more detailed rules provided that they are consistent with the principles laid down.				
<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>	An amended proposal including Parliament's amendments accepted by the Commission is awaited.				
<i>(6) References</i>	<table><tr><td>Commission proposal COM(91) 301 final</td><td>Official Journal C 312, 3.12.1991</td></tr><tr><td>European Parliament opinion First reading Economic and Social Committee opinion</td><td>Not yet published Official Journal C 169, 6.7.1992</td></tr></table>	Commission proposal COM(91) 301 final	Official Journal C 312, 3.12.1991	European Parliament opinion First reading Economic and Social Committee opinion	Not yet published Official Journal C 169, 6.7.1992
Commission proposal COM(91) 301 final	Official Journal C 312, 3.12.1991				
European Parliament opinion First reading Economic and Social Committee opinion	Not yet published Official Journal C 169, 6.7.1992				

7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

1992 target: current position and outlook

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.

The Community adopted the first measures designed to secure freedom of movement for workers as early as 1968. The measures in question 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.

The proposals presented in 1988 with the aim of extending the rights established by these initial measures — in particular by extending freedom of movement to family members — have not been adopted by the Council.

It was not 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 within which not all Community citizens/nationals of Member States were given the right to live where they wanted.

This is the objective of the three Council Directives extending the right of residence to students, retired persons and non-active persons (summaries 7.6 to 7.8). These Directives were adopted in 1990 and entered into force on 30 June 1992. Although the Court of Justice has recently rescinded Directive 90/366/EEC on the right of residence for students owing to the fact that it was adopted on the wrong legal basis (summary 7.6), it has ruled that the provisions of that Directive will apply until the entry into force of a new Directive based on the correct legal basis.

The exercise by the professions of freedom of establishment and freedom to provide services has been impeded by problems over the equivalence of training and qualifications. After securing recognition of qualifications through the harmonization of training for such groups as pharmacists (summaries 7.14 and 7.15) and medical practitioners (summary 7.16), the Commission developed a new approach in 1985 based on the principle of recognition of the equivalence of qualifications. Two Directives have been adopted on the basis of this principle: one on university-level qualifications and the other on lower-level qualifications (summaries 7.9 and 7.10).

According to these Directives, a member of the professions may generally carry on his activities — either by supplying services or by way of establishment — in another Member State on the basis of the qualifications of his country of origin and at least three years' professional experience in that country. These two Directives are currently being transposed into national law in the Member States, although the deadlines laid down in the first Directive will generally not be met; the second Directive will not come into force until 18 June 1994.

A central system concerned with the equivalence of vocational training qualifications has been set up in order to enable workers to make full use of their qualifications in gaining access to suitable employment in another Member State. The aim is to promote mobility by allowing workers to make better use of their vocational qualifications.

Similarly, to improve the transparency of the job market at Community level and remove practical barriers to free movement of workers, the Commission and public employment services are in the process of developing a mechanism and a network of Euro-advisers to enable interested parties to obtain information in the Member States, if possible at regional level, on Community job supply and demand, together with general information on the job markets in the other Member States. This system is known as Eures (European employment services) and will replace the Sedoc system (summary 7.3).

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 7.12 and 7.13).

The Community may be said to have already made considerable progress in this area, particularly with regard to employees and a number of specific professions. However, certain problems must still be solved if the internal market in goods and services is to have as its counterpart a single employment market.

7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

7.1. Free movement of workers

- (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

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.

<i>(4) Opinion of the European Parliament</i>	First reading: Parliament approved the Commission's proposal subject to a number of amendments. The Commission accepted some of these amendments.	
<i>(5) Current status</i>	The amended proposal is currently before the Council in view of a common position.	
<i>(6) References</i>	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. Free movement of workers: Sedoc/Eures: the new European employment information network

<i>(1) Objective</i>	To encourage employment services in the Member States to disseminate their vacancies and applications for employment as part of the free movement of workers within the Community (see also the chapter on the 'free movement of workers' in the section devoted to 'the social dimension of the internal market').
<i>(2) Community measures</i>	Council Regulation (EEC) No 2434/92 of 27 July 1992 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"> 1. The Regulation sets out to remove the restrictions applying to the selection of vacancies dealt with at national level so as to encourage job centres to draw attention to all vacancies likely to interest Community workers. 2. Under this Regulation, jobseekers will have the opportunity to declare their wish for mobility and apply for jobs in other Member States, and to obtain an appropriate reply to their requests. 3. The Regulation simplifies the procedure for clearing vacancies and applications for employment.
<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>	27.8.1992
<i>(6) References</i>	Official Journal L 245, 26.8.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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

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) on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families to the proposed amendments to Council Regulation (EEC) No 1612/68 (summary 7.1) on the free movement of workers within the Community.

(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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7.6. 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

(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

7.7. 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 diseaseand 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)

(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

- (1) *Objective* To remove obstacles to the free movement of persons and allow any European citizen to reside in a country other than his own.
- (2) *Community measures* Council Directive 90/364/EEC of 28 June 1990 on the right of residence.
- (3) *Contents*
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.
 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.
 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.
 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.
 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.
- (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)*
- (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. 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.

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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 7.10, which concerns diplomas, certificates and other evidence of formal qualifications attesting to education and training other than higher education of at least three years' duration.

(8) Commission implementing measures

7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

7.10. 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*

To extend the system of mutual recognition introduced by Directive 89/48/EEC (summary 7.9) to those professions for which the required level of training is not as high.

(2) *Community measures*

Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training which complements Directive 89/48/EEC.

(3) *Contents*

1. 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.
 2. Definitions of the concepts 'diploma' within the meaning of this Directive, 'certificate', 'attestation of competence', 'host Member State', 'regulated profession', 'regulated education and training', 'regulated professional activity', 'professional experience', 'adaptation period' and 'aptitude test'.
 3. A Member State 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.
 4. The Directive applies to those professions which are not the subject of a specific Directive on recognition. Moreover, it extends to employees the scope of certain specific Directives (dealing *inter alia* with the distributive and craft trades) which covered only the self-employed.
 5. Broadly speaking, the Directive adopts the following recognition arrangements:
 - basic principle: automatic recognition by the host Member State, provided that the same profession is involved and the qualification is a final one (e.g. period of in-service training or professional experience included);
 - exception: recognition by the host Member State after compensation (where it establishes that there are substantial differences between the training courses) in the form of:
 - (a) either an adaptation period or an aptitude test:
 - where the host country provides evidence of substantial differences between the education and training received and that required;
 - where there are, in the host country, 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, except in cases involving professions the pursuit of which requires a detailed knowledge of national law, or professions the taking-up of which is subject to the possession of a diploma attesting to completion of a 'long' course which the applicant does not have;

- (b) or prior professional experience where the duration of the migrant's education and training is at least one year less than that required in the host Member State. In no case may the host Member State combine the two requirements.
6. 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 and certain professional training courses with a special structure;
 - a level corresponding to a secondary course.
7. 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.
8. 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, but only where the host Member State requires possession of a 'certificate' (lowest level).
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) Deadline for implementation of the legislation in the Member States

18.6.1994

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

(6) References

Official Journal L 209, 24.7.1992

(7) Follow-up work

(8) Commission implementing measures

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7.11. Comparability of qualifications

- (1) *Objective* To establish comparability of vocational training qualifications throughout the Member States.
- (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;
Amended opinion:
Official Journal C 292, 9.11.1992;
 - textile/garment industry:
Official Journal C 253, 8.10.1990;
 - trade:
Official Journal C 42, 17.2.1992;
 - metal:
Official Journal C 196, 28.7.1991;
 - textile industry:
Official Journal C 318, 7.12.1991;
 - clerical/administration, banking and insurance sector:
Official Journal C 108, 28.4.1992;
 - chemicals:
not yet published;
 - tourism:
Official Journal C 320, 7.12.1992;
 - transport sector:
Official Journal C 338, 21.12.1992;
 - food industry:
Official Journal C 292, 9.11.1992;
 - public works:
not yet published;
 - graphic arts and media:
not yet published;
 - wood:
not yet published;

- iron and steel industry:
not yet published;
- leather:
not yet published.

The 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 of 14 August 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;

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7.12. Training in technology: Comett I

<i>(1) Objective</i>	To establish a programme to stimulate cooperation between universities and industry on training in the field of technology.
<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"> 1. Definition of the terms 'university' and 'enterprise'. 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. 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. 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.
<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 7.13).
<i>(8) Commission implementing measures</i>	On 7 June 1991, the Commission adopted a final report on the results of Comett I.

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7.13. Training in technology: Comett II

<i>(1) Objective</i>	To set up the second phase of the Comett programme to stimulate cooperation between universities and industry on training in the field of technology.
<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">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 1994.2. 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.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.
<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>	

7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

7.14. Pharmacy: qualifications in pharmacy

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| <i>(1) Objective</i> | To define the minimum range of activities to which pharmacists must have access in all Member States. |
| <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 7.15).</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

7.15. Pharmacy: mutual recognition of diplomas in pharmacy

(1) Objective

To facilitate freedom of establishment for pharmacists in the Community.

(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.

Council Directive 85/584/EEC 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.

(3) Contents

1. Directive 85/433/EEC was amended by Directive 90/658/EEC on 1 July 1991.
2. 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 7.14) and which are open to holders of one of the diplomas, certificates or other formal qualifications in pharmacy referred to in the Directive.
3. 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.
 - Spain: Titulo de licenciado en farmacia.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.
4. 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.
5. 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.

6. 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

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

(6) References

Official Journal L 253, 24.9.1985
Official Journal L 372, 31.12.1985

(7) Follow-up work

(8) Commission implementing measures

7. FREE MOVEMENT OF LABOUR AND THE PROFESSIONS

7.16. Specific training in general medical practice

<i>(1) Objective</i>	To establish conditions which allow mutual recognition in the Member States of diplomas attesting to general medical practitioners.
<i>(2) Community measures</i>	Council Directive 86/457/EEC of 15 September 1986 on specific training in general medical practice.
<i>(3) Contents</i>	<ol style="list-style-type: none">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.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.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.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.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.
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1995
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 267, 19.9.1986
<i>(7) 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. This involves legislative consolidation since the new Directive will replace the various Directives covered by the consolidation exercise.</p>

*(8) Commission
implementing
measures*

This Directive retains the substance of the consolidated Directives and 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

7.17. Commercial agents

- (1) *Objective* To coordinate national laws governing the legal relationship of self-employed commercial agent and principal.
- (2) *Community measures* 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) *Contents*
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.
 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.
 3. Remuneration to which a commercial agent is entitled, e.g. a commission on commercial transactions concluded as a result of his action.
 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.
- (4) *Deadline for implementation of the legislation in the Member States*
- 1.1.1990: Others
 - 1.1.1993: Italy (Article 17)
 - 1.1.1994: Ireland and the United Kingdom
- (5) *Date of entry into force (if different from the above)* 1.1.1994: for contracts in operation
- (6) *References* Official Journal L 382, 31.12.1986
- (7) *Follow-up work*
- (8) *Commission implementing measures*





Eastern Europe and the USSR

THE CHALLENGE OF FREEDOM

GILES MERRITT

The sparks of unrest that leapt from Berlin in November 1989 to Moscow's Red Square in August 1991 are firing an explosion of political and economic change. Out of the ashes of Communism is emerging the shape of a vast new European market-place stretching from the Atlantic to the Pacific.

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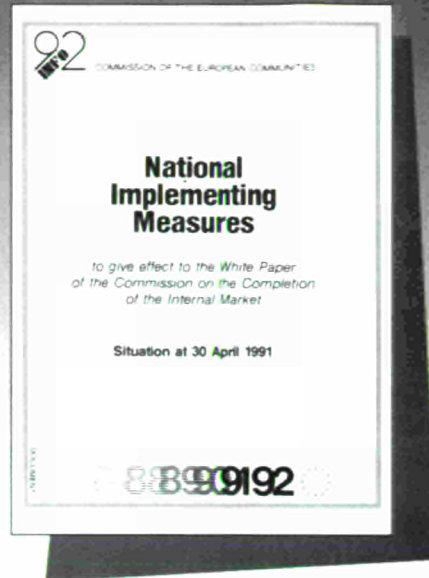
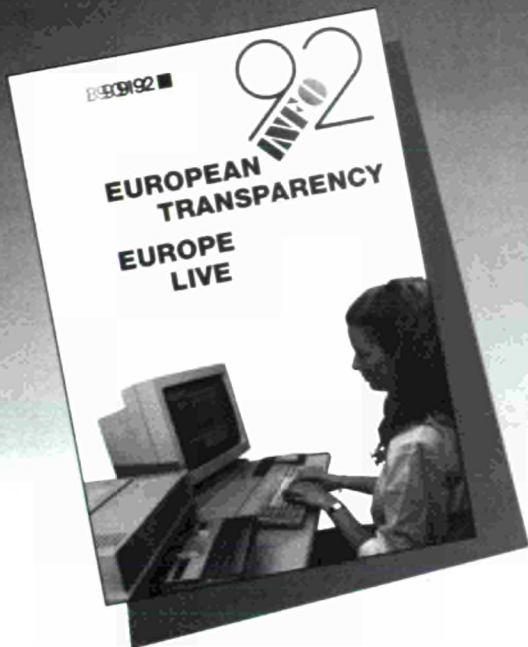
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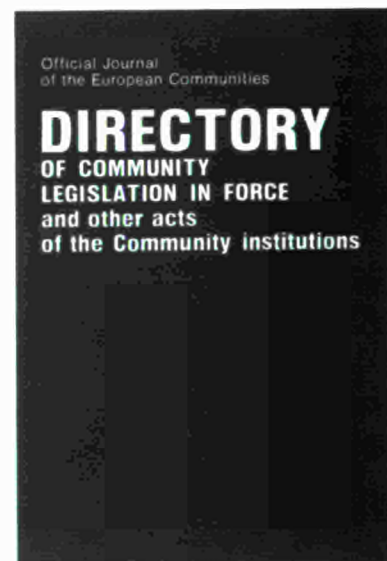
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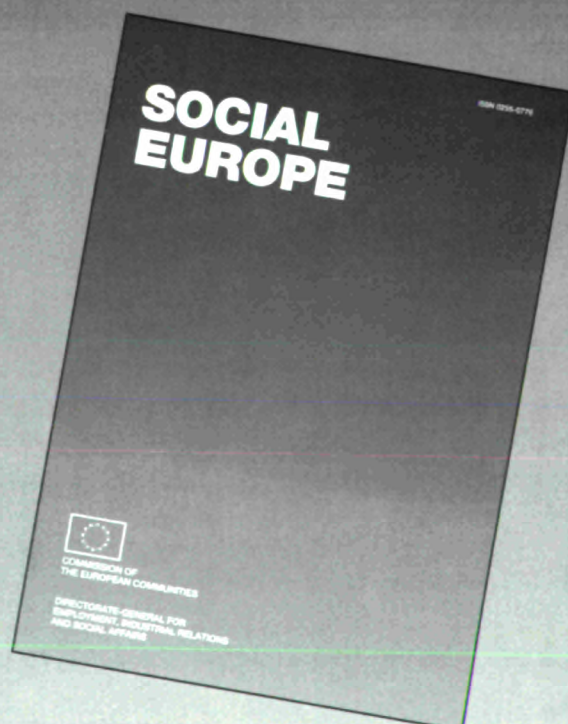
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