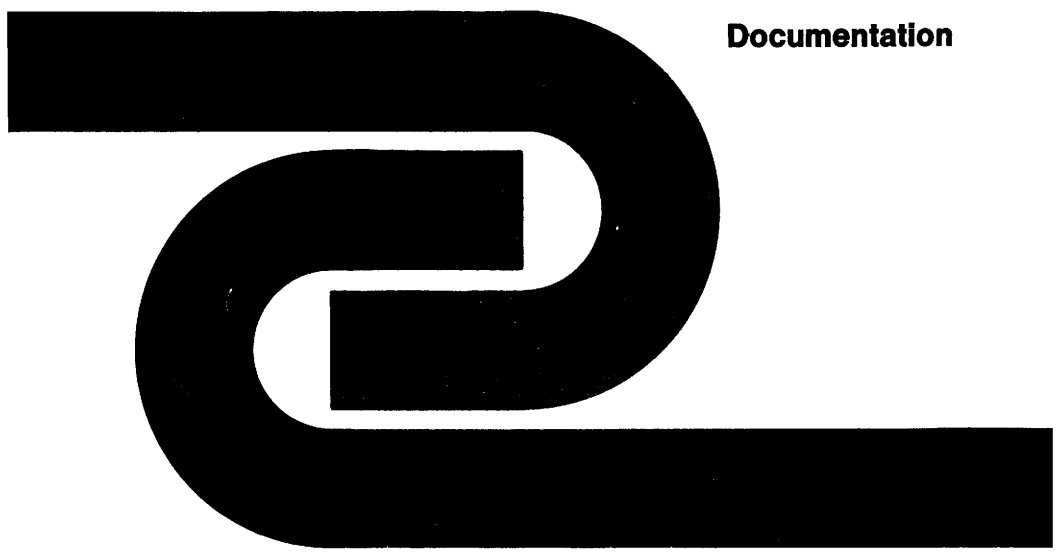


ECONOMIC AND SOCIAL COMMITTEE
OF THE EUROPEAN COMMUNITIES
General Secretariat

**THE STAGE REACHED
IN ALIGNING
LABOUR LEGISLATION
IN THE
EUROPEAN COMMUNITY**

Documentation



Brussels, June 1978

ECONOMIC AND SOCIAL COMMITTEE
OF THE EUROPEAN COMMUNITIES

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Directorate-General

Division for Research
and Documentation

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THE STAGE REACHED IN ALIGNING
LABOUR LEGISLATION
IN THE EUROPEAN COMMUNITY

PRELIMINARY REMARKS

This document has been prepared by the Directorate for General Affairs (Division for Studies and Documentation) which assumes sole responsibility for the contents.

The original intention was to use the material as background information for the annual meeting to be held in May 1978 between representatives of the Economic and Social Committee and the French Economic and Social Council.

However, since the information given is of a general kind and might therefore be of interest to a variety of interest groups, it is being published in booklet form.

It goes without saying that the publication is not binding either on the ESC as a whole or on any of its working bodies or groups.

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Appendix II

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INTRODUCTION

I. - Terms of reference - General

In a letter dated 27 January 1978 the Chairman of the French Economic and Social Council asked the Chairman of the Economic and Social Committee of the European Communities if "alignment of labour legislation in the Community" could be one of the main topics on the agenda of the annual meeting to be held between representatives of the Bureau of the respective institutions. After all, labour legislation was "at the very heart of the European venture". In this connection it was suggested that the General Secretariat of the Economic and Social Committee should prepare a synopsis of the progress made, and delays experienced, in aligning labour legislation at European level.

This booklet, prepared by the Directorate for General Affairs (Division for Studies and Documentation), is the result; it, in fact, covers those aspects of the Community's social policy that would help bring about the alignment of various national rules and regulations.

What it does not cover are the structural aspects of social policy that are implemented with the help of such resources as the Social Fund or the Regional Development Fund, e.g. employment policy.

To put it another way, we are trying to give the reader information about an important area of Community social policy that is governed by legal instruments (Regulations, Directives or Recommendations).

The booklet is based on material made available to us and does not claim to be a complete survey of Community social policy.

The main topics covered are :

- achievements;
- current measures;
- delays and failures, which are summarized at the end of this paper.

II. - History of Community Policy in this Area

The alignment of labour law is part of the Community's social policy and is therefore dependent on the speed at which the latter progresses.

Community social policy has evolved in four stages (*), viz. :

- A. - The ECSC period, 1952-1958;
- B. - Stage Two (1958-1968);
- C. - Stage Three (1969-1972);
- D. - Stage Four (1973-1978).

- A. - During Stage One, the Community authorities concentrated on protecting workers' jobs in the coal and steel industries during a period of profound change.

Considerable sums of money were used and a series of measures based on Article 56 of the ECSC Treaty were enacted to ensure that surplus labour was re-employed productively.

(*) For further details see Emil Josef KIRCHNER's "Trade Unions as a Pressure Group in the European Community", 1977, Chapters V and VII, especially pages 90-100.

However, ECSC action to align labour legislation was limited by and large to attempts to gradually bring about freedom of movement for workers in the coal and steel industries.

B. - During Stage Two (1958-1968), the Common European Community Market was finally brought about.

Two of the keystones of this were :

1. - The freedom of movement for workers achieved between 1958 and 1968; and
2. - The implementation of an umbrella regulation on social security for migrant workers, which was begun in 1958 and finalized in 1971.

Community social policy got off to a slow start during this period, firstly, because the Treaty's provisions in this area, unlike those on competition and the common market, were fragmentary, and, secondly, because the Community's power to act was much more limited than its powers in economic matters or such individual sectors as agriculture and transport (see Articles 117-121 and 128 of the EEC Treaty, which state, for instance, that the Commission's role is "promoting close cooperation between Member States in the social field" and to "act in close contact with Member States by making studies, delivering Opinions ..." (Article 118)).

To this fragile base must be added a deep-seated disagreement between the Commission and the Council due to their differing views on involving the two sides of industry in social policy-

making. The Commission had always felt that a Community social policy was only feasible if employers' and workers' organizations were intimately involved in framing it. But the Council argued, on the basis of EEC Treaty Articles 117-121 and 128, that social policy coordination in collaboration with management and labour was a matter for the Member States.

This disagreement led to the Community's activities in the social field almost coming to a complete halt during the period 1962-1967.

The deadlock was finally broken by the compromise of 14 December 1966, by which the Commission had first to get the Council's agreement before drawing up any studies, if necessary with the cooperation of the two sides of industry.

C. - Stage Three (1969-1972)

Following this "gentleman's agreement", the Commission tried to include its social measures in a sort of overall programme that was to be formally adopted by the Council before being put into effect. Its action was helped by the move away from considering social policy as simply an offshoot of economic policy (see Council Resolution of 29 February 1968 and the 1967 Medium-term Economic Policy Programme).

During this same period, the Council became more favourably inclined towards an active social policy on the part of the European Community. This was due to several factors, some connected with Community integration, others not. Firstly, the

French and German governments, who had been somewhat cool about social progress in the Community, changed their positions. The German "Grand Coalition", which came to power in 1967, included the two sides of industry in a sort of overall consultation on major economic and social issues (the "Stabilitätsgesetz - konzertierte Aktion").

Following the events of May 1968 and the negotiations between employers and workers that followed (the Grenelle Agreements), the French government became more amenable to management and labour being involved in framing the Community's social policy. The attitude of the Benelux countries and Italy, which had always been favourable, was underscored by an Italian memorandum in June 1971 concerning job issues, migrant workers and the alignment of social security in general.

This constructive attitude of all the Member States was shown at several conferences on employment, which terminated in the setting-up of the Community's Standing Committee on Employment in 1970.

Secondly, it was decided at the European summit in The Hague in December 1969 that moves should be made in the years to come towards economic and monetary union, for which a Community social policy was indispensable. On 17 March 1971 the Commission issued a paper (ref. No. SEC(71) 600 final) entitled "Preliminary Guidelines for a Community Social Policy Programme".

This change of mood was reflected in the reform of the Social Fund in 1971 and, above all, in the declaration made at the European summit in 1972, which stated for the first time that the official position of all the Member States' governments was that

"they attached as much importance to vigorous action in the social field as to the achievement of the Economic and Monetary Union. They thought it essential to ensure the increasing involvement of labour and management in the economic and social decisions of the Community. They invited the Institutions, after consulting labour and management, to draw up, between now and 1 January 1974, a programme of action ...

This programme should aim, in particular, at carrying out a co-ordinated policy for employment and vocational training, at improving working conditions and conditions of life, at closely involving workers in the progress of firms, at facilitating on the basis of the situation in the different countries the conclusion of collective agreements at European level in appropriate fields and at strengthening and coordinating measures of consumer protection" (ref. No. PE 31.175/App.).

D. - Stage Four (1973-1978)

The European summit pointed out that Article 235 of the EEC Treaty could be one of the means used for implementing the above guidelines.

On the basis of the guidelines laid down by the heads of state or government, the Commission drew up an action programme, which was adopted by the Council on 21 January 1974 (see OJ No. C 13 of 12 February 1974). The Commission's work was somewhat hampered because almost all the staff handling social policy, and the Commissioners, were changed. The Council's Resolution contained several measures which were to be implemented as a matter of priority between 1974 and 1976.

The energy crisis of 1974, and the ensuing recession in the Member States, have seriously impeded integration and, by the same token, the Community's social policy.

Despite this unfavourable economic situation, in 1974 the Commission set the procedures for priority measures in motion.

The law alignment achieved since 1974, particularly in 1975 and 1976, is thus the outcome of the momentum built up from 1972 to 1974 in the social field. Examples include the Directive on equal pay for men and women, the Directive on mass dismissals, the recommendation on the 40-hour working week and 4 weeks paid holiday.

Although considerable progress has been made in this field, the alignment of social security legislation - except in the case of migrant workers - has not advanced.

Member State law on a number of benefits - pensions, children's allowances, health insurance, unemployment benefits, etc. - is still very disparate. And the same goes for the level of benefits.

The Community's social budget (statistics) appended to the 1973 and subsequent reports on social development in the Community, shows that there is a steadily increasing gap between benefits in the Member States where the financial situation is healthy and those grappling with financial difficulties.

The bulk of alignment in the social field thus still has to be effected. It is to be hoped that the picture will be transformed in step with progress towards establishment of an economic and monetary union.

COMMUNITY ACTION

1. FREE MOVEMENT OF WORKERS

Legal basis : EEC Treaty Articles 7, 48 and 49

a) Achievements

Free movement in the Community is ensured by a Council Regulation and Directive of 15 October 1968 (OJ No. L 257 of 19.10.1968)(1). This freedom was introduced in three stages (1958, 1964 and 1968).

The 1968 Regulation abolished the priority given to national job-seekers, and - following abolition of the work permit - put all Member State nationals on the same footing.

-
- (1) - Council Regulation (EEC) 1612/68 on the free movement of workers in the Community, dated 15.10.1968 (OJ No. L 257 of 19.10.1968)
- Council Directive 68/360/EEC on the abolition of restrictions on the movement and residence of Member State workers and their families in the Community; dated 15.10.1968 (OJ No. L 257 of 19.10.1968)
 - Council Decision 68/355/EEC, applying Treaty Articles 48 and 49 to the French Overseas Departments; dated 15.10.1968 (OJ No. L 257 of 19.10.1968)

This equality of treatment is also found in the sectors having a direct or indirect influence on job-holding (taxation, social security benefits, eligibility for union office, abolition of "normal accommodation" requirement, pay, dismissal, retraining) (1).

The Regulation confirms Community priority in access to vacancies (all Member State nationals being on an equal footing).

If non-discrimination poses a serious threat to a region or occupation the Commission, in liaison with Member States, can mount an information campaign designed to steer workers away from that region or occupation.

(1) The Court of Justice has upheld this broad interpretation of "equal treatment", and stated that the Community principles ban any dissimulated discrimination which, through use of other criteria, leads in practice to the same result (Case 152-173, Sotgiu, 12.2.1974).

These provisions apply to all wage and salary earners including seasonal and frontier workers. The worker may be accompanied by his spouse, his children and his parents and by any member of his family living with him.

The European Communications System for Jobs Available and Jobs Wanted under International Clearing (SEDOC) provides equality of access to employment for all Community nationals. The system enables the national employment services to exchange information on jobs available and job applications with their Community counterparts. The system contains, inter alia, a profession codification and key descriptive criteria.

The provisions on free movement of workers are supplemented by a regulation giving workers the right to remain on the territory of a member state in which they have worked (1). This right is automatic and also extends to the worker's family, even after his death.

(1) Regulation (EEC) No. 1251/70 of the Commission of 29.6.70 on the Right of Workers to remain on the territory of a member state after having worked there (OJ No. L 142 of 30.6.1970).

Equality of treatment in the exercise of trade union rights was extended in 1975 to cover the holding of union office. This was done by amending Regulation 1612/68.

The principle of freedom of movement is, however, restricted by legislation taken by the Member States in the interests of public policy, security and public health. These measures were codified in Council Directive of 25.2.1964 (OJ No. 56 of 4.4.1964).

Article 69 of the ECSC Treaty forbids any restriction based on nationality upon the employment in the coal and steel industries of workers who are nationals of Member States. An exception is made as regards health and public policy. Article 69 also forbids discrimination in respect of salary and working conditions.

Article 96 of the EAEC Treaty requires the Member States to abolish all restrictions based on nationality affecting the right of nationals of any member state to take skilled employment in the field of nuclear energy, subject to the limitations resulting from the basic requirements of public policy, public security or public health.

b) Current measures

The Council has not yet come to a decision on the 1971 Commission proposal, amended in 1976, on conflicts of law on working relations within the Community. The proposal seeks in other words to determine the legislation applicable to workers who move from one Member State to another. As a general principle the place of work is the mandatory attachment criterion. In specific instances, it preserves freedom of choice in respect of the law which the parties apply to the service contract, while making it compulsory to observe certain minimum provisions on job security at the work place.

The Commission has also drafted a proposal to guarantee free movement and social protection for workers employed by a temporary employment agency, when they are working in a firm located in another Member State. The Council has not yet come to a decision on this proposal.

2. FREEDOM OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES

Legal basis : Article 52 to 66 of the EEC Treaty.

1) Achievements

Since 1963 directives have been adopted providing freedom of establishment for self-employed activities in the following areas :

- wholesale trade;
- trade, industry and craft intermediaries;
- reinsurance and reconveyance;
- processing industries;
- extractive industries;
- electricity, gas, water and sanitation;
- property transactions and services provided to firms;
- forestry;
- retail trade;
- personal services: restaurants, public houses, furnished hotels and similar premises, camping sites;
- food and drink industries;
- research (prospecting and drilling) for oil and natural gas;
- film production;
- wholesale coal trade;
- coal trade and industry intermediaries;
- banks and other financial institutions;
- trade and distribution of toxic products;
- insurance agents and brokers.

Directives introducing freedom of establishment have also been adopted for :

- direct insurance other than life assurance;
- film distribution.

There is also a directive providing freedom of establishment in agriculture on the territory of a member state for nationals of other member states who have spent two years as paid employees in agriculture in that member state.

Freedom to provide services has been introduced for :

- cinematography;
- agriculture and horticulture;
- public works tenders through the intermediary of agencies or branches;
- lawyers.

There are also directives on reciprocal recognition of doctors' and nurses' qualifications. The directive on nurses also introduces effective exercise of freedom of establishment and freedom to provide services.

2) Current measures

Following the Court of Justice verdict in the Reyners case, the Commission withdrew draft directives on freedom of establishment and freedom to provide services for a number of self-employed activities (press, transport auxiliaries, architects, doctors, dentists, medicine manufacturers, wholesale trade and trade and industry intermediaries in medicines, engineers, chemists, physicians, geologists, general nurses, prescribing opticians, midwives, veterinarians, itinerant activities, accountants, hairdressers, and tax consultants).

The Commission also withdrew a directive on reciprocal recognition of pharmacists' qualifications.

The Reyners verdicts (case 2-74 of 21.6.74) stated that Article 52 of the EEC Treaty on the right of establishment applied despite the absence, in a specific area, of the directives provided for in Articles 54(2) and 57(1) of the EEC Treaty. This verdict removes the need for directives introducing the right of establishment.

The Reyners verdict means that access to freedom of establishment and freedom to provide services is open in each Member State to the nationals of all Member States on the same conditions as to the nationals of that State.

The judgement in the van Binsbergen case (case 33-74 of 3.12.74) confirmed that the provisions on the freedom to provide services have direct effect though it was also brought out at the same time that : "taking into account the particular nature of the services to be provided, specific requirements imposed on the person providing the service cannot be considered incompatible with the Treaty when they have as their purpose the application of professional rules justified by the general good - in particular, rules relating to organization, qualifications, professional ethics, supervision and liability". Although this judgement rules out the need for new directives to make it easier to provide services, it does confirm the need for directives on the mutual recognition of diplomas.

The Commission has therefore replaced a number of proposals by proposals on the mutual recognition of diplomas. These concern architects, dentists, midwives, veterinary surgeons and hairdressers.

The Commission has also submitted draft Directives with a view to coordinating national provisions on access to self-employed work as architects, dentists, midwives, veterinary surgeons, hairdressers and in the field of life-insurance and credit establishments. There have also been proposals on the coordination of national provisions on the training of engineers.

3. SOCIAL SECURITY

Legal Foundation: EEC Treaty : Article 51.

a) Achievements

1) Social Security in General

With the aim of unifying social security schemes, the Commission sent a recommendation to the Member States on 23 July 1962 concerning the adoption of a European list of occupational diseases. This list is currently being revised. The Commission followed up this recommendation by sending another on 20 July 1966 (OJ No. 147 of 9 August 1966), this time relating to conditions governing compensation paid out to victims of occupational diseases. In this second recommendation the Commission proposed that certain conditions governing the granting of benefits be removed.

2) Social Security for Migrant Workers and their Families

All the Community regulations in this field have one thing in common. They aim to provide for migrant workers and their families :

- a maximum of protection against the risks insured against;
- equality of treatment with other workers;
- the elimination of disparities between Member States.

These principles are enshrined mainly in Regulation (EEC) No. 1408/71 of the Council of 14 June (OJ No. L 149 of 5 July 1971) which amended earlier regulations, especially Regulation No. 3 of the Council (OJ of 16 December 1958).

These Community regulations are applicable to employed migrant workers (including frontier and seasonal workers, seamen, workers residing in another Member State, workers carrying out their activities in more than one country) and their families (even if the members of the family do not reside in the same country as the worker). Family allowances are also paid to children of retired people and to orphans.

The regulations cover all the various aspects of social security (sickness and invalidity, industrial accidents, occupational diseases, unemployment, family allowances, pensions, death grants). Several other regulations include provisions relating to situations not envisaged by Regulation No. 1408/71 (1).

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- (1) - Regulation No. 1-64/EEC of 18.12.63 (OJ No. 1 of 8.1.64)
- Regulation No. 73-63/EEC of 11.7.63 (OJ No. 112 of 24.7.63)
- Regulation No. 80-65/EEC of 15.6.65 (OJ No. 111 of 25.6.65)
- Regulation No. 109/65/EEC of 30.6.65 (OJ No. 125 of 9.7.65)
- Regulation No. 47-67/EEC of 7.3.67 (OJ No. 44 of 10.3.67)
- Regulation No. 94/66 of 5.5.66 (OJ No. 129 of 16.7.66)
- Regulation No. 574/72 of 21.3.72 (OJ No. L 74 of 27.3.72)
- Regulation No. 1209/76 of 30.4.76 (OJ No. L 138 of 26.5.76)
- Regulation No. 21.11.77 (OJ No. L302 of 26.11.77)

3) Other measures in favour of migrant workers

The Commission has sent a recommendation to the Member States on the activities of social services set up for the benefit of migrant workers (OJ No. 75 of 16 August 1962). In 1975 the Council adopted a resolution on the implementation of an Action Programme in favour of Migrant Workers and their Families. The Council has also issued a Directive on the schooling of children of migrant workers (OJ No. L 199 of 6 August 1977). This Directive stipulates that Member States must make arrangements to receive these children, especially through teaching of the language of the host country. Measures must also be taken to promote the teaching of the language and culture of the country of origin of the children. On 7 July 1965 (OJ No. 137 of 27 July 1965) the Commission made a recommendation to the Member States on the housing of workers and their families moving within the Community.

b) Current measures

1) Social security in general

Since 1975 the Commission has been preparing a draft recommendation to progressively extend social security cover to categories not covered or insufficiently protected by existing schemes.

On 22 December 1976 the Commission presented a draft Directive on the abolition of differences of treatment between men and women in the field of social security and in 1978 it presented a draft recommendation on the recognition of and compensation for, occupational diseases.

2) Social Security for Migrant Workers

In 1975 the Commission brought out a draft Regulation harmonizing the system of family benefits granted to workers whose families reside in a Member State other than the one where the worker is insured.

In 1978 the Commission submitted proposals aimed at extending Community regulations on social security to self-employed migrant workers and their families (OJ No. C 14 of 18 January 1978) (1).

3) Other measures relating to Migrant Workers

On 4 November 1976 the Commission submitted to the Council a draft Directive on the Approximation of the Laws of the Member States concerning the Fight against Illegal Migration and Clandestine Employment. The proposal was presented to the Council on 3 April 1978 in a modified form as a result of Opinions delivered by the European Parliament and the Economic and Social Committee.

(1) Cf. Case 23-71 (Jansen) of 27 October 1971/ "When the legislation of a Member State on benefits for the self-employed takes into consideration, for the purpose of acquiring entitlement to benefits, insurance periods completed by the person concerned under a social security scheme for employed workers, the insurance periods completed under the social security scheme of another Member State as an employed worker must be taken into consideration in applying the legislation in question".

This Directive is designed not only to prevent, and impose penalties for, illegal migration and illegal employment, it also includes the protection of the rights of illegal migrant workers relating to the work they have carried out and the execution by employers of their obligations (especially with regard to pay, compensation for dismissal, social security contributions).

4. IMPROVEMENT OF WORKING CONDITIONS (Arts. 117 to 120, EEC)

a) Health and safety at work

1) Achievements

In 1962, the Commission issued two Recommendations to the Member States (OJ No. 80 of 31.8.62) on industrial medicine and the adoption of a European list of occupational diseases.

The first Recommendation is aimed at the compulsory organization of medical services at work for all activities, particularly in those companies with more than fifty employees and those in which the risks are above average. The purpose of the adoption of a European list of occupational diseases was to improve social security compensation and compulsory safety measures.

On 27 July 1966, the Commission followed up the first Recommendation with a second (OJ No. 151 of 17.8.66) relating to medical check-ups for employees exposed to special hazards. This was followed on 31 January 1967 with a third Recommendation (OJ No. 25 of 13.2.67) relating to the protection of young people (under 18 years of age) at work, regardless of their activity and the legislation governing it. This Recommendation covers the duration of work, minimum working age, the prohibition of certain kinds of work (such as assembly-line work) and minimum annual leave, among other things.

This aspect of social policy has hitherto been governed by several Directives :

Council Directive 67/548/EEC of 27 June 1967 (OJ No. 196 of 16.8.67) covers the approximation of Member States' laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances. Its purpose is to protect the population, particularly the workers who use such substances. This Directive has been repeatedly amended (most recently by Directive 75/409, OJ No. L 183 of 14.7.75), in order to extend its area of application to other products (solvents, detergents) and to enable the Member States to ban the sale of substances - even if they comply with these regulations - which afford excessive risks to health and safety. The Member States must justify their decisions in such cases. The Commission submitted a new proposal for an amendment on 8 September 1976.

The Directive of 28 June 1977 covers safety signs at work (OJ No. L 229 of 7.9.77).

Under the ECSC Treaty, the Mines Safety and Health Commission (which has responsibility for the whole mining industry) has submitted a large number of proposals (approximately 400) to the Member States on the safety and health of miners. These proposals have largely been adopted by the Member States, who have embodied them in their mining legislation.

2) Current measures

In 1974, the Commission proposed a Community Action Programme in the area of safety and health at work. This programme is a follow-up to the preparatory work which has been done since 1967 on the approximation of Member States' laws relating to the safety of workers and other people.

The Commission has also prepared and submitted to the Council a proposal for a Directive relating to the protection of workers whose occupations expose them to vinyl monomer chloride.

In addition, groups of experts have for several years been studying the possibility of establishing safety standards in certain specific areas, such as farm machinery, metal scaffolding, electrical tools, transportation equipment and construction sites. But no decisions have yet been adopted on the subject.

3) Failures

Two draft Recommendations, one concerning the prevention of occupational diseases and the other relating to maternity care, were not adopted.

The Council also did not adopt a draft Directive, submitted on 3 August 1964, concerning the approximation of the Member States' laws, regulations and administrative provisions relating to the construction and use of stud guns. The purpose of the draft Directive was to achieve mutual recognition of the type approvals and authorizations issued by the competent national authorities on the basis of technical checks.

b) Employees in industry

1) Achievements

On 17 February 1975, the Council adopted a Directive on approximation of laws relating to collective redundancies. The purpose of this Directive is to give employees better protection against the effects of a collective redundancy (OJ No. L 48 of 22.2.75). It stipulates that, where collective redundancies are planned, there must be consultations between the employer and the trade unions aimed at obviating, reducing or restricting the consequences. The authorities must be notified in advance of any proposed collective redundancy and given all the information necessary for them to ascertain the reasons for and effects of such a step.

A second Directive of 14 February 1977 (OJ No. L 61 of 5.3.77) deals with the approximation of the Member States' laws relating to the preservation of employees' rights in the event of the transfer of a company, place of business or part of a place of business. The purpose of the Directive is to protect the vested rights of employees, particularly with regard to employment contracts and collective agreements, in the event of mergers or takeovers.

2) Current measures and failures

No decision has yet been adopted with regard to the proposal for a Fifth Directive on the harmonization of company law, including the introduction of a system of employee participation, which was submitted to the Council in 1972.

The problems involved in the information, consultation and participation of employees were the subject of detailed discussion in a Commission "Green Paper", which formed the basis of a broad, Community-wide discussion of the question. The ESC has issued an own-initiative Opinion on this subject.

The amended version (Doc. COM(78) 139 final) of the proposal for a Regulation of 11.4.78 concerning the establishment of a European Cooperation Group stipulates that the employees in the companies concerned must be kept informed. In the event of disputes, the matter is referred to the provisions in force governing the protection of employees in the event of mergers, takeovers or amalgamations.

The Commission has also drafted a proposal for a Directive (Doc. COM(78) 141 final of 11.4.78) concerning the approximation of the Member States' laws on the protection of employees in the event of an employer's insolvency. This Directive would apply in the event of the suspension of payments by the employer to claims resulting from any employment or training obligations entered into by the employer. It provides for the Member States to set up institutions responsible for settling employees' unpaid claims which antedate the suspension of payments; such claims would have priority over those of the social security bodies.

c) Equality of treatment for male and female workers

1) Achievements

On 20 July 1960, the Commission sent the Member States a Recommendation summarizing its interpretation of Article 119 of the EEC Treaty and indicating the means of implementing the principle of equal pay for male and female workers. This Recommendation was followed by a Council Resolution of 30 December 1961 in favour of the progressive equalization of the salaries of men and women with a view to achieving total equality by 1964.

Since this objective has not been achieved, the Council adopted a Directive on 10 January 1975 (OJ No. L 45 of 19.2.75) concerning the principle of equal pay for male and female workers.

This Directive was followed on 9 February 1976 by a Directive implementing the principle of equality of treatment for men and women (OJ No. L 39 of 14.2.76) with regard to employment opportunities, promotion, training and working conditions.

The Court of Justice has since confirmed that Article 119 of the Treaty has direct and binding force;

because it affirms the principle of equal pay, Article 119 may be invoked before national legal authorities, which are obliged to apply it "particularly in cases of discrimination which originate directly in legal provisions or collective labour agreements and where male and female workers receive unequal pay for doing the same work when such work is carried out in the same private establishment or public service" (case 43-75, Defrenne of 8 April 1976 (*)).

In practice, the same wage must be paid for the same work in the same firm, irrespective of whether the work is done by a man or a woman.

2) Current measures

The Commission has submitted a proposal concerning equal treatment in social security matters (see section on social security).

3) Failures

The attempt made by the Sabena air hostess, Miss G. DEFRENNE, to ensure implementation of the principle of equality of treatment between men and women not only in respect of pay but also in respect of working conditions, (in this case in respect of compulsory early retirement at 40 for female workers, a clause not included in contracts for male workers) failed when it was brought before the Court of Justice of the European Communities (Case 149/77).

The Court of Justice deemed that Article 119 was limited to prohibiting discrimination between male and female workers on the grounds of pay.

The alignment of legislation in this field will have to await future legislation.

d) Working Hours

1) Achievements

a) Contractual rights

The two sides of industry have concluded two collective agreements on working hours in agriculture :

(*) No official English text available.

- On 6 June 1968 they adopted an agreement on the working hours of permanent paid agricultural workers. This agreement was amended by another agreement of 22 March 1978, whereby the working week was cut from 48 to 40 hours (see Europe Report No. 494 of 24 March 1978).

- On 18 May 1975 they signed an understanding on the alignment of the working hours of permanent paid workers in stock rearing (this agreement is being re-negotiated).

b) Action by the Community

The Council, for its part, addressed a recommendation to the Member States on 22 July 1975 that the principle of a 40-hour week and 4 weeks paid annual holiday be brought into effect by 31 December 1978.

2) Current measures

The Commission is currently preparing proposals on night work and reducing the constraints of shift work.

e) Vocational training

1) Achievements

The Community's vocational training policy is based on the general principles set out in Council Directive 63/262 of 2 April 1963, which focus on the training of teachers and instructors, the alignment of levels of training and the consideration to be given to the situation on the labour market when the broad lines of vocational training are mapped out.

On 8 May 1964, the Council adopted its initial programme for exchange schemes between young workers in the Community (OJ No. 78 of 22.5.64).

The Commission followed this up by presenting the Member States with a recommendation about the development of vocational guidance (OJ No. 154 of 24.8.66).

In 1971, the Council adopted the general guidelines for the preparation of a Community programme of work in the field of vocational training (OJ No. C 81 of 12.8.71). Here emphasis is placed on specific measures for aligning levels of training.

These guidelines were followed by the Council's adoption on 27 March 1973 of a programme of initial measures for the implementation of a common vocational training policy. In this programme emphasis is placed on improving the exchange of information and searching for solutions to training problems posed by certain categories of persons such as migrants and the handicapped or disabled and certain sectors of the economy (farming, transport).

These problems have since been pinpointed in specific programmes for migrant workers and handicapped persons.

In 1976, the Council adopted a second common programme for exchange schemes between young workers, as a follow-up to the work embarked on in 1965.

Following a Council Resolution of 13 December 1976 on the improvement of young persons' training, the Commission presented Member States with a recommendation on 6 July 1977 about the vocational training for young people who are unemployed or threatened by unemployment (OJ No. L 180 of 20.7.77). Here emphasis is placed on the vocational preparation of school-leavers with no qualifications whatsoever. This training should include a greater

degree of vocational guidance, the raising of the basic standard of education, practical training for a group of jobs and the possibility of attending courses during working hours for young people who are at risk of losing their jobs. Young people should receive a subsistence allowance during training periods.

The Community is also endeavouring to work out "job profiles" which would be common to the whole of the Community, i.e. to draw up Community lists of the minimum qualifications and skills required in order to be able to do a given job. So far this work has found practical expression in a recommendation of the Council to the Member States of 20 September 1970 on the use of the European vocational profile for the training of skilled workers on machine-tools.

2) Delays and Failures

As yet the Community has not enacted any binding provision on vocational training. The 1963 draft Regulation on the retraining of persons employed in agriculture came to nothing, and no action was taken on the draft action programme designed to lead to a common programme of agricultural vocational training.

5. IMPROVEMENT OF LIVING CONDITIONS

On 22 July 1975 the Council issued a decision (OJ No. L 199 of 30.7.75) on the implementation of specific anti-poverty measures. This decision provides for the funding of pilot studies and projects for fighting poverty.

6. HEALTH PROTECTION

Under Article 30 of the Euratom Treaty basic standards are to be established within the Community for the protection of the health of workers and the general public against the dangers arising from ionizing radiations. Each Member State is to lay down the appropriate provisions to ensure compliance with these basic standards and is to take the necessary measures with regard to teaching, education and vocational training (Article 33 of the Euratom Treaty).

a) Achievements

These basic standards were laid down by a Council Directive of 22 December 1958 (OJ No. 11 of 20 February 1959). They define the doses of ionizing radiation that will not be injurious over a given period, the maximum permissible exposure and contamination and the fundamental principles governing medical surveillance.

On 16 November 1960 the Commission issued a Recommendation to the Member States on radioactive effluent waste. The basic standards were revised in part by a Directive of 27 October 1966.

This partial revision was followed by a general revision under a Council Directive of 1 June 1976 (OJ No. L 187 of 12 July 1976) laying down the revised basic safety standards for the health protection of the general public and workers against dangers of ionizing radiations.

The Council also issued a Directive on 29 March 1977 on screening of the population for lead (OJ No. L 105 of 28 April 1977).

b) Current measures

In 1974 the Commission issued proposals for Directives on Community standards for drinking water (maximum permissible concentrations) and the necessary minimum concentrations of certain substances in drinking water.

It also drew up draft Recommendations on :

- health protection for persons exposed to laser beams and microwaves (1974);
- measures necessary to limit the exposure of patients to radiation for diagnostic and therapeutic purposes (1975);
- protection of the public against the hazards from radioactive substances in consumer products (1977).

In 1975 it also submitted proposals for Council Directives on biological standards for lead and air quality standards for lead.

7. SOCIAL ASPECTS OF THE AGRICULTURAL AND TRANSPORT POLICIES

a) Agriculture

1) Achievements

Apart from the agreements concluded by the social partners on working hours (see above), few steps have been taken to harmonize social provisions in agriculture.

In 1963, however, the Commission had submitted a social action programme for agriculture with two priority aims :

- the elimination of social situations not in keeping with accepted minimum social standards and of social situations that could impede the Common Agricultural Policy;
- the achievement of social equality for those working in agriculture.

No Directive harmonizing legislation has been adopted to achieve these aims. On 17 April 1972 the Council did, however, adopt three Directives for the improvement of farm structures under the Guidance Section of the EAGGF. These Directives deal with the modernization of farms, the cessation of farming, socio-economic guidance and the acquisition of farming skills (OJ No. L 96 of 23 April 1972).

The Council also issued a series of Directives to ensure equal treatment of farmers throughout the Community as regards agricultural leases, the right to transfer from one holding to another, freedom of access to cooperatives (Directives of 25 July 1967; OJ No. 190 of 10 August 1967), access to various forms of credit (Directive of 5 April 1968; OJ No. L 93 of 17 April 1968) and access to various forms of aid (Directive of 20 December 1968; OJ No. L 308 of 23 December 1968).

2) Failures

No decision has been taken for the direct realization of the aims laid down in the action programme.

b) Transport

1) Achievements

The Council Decision of 13 May 1965 (OJ No. 88 of 24 May 1965) on the harmonization of the conditions of competition in transport contains a series of social provisions on, among other things, working and rest periods in each mode of transport, the standardization of manning provisions for each mode of transport on a Community basis, the harmonization of overtime arrangements with special reference to the basic hours beyond which time worked ranks as overtime, and the introduction for road transport and inland waterway transport of a record book to enable compliance with provisions concerning working periods to be checked.

In 1969 the Council adopted a Regulation (No. 543/69 of 25 March 1969; OJ No. L 77 of 29 March 1969) on the harmonization of certain social legislation relating to road transport. This Regulation deals in particular with the minimum age for drivers, driver's mates and conductors, the composition of crews, driving periods and daily rest periods. The United Kingdom and Ireland were authorized to defer application of this Regulation to inland transport until 31 December 1977 (Commission Decision of 23 February 1977; OJ No. L 63 of 9 March 1977).

This Regulation was followed by Council Regulation No. 1191/69 of 26 June 1969 (OJ No. L 156 of 28 June 1969) on action by Member States concerning the obligations inherent in the concept of public service in transport by rail, road and inland waterway.

Two Directives were also issued concerning the occupation of road transport operators. The first, of 12 November 1974 (OJ No. L 308 of 19 November 1974) dealt with admission to the occupation of road haulage operators and road passenger transport operators. The second, of 12 December 1977 (OJ No. L 334 of 24 December 1977) was concerned with the mutual recognition of diplomas, certificates and other evidence of formal qualifications for goods haulage operators and road passenger transport operators. Furthermore, on 4 November 1976 a Directive was issued on the minimum level of training for road transport drivers.

The 1969 Regulation on the harmonization of certain social legislation relating to road transport was amended by a Regulation of 12 December 1977 (OJ No. L 334 of 24 December 1977). Among other things, this prohibited bonuses which are related to distances travelled and/or the amount of goods carried and could endanger road safety. This was followed by a Regulation introducing equipment to record driving times in road transport (tachograph).

2) Current measures and failures

Most of the provisions enacted by the Council are confined to road transport. There has not been the same social evolution in Community railway and inland waterway transport policy.

However, on 17 September 1975, the Commission submitted a proposal for a Regulation on the Harmonization of Certain Social Provisions relating to Goods Transport by Inland Waterway. It deals with crew composition, spread-overs and breaks, time at the helm and at the radar screen, daily and periodical rest periods, annual holidays and checks.

As yet no action has been taken on this proposal.

APPENDIX I

Review of Fields in which Labour Legislation has not yet been Harmonized at EEC Level

- Social security (overall system)
 - Conditions for entitlement to benefits
 - Level of benefits
 - Duration of benefits ...

- Working conditions
 - Assembly-line work
 - Hazardous work
 - Shift work

- Vocational training
(during education)

- Status of employees in multinational companies
 - Pay
 - Working conditions

- Dismissal of individual employees

- Lack of collective agreements of a binding nature at the European level (except in the agricultural sector).

APPENDIX II

SYNOPSIS OF STAGE REACHED IN ALIGNING LABOUR LEGISLATION IN THE EUROPEAN COMMUNITY

Fields	Achievements	Current measures
<p>FREE MOVEMENT OF WORKERS</p> <ul style="list-style-type: none"> - Art. 7, 48 and 49 of the EEC Treaty; - Art. 69, ECSC Treaty; - Art. 96, EAEC Treaty. 	<ul style="list-style-type: none"> - Free movement of workers; Regulation and Directive of 15.10.68; - European Communicating System for Jobs Available and Jobs Wanted under International Clearing (SEDOC); - Right to remain on the territory of a Member State after having been employed therein (1970 Regulation); - Equal treatment as regards access to union office (1975 Regulation) 	<ul style="list-style-type: none"> - Conflicts of law in connection with labour relations within the Community (1976 Proposal for a Regulation); - Free movement and social protection for workers employed by a temporary-employment agency (1972 Proposal for a Directive).

Fields	Achievements	Current measures
<p>FREEDOM OF ESTABLISHMENT AND FREEDOM TO SUPPLY SERVICES :</p> <p>Art. 52-66 FEC Treaty</p>	<p>Freedom of establishment and freedom to supply services in respect of the following activities (Directives) :</p> <ul style="list-style-type: none"> - Wholesale trade; - Intermediaries in the spheres of commerce, industry and crafts; - Re-insurance and reconveyance; - Processing industry; - Extractive industry; - Electricity, gas, water and sanitary services; - Estate agents and supply of services to businesses; - Forestry work; - Retail trade; - Staff services for restaurants, retail of drinks, furnished hotels and the like, camping; - Food and drink industry; - Prospecting and drilling for oil and natural gas; 	<p>Mutual recognition of diplomas (Proposals for Directives) :</p> <ul style="list-style-type: none"> - Architects; - Dentists; - Midwives; - Veterinary surgeons; - Hairdressers; <p>Coordination of national regulations concerning access to self-employed activities (Proposals for Directives) :</p> <ul style="list-style-type: none"> - Architects; - Dentists; - Midwives; - Veterinary surgeons; - Hairdressers; - Life-insurance; - Credit institutions.

Fields	Achievements	Current measures
FREEDOM OF ESTABLISHMENT AND FREEDOM TO SUPPLY SERVICES (cont.)	<ul style="list-style-type: none">- Production of films;- Wholesale trade in coal;- Intermediaries in the coal industry;- Banks and other financial institutions;- sale and distribution of toxic products;- Insurance agents and brokers. <p>Freedom of establishment :</p> <ul style="list-style-type: none">- Direct insurance other than life assurance;- Distribution of films;- Agriculture - nationals of other Member States having been employed in agriculture in the particular Member State for 2 years without interruption.	Proposal for a Directive on the Coordination of National Provisions relating to the Training of Engineers

Fields	Achievements	Current measures
FREEDOM OF ESTABLISHMENT AND FREEDOM TO SUPPLY SERVICES (cont.)	Freedom to supply services : - Cinematography; - Agriculture and horticulture; - Public contracts through agencies and branches; - Lawyers. Mutual recognition of diplomas : - Doctors; - Nurses.	

Fields	Achievements	Current measures
<p>SOCIAL SECURITY</p> <p>Art. 51 of the EEC Treaty</p> <p>Social Security in general</p>	<ul style="list-style-type: none"> - European list of occupational diseases (1963 Recommendation) - Conditions for compensating victims of occupational diseases (1966 Recommendation). 	<ul style="list-style-type: none"> - Social protection for persons not covered by or insufficiently covered by existing systems (1975 draft Recommendation); - Equal treatment for men and women as regards social security (1976 draft Recommendation); - Recognition of and compensation for occupational diseases (1978 draft Recommendation).
<p>SOCIAL SECURITY</p> <p>for migrant workers</p>	<ul style="list-style-type: none"> - Social security for migrant workers and their families (1971 basic Regulation + 9 Regulations issued between 1963 and 1977). 	<ul style="list-style-type: none"> - System for granting family allowances to workers whose family resides in a Member State other than the one in which he is insured (1975 draft Regulation); - Extension of Community arrangements to cover self-employed migrants and their families (1978 draft Regulation).

Fields	Achievements	Current measures
<p>SOCIAL SECURITY Art. 51 of the EEC Treaty (Cont.)</p> <p>Other measures in favour of migrant workers.</p>	<ul style="list-style-type: none">- Social Services (1962 Recommendation);- Housing (1965 Recommendation);- Action Programme to Help Migrant Workers and their Families (1973 Council Resolution);- Schooling of Migrant Workers' Children (1977 Directive).	<ul style="list-style-type: none">- Combatting of Illegal Immigration and Illegal Employment (1976 Draft Directive)

Fields	Achievements	Current measures
<p>IMPROVEMENT OF WORKING CONDITIONS</p> <p>Art. 117-120 of the EEC Treaty</p> <p>a) Health and Safety at Work.</p>	<ul style="list-style-type: none"> - Industrial Medicine (1962 Recommendation); - European List of Occupational Diseases (1962 Recommendation); - Medical Checks on Workers Exposed to Specific Risks (1967 Recommendation); - Classification, Packaging and Labelling of Dangerous Substances (1967 Directive last amended by 1975 Directive); - Safety Signs at Work (1977 Directive). 	<ul style="list-style-type: none"> - Safety, Hygiene and Protection of Health at Work (1974 Proposal for Action Programme); - Health Protection of Workers Occupationally Exposed to Vinyl Chloride Monomer (Draft Directive); - Establishment of Safety Standards in Specific Fields (Farm Machinery, Metal Scaffolding, Electric Tools, Transport Equipment, Building Sites).
<p>b) The Employee in Industry</p>	<ul style="list-style-type: none"> - Collective Redundancies (1975 Directive); - Protection of Workers in Event of Mergers or Shutdowns of Firms (1977 Directive) 	<ul style="list-style-type: none"> - Worker Participation (1972 Draft Directive); - Establishment of a European Cooperation Grouping (1978 Draft Regulation);

Fields	Achievements	Current measures
<p>IMPROVEMENT OF WORKING CONDITIONS (cont.)</p> <p>b) The Employee in Industry.</p>		<p>- Protection of Workers in Event of Employers' Insolvency (1978 Draft Directive).</p>
<p>c) Equal Treatment of Male and Female Workers.</p>	<p>- Equal Pay (1960 Recommendation);</p> <p>- Equal Pay (1975 Directive)</p> <p>- Equal Access to Employment, Vocational Guidance and Training and Working Conditions (1976 Directive)</p>	<p>- Equal Treatment in Field of Social Security (Draft Directive).</p>
<p>d) Working Hours</p>	<p>- Working Hours of Full-Time Farm Workers (Collective Agreement of 22.3.78);</p> <p>- Working Hours of Full-Time Workers Employed in Stockbreeding (1975 Collective Agreement)</p> <p>- Application of Principle of 40-Hour Work and Four Weeks' Annual Paid Leave (1975 Recommendation);</p>	<p>- Night Work and Reduction of Constraints on Shift Work (Draft Directives).</p>

Fields	Achievements	Current measures
IMPROVEMENT OF WORKING CONDITIONS (cont.) e) Vocational Training	<ul style="list-style-type: none">- General Principles of a Common Policy (1963 Decision);- 1st Common Programme for Exchange of Young Workers (1964) + 2nd Programme (1976);- Development of Vocational Guidance (1966 Recommendation);- 1973 Action Programme on Initial Measures for the Implementation of a Common Vocational Training Policy;- Vocational Preparation for Young Persons Out of Work or Threatened with Unemployment (1967 Recommendation);- European Job Profile for the Training of Skilled Machine Tool Workers (1970 Recommendation).	
IMPROVEMENT OF LIVING CONDITIONS	<ul style="list-style-type: none">- Implementation of Specific Measures for Combatting Poverty (1975 Decision).	

Fields	Achievements	Current measures
<p>HEALTH PROTECTION Art. 30 EAEC</p>	<ul style="list-style-type: none"> - Basic Standards for the Health Protection of the General Public and Workers Against the Dangers of Ionizing Radiation (1958 Directive), revised in 1976 (Directive); - Radioactive Effluents (1960 Recommendation); - Biological screening of the General Public for Lead (1977 Directive). 	<ul style="list-style-type: none"> - Community Standards for Drinking Water and Minimum Concentrations Required for Drinking Water (1974 Draft Directives); - Health Protection of Persons Exposed to Laser Beams and Microwaves (1974 Draft Recommendation); - Limits on the Exposure of Sick Persons to Radiation for Diagnostic or Therapeutic Purposes (1975 Draft Recommendation); - Protection of the General Public Against the Hazards of Radioactive Substances Contained in Consumer Products (1977 Draft Recommendation); - Biological Standards for Lead (1975 Draft Directive); - Atmospheric Quality Standards for Lead (1975 Draft Directive).

Fields	Achievements	Current measures
<p>SOCIAL ASPECTS OF POLICIES :</p> <p>a) Agriculture</p>	<ul style="list-style-type: none"> - 1963 Action Programme with Regard to Social Policy in Farming; - Collective Agreements on Working Hours (see above); - Improvement of Farm Structures, Encouragement of Farmers to Give Up Farming, Socio-Economic Guidance and Professional Skills of Persons Working in Farming (1972 Directive); - Equal Treatment of National and Foreign Farmers with Regard to Agricultural Leases, the Right to Transfer from One Holding to Another, Membership of Cooperatives and Access to Various Forms of Credit (1967 and 1968 Directives). 	
<p>b) Transport</p>	<ul style="list-style-type: none"> - Working and Rest Periods in Each Mode of Transport, Membership of Crews, Overtime (1965 Decision); 	<ul style="list-style-type: none"> - Carriage of Goods by Inland Waterway (1975 Directive).

Fields	Achievements	Current measures
<p>SOCIAL ASPECTS OF POLICIES :</p> <p>b) Transport (cont.)</p>	<ul style="list-style-type: none">- Road Transport : Working Conditions (1969 Regulation);- Member States' Obligations Inherent in the Concept of a Public Transport Service (1969 Regulation);- Admission to the Road Haulage Profession (1974 Directive);- Mutual Recognition of Road Hauliers' Qualifications (1977 Directive);- Minimum Training for Lorry Drivers (1976 Directive);- Road Transport : Working Conditions - Amendment to 1969 Regulation (1977 Regulation).	

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"The stage reached in aligning labour legislation in
the European Community"

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57 pages

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The booklet surveys the Community's work in aligning labour legislation, setting out in turn the achievements, current measures and failures.

The introduction retraces the history of the main stages of a common social policy, insofar as the aim of such a policy is the "alignment of labour legislation". The document concentrates on legislative aspects; it does not cover structural measures implemented with the help of such resources as the Social Fund or the Regional Development Fund, e.g. employment policy.

In other words, the booklet attempts to give the reader information about an important area of Community social policy which is regulated by legal instruments (Regulations, Directives, Recommendations).

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