eurofocus

COMMISSION OF THE EUROPEAN COMMUNITIES
Directorate-General Information, Communication, Culture

a newssheet
for journalists

Weekly n° 18/90 4 - 11 June 1990

SUMMARY

Mailed from: Brussels X

200 rue de la Loi • 1049 Brussels • Belgium • Tel : 235.11 11 • Telex: 21877 COMEU B

PENSIONS: Sex equality cuts both ways

Men who are made redundant are entitled to the same pension as women.

Sex equality, guaranteed by the Treaty of Rome, the European "Constitution", is a two-way street. So far this basic principle of the European Community has always been used by women who have been discriminated against because of their sex to secure recognition of their rights. However, on May 17, and for the first time in the Community's history, the EC Court of Justice held that a man had been wronged because ... he was not a woman.

The man, Douglas Harvey Barber, was made redundant at the age of 52 by his employer, the Guardian Royal Exchange Assurance Group, at the end of 1980. Mr Barber's employment contract provided that in the event of redundancy he was entitled to an immediate pension at the age of 55, rather than 62, the normal pensionable age. Mr Barber felt he was entitled to his pension at 52, rather than having to wait another three years.

The fact is that under the Guardian scheme the normal pensionable age for women is 57, but it is reduced to 50 in the event of redundancy. Mr Barber saw himself as a victim of discrimination because of his sex. He therefore began proceedings in the industrial tribunal to secure for himself the same rights as his female colleagues. His claim was twice turned down but, far from becoming discouraged, Mr Barber turned to the Court of Appeal. The Court decided to seek a ruling from the EC Court of Justice on the question of whether the principle of equal pay for men and women, embodied in the Treaty of Rome, applied in Mr Barber's case.

The Court of Justice answered "yes" virtually all down the line. It held that a pension paid under a contracted-out private occupational scheme amounts to "pay" and therefore carries with it the obligation to treat men and women alike. Mr Barber, according to the Court, was entitled to an immediate pension at the time of being made redundant, and on the same terms as his female colleagues, even though the state pension scheme sets the age retirement age on the basis of sex - in the U.K. it is 65 years for men and 60 for women.

Although Mr Barber had died meanwhile, his widow continued the proceedings. The British courts must now grant her the advantages sought by her late husband. But this is not the end of the matter. The Court of Justice has held that all Europeans who

(Contd.)

(Contd.)

have similar claims should obtain redress through their own courts. The Community Court of course invites judges in the Member States to ensure equality of treatment for all those who find themselves in future in the same situation as Mr Barber.

Even so, the Community's judges have sought to avoid putting contracted-out schemes at financial risk. They have ruled that retired males who have made no claim to date cannot now begin legal proceedings in order to obtain the pension they could have had at the age at which women, affiliated to the same scheme, are entitled.

And what of retired males entitled to a pension from the state scheme? According to the European Commission's experts, the European Court's judgement of May 17 confers no additional rights on them, for their pensions are not in the same category as Mr Barber's from a legal point of view. They can nevertheless console themselves with the thought that the European Court's ruling is likely to bring about changes in pension schemes sooner or later. The application by private and company pension schemes of the principle of the equality of the sexes will inevitably incite the state schemes to treat men and women in the same way.

WORK: Health and safety at work take two steps forward

Better protection for workers manhandling loads and using VDUs.

Two very different kinds of jobs will be covered by minimum health and safety requirements throughout the 12-nation European Community from 31 December 1992. They are the manual handling of loads and work with visual display units (VDUs). The EC Council of Ministers adopted two Community directives - European "laws" - laying down the minimum standards which companies must meet for these two types of work, one of which affects the back, the other the eyes.

These two directives are the last of a series of five specific "European laws" which guarantee employees a minimum of protection for their health and safety at work in the 1992 single market. The other three directives, adopted last year, deal with the workplace - factories, offices and warehouses; the machinery and appliances used at work and the individual protective equipment placed at the disposal of employees.

THE FIGHT AGAINST CANCER: Down with tar in cigarettes ...
... but softly, softly when it comes to advertisements on hoardings and in the press.

To reduce the incidence of cancer in the European Community the Twelve are ready to "depollute" cigarettes a little; to spend some money to improve prevention and information, and to spread knowledge regarding the detection and treatment of cancer throughout the 12-nation Community. But the Twelve have been unable to agree on limiting tobacco advertising on hoardings and in the press. The May 17 meeting of the Community's health ministers thus showed that while there is growing acceptance by the public of the equation "tobacco = cancer", the Community's political leaders have been unable to draw its consequences.

The ministers confirmed their agreement of November 1988 by adopting a "European law" limiting the maximum tar content of cigarettes put on sale in the Community to 15 mg per cigarette - the level recommended by the World Health Organization - by 31 December 1992 and to 12 mg by 31 December 1997. The deadline for Greece is the year 2000 as regards its own cigarettes, given their special characteristics.

This "law", which will reduce the harmful nature of cigarettes, is one of the 75 measures that make up the first action plan under the "Europe against cancer" programme drawn up by the Twelve in 1988. This plan, which ran from 1987 through 1989, was the first in an ambitious programme to reduce the projected number of deaths from cancer by 15% by the year 2000. If it succeeds, "only" 850,000 Europeans will die of cancer that year, instead of one million.

The first action plan, whose achievements were assessed by the European Commission in early May, contained two kinds of measures: (1) proposals for "European laws" and (2) action aimed at stimulating research and information exchanges, so as to provide both the general public and GPs all the data needed for improved prevention of the disease, its detection in good time and its treatment. These activities have been financed from the EC budget to the tune of ECU 9mn.* a year on average.

They have made it possible notably to give wide publicity to the European Code against cancer, which sets out the ten rules to be followed in order to reduce the risk of cancer as much as possible. The first of these rules is "Do not smoke. Smokers,

(Contd.)

(Contd.)

stop as quickly as possible and do not smoke in the presence of others." It is hardly surprising that the European Commission should have backed the numerous anti-smoking campaigns organized in the EC, especially during 1989, the European Cancer Information Year.

These activities seem to have borne fruit. At the beginning of 1990 some 67% of Europeans claimed to be non-smokers, as against 62% in 1987. The number of non-smokers increased therefore by at least 4% in seven EC countries during this period. However, it fell in Belgium, Denmark and Ireland, while in Germany and Italy the increase in the percentage of non-smokers was minimal.

The Twelve have decided to continue the information and training campaigns; they adopted the second action plan on May 17. It will run from 1990 to 1994 and will have a somewhat larger budget than the first: ECU 50mn. in all, with the possibility of increasing it by ECU 5mn. from 1993.

Like the first, the second action plan includes proposals for European legislation. In this connection the Twelve have already agreed to a number of measures: the labelling of tobacco products, a ban on smoking in public places, protection against various cancer-producing substances and, on May 17, a reduction in the maximum tar content of cigarettes.

But the Twelve are divided on more sensitive issues, including the taxation of tobacco products and restrictions on tobacco advertisements on hoardings and in the press. A Commission proposal for a "European law" on this last issue was discussed by the Community's health ministers on May 17, but it was found too restrictive by Britain and Germany. However, six countries - Belgium, France, Italy, Luxembourg, Portugal and Spain - favour a total ban on this type of advertising. Such a ban is already in force in Italy and Portugal, while France and Spain have plans to follow suit.

* 1 ECU = UK£0.74 or IR£0.76

ENVIRONMENT: The EC to help Central and Eastern Europe turn green again

An emergency action which will make the entire continent a somewhat cleaner place.

Pollution in Central and Eastern Europe affects the West also. The winds carry toxic smoke and the waste dumped into the rivers of Poland, the German Democratic Republic or Czechoslovakia end up in the Baltic or the North Sea. For the European Commission, entrusted with the task of coordinating Western aid to the new democracies of Central and Eastern Europe, environmental protection is a must. The economic development of these countries, and the success of their reform programmes, depend on it. But the "cleanliness" of the 12-nation Community is also at stake.

To help Poland and Hungary, the two countries that have progressed furthest along the road to reform, deal with the most pressing environmental problems as a matter of urgency, the European Community decided in mid-May to provide ECU 49mn.* for an action programme. This represents one-third of all the aid to these two countries released so far by the 12-nation European Community for 1990 and 1991.

The funds will allow the two countries to improve their systems for monitoring the quality of air and water, reduce emissions of pollutants and improve waste disposal. They will also contribute to the establishment of a regional centre for the environment in Budapest. The Centre will collect and diffuse information of an environmental nature of interest to this part of Europe.

In any case, there is a lot to be done. In Poland one river out of three is too polluted for its waters to be used in factories or central heating systems. Most Poles use coal in fact to heat themselves. But this only adds to the harmful emissions from industry, a large-scale user of lignite, or brown coal. It is hardly surprising, under these conditions, that some experts consider Poland to be the most polluted country in Europe. They also believe that environmental degradation is resulting in early deaths among the Poles.

The Hungarian situation does not seem to be much better. Nearly 45% of the population lives in regions where atmospheric pollution exceeds international standards and results in breathing problems, anaemia, lung tumours and bone abnormalities among children.

The other countries of Central and Eastern Europe will probably not be outdone. The environment is well up on their list of projects for which they are seeking Community aid.

* 1 ECU = UK£0.74 or UK£0.76

INFLATION: Sharp rise in April

0.9% for the 12-nation Community.

Prices literally took off in April, when the consumer price index rose by 0.9% for the European Community as a whole. The rise, which was markedly higher than in previous months, was due mainly to the sharp increases recorded in Britain, Greece and Portugal, according to Eurostat, the Community's statistical office.

The price index rose by 3% in Britain in April, the sharpest monthly increase in 10 years. The introduction of the poll tax contributed to the rise, as did the higher taxes on tobacco, alcohol and petrol, as well as the increase in rates and rents. As for Greece and Portugal, they recorded increases of 1.7 and 1.2% respectively.

The rate of inflation for the Community as a whole stood at 5.4% in April, on a 12-month basis, as compared to 4.7% in the United States and 2.4% in Japan.

ENERGY: ECU 350mn.* to stimulate innovation

The Twelve adopt the technological programme THERMIE.

Companies and research centres in the 12-nation European Community will receive ECU 350mn. from the Community budget to help them develop or introduce new technologies in the field of energy, other than nuclear, between now and the end of 1992. The Community's energy ministers reached agreement on the technological programme THERMIE on May 17. It will run until 1994 and cover energy conservation, new forms of energy - wind, geothermal, solar and biomass - and new uses for coal, oil and natural gas.

* 1 ECU = UK£0.74 or IR£0.76

TAXES: Yes, but within reason

The Community's judges come to the help of a German-Luxembourg taxpayer.

The law is severe - especially when it compels us to pay taxes - but it's the law. But what are you to make of a law which compels a taxpayer to pay more than he in fact owes the taxman? The victim of just such a law in Luxembourg in 1983, a German citizen, Klaus Biehl, was finally proved right by the European Community Court of Justice on ... 8 May 1990.

After having worked 10 years in Luxembourg as an employee, Mr Biehl returned home to Germany at the beginning of November 1983. During the ten months he worked in Luxembourg that year, Mr Biehl paid income tax as his salary was paid to him less an amount transferred to the taxpayer by his employer. But these sums represented only an advance. When the tax authorities in Luxembourg calculated the sum actually due to them for 1983, it turned out that Mr Biehl had paid more than was required.

Klaus Biehl thereupon asked that the excess be refunded to him. This is something the tax authorities do as a matter of course - in the case of taxpayers who have been resident in Luxembourg during the full year, whatever their nationality. But they turned down Mr Biehl's request, because under a piece of national legislation the tax authorities are allowed to keep any excess sums paid to them by a taxpayer who is resident outside Luxembourg for a part of the year in question.

Mr Biehl appealed to the court in Luxembourg. He claimed that because of his nationality he had been subjected to discriminatory treatment, although this is contrary to the Treaty of Rome, the European "Constitution". As it had doubts, the Luxembourg Council of State sought the opinion of the EC Court of Justice.

The European Court held that the law in question effectively discriminates against citizens of other Community countries given that in most cases taxpayers having resided in another country during part of the year are nationals of a country other than Luxembourg. Mr Biehl can now expect the Court in Luxembourg to set the matter right.

CONSUMERS: A provisional green light for cheaper cars

A European judge authorizes an intermediary to make cross-border purchases.

The customers of Ecosystem, a French company which buys cars in Belgium and Luxembourg for resale in France, can take heart. The president of the European Community's Court of First Instance confirmed on May 21 the soundness of the decision taken on March 26 by the European Commission. The latter had given the French car manufacturer, Peugeot, 15 days in which to rescind an order to its dealers in Belgium and Luxembourg, banning them from supplying Ecosystem.

Peugeot had been far from happy to see Ecosystem get around its system of exclusive dealer networks for each country and offer its cars in France at prices below those charged by the company's sales network in France. It therefore sent a circular to its dealers in Belgium and Luxembourg in March 1989, ordering them to stop selling to Ecosystem. The latter complained to the European Commission; it argued that Peugeot had violated the European Community's competition rules.

Without taking sides on the underlying issues, the Commission granted Ecosystem the provisional measures it was seeking. It authorized this small company to continue its "European" activity, pending a final decision. The Commission has therefore obliged Peugeot, under threat of a fine in case of refusal, to allow its dealers in Belgium and Luxembourg to supply Ecosystem the same quantities as in 1988 - some 1,200 cars a year, with a maximum of 150 a month. This will enable Ecosystem to remain in business and to meet the demands of its customers, given that the company buys outside France only in order to fill the orders placed by them.

The president of the Court of First Instance proved the Commission to have been right. He underlined the fact that for Ecosystem the Peugeots represented more than 34% of the cars imported into France, while for Peugeot itself the cars sold by Ecosystem amounted to no more than 0.24% of car registrations in France. It remains to be seen what the Commission will decide once it has brought the matter through; it had in fact authorized in 1985 en bloc exclusive distribution arrangements for cars under certain conditions.