

a newssheet for journalists

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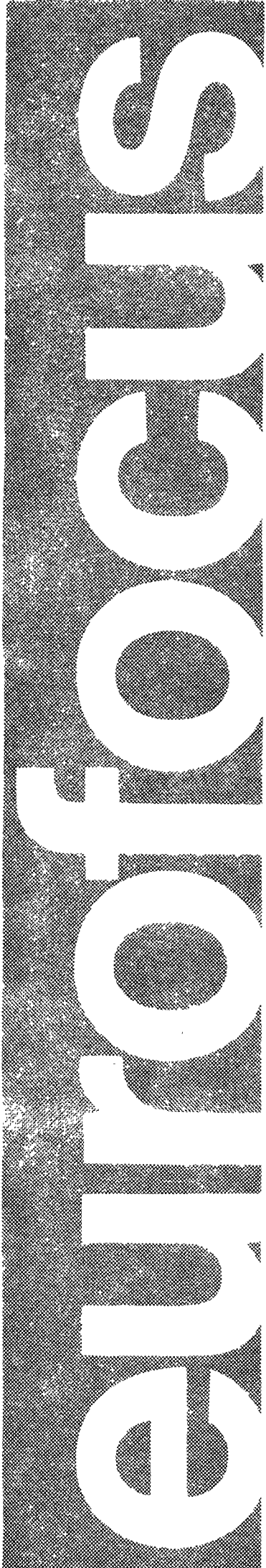
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EUROFOCUS will be back in September, after its usual summer break. Happy holidays!

Mailed from: Brussels X



SEX EQUALITY: Nationalized companies must obey "European laws"

The EC Court of Justice rules in favour of British pensioners.

Six women employed by British Gas, who were required by the company to retire at the age of 60 - that is, five years before their male colleagues - have won their case for damages in the European Community Court of Justice.

Mrs Foster and five of her colleagues were automatically retired between December 1985 and July 1986 because they had reached the retirement age for women set by U.K. law. All six wanted to continue working until the age of 65, the retirement age for men. When British Gas refused to keep them on, they applied to the British courts for damages, invoking a 1976 European Community directive - or "European law" - which guarantees men and women equal treatment in the event of dismissal.

Unfortunately for the six women, the directive in question has never been transposed into British law. The company therefore followed national law in the matter of retirement age, which differs from Community law.

To find out whether Mrs Foster and her colleagues had the right to ask British Gas to apply a directive not yet transposed into national law, the House of Lords turned to the EC Court of Justice. The latter had no doubts on the matter. At the time of their forcible retirement, British Gas was a nationalized company, under the control of the British government and enjoying a monopoly for the distribution of gas throughout the U.K. As such it was a government body.

The European Court has long been of the view that citizens of the EC countries have the right to demand of government bodies that they apply Community legislation even if the country in question has not transposed this legislation into national law. It takes the view that a Member State cannot refuse one of its citizens a right guaranteed by Community law, under the pretext that it has been at fault itself. The Court only asks that the directive be unconditional and rather precise. This was the case as regards the EC directive in question; hence the ruling in favour of the six former British Gas employees.

TELEVISION: A completely new look for 1995

BBC, BSB team up with other EC television, electronic companies in Vision 1250.

The face of European television will have changed entirely in another five years' time. Television screens will be wider, with a 16:9 format as compared to the present 4:3. The sets will double as personal computers, being much more powerful and technically superior to today's PCs, and provide a variety of services if required. At the same time, the new sets will offer digital-quality sound and high definition pictures, thanks to a line density twice that of today's sets - 1,250 lines instead of 625.

This is why the European Economic Interest Grouping (EEIG) set up to promote the new high definition television (HDTV) has chosen to call itself Vision 1250. The grouping, which was launched in Strasbourg on July 11, is made up of 14 companies and public bodies, including the BBC, Thames Television, British Satellite Broadcasting (BSB), Germany's BHD TV, the Italian television company RAI, the Dutch electronics group Philips and France's Telecom.

Vision 1250 was set up on the initiative of the European Commission and will receive ECU 12.7mn.* from EC funds in 1991. It will enable the European Community's television companies to cover the 1992 Olympic Games, both the summer games in Barcelona and the winter games in Albertville, as well as the Seville world fair, in high definition television.

* 1 ECU = UK£0.71 or IR£0.77.

ENVIRONMENT: The EC provides ECU 2.6mn. to preserve and restore 26 examples of the Community's architectural heritage.

Two Georgian style terraces in Glasgow, the buildings around Ely Cathedral and a house from 1890 in New Tipperary Town are among the 26 buildings and monuments from throughout the European Community whose conservation will be ensured, thanks to the ECU 2.6mn.* provided by the Community. The 26 were selected from among the 1,138 projects submitted this year in the context of the Community's annual action to preserve its architectural heritage. Given the limited funds at its disposal, the Commission

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cannot hope to save all the historical buildings in need of restoration in the 12-nation Community. But it hopes to attract the attention of Europeans to the oft-forgotten beauties of their towns and villages.

The impact of the Community's action extends well beyond the buildings to be restored; it is to be felt in a better quality of life and the creation of new work possibilities, including the restoration of buildings and the development of tourism. Next year the Commission will focus on saving edifices or sites linked to industry, agriculture and the crafts.

CONSUMERS: Coming shortly - an exceptionally wide choice in non-life insurance

The European Commission proposes a single market for this sector also.

From 1 January 1993 Europeans throughout the 12-nation Community will be able to pick and choose from among the entire range of insurance products available anywhere in the Community, to the exclusion of life insurance - provided the EC Council of Ministers adopts in time the proposal it received from the European Commission in mid-July.

At present an insurance company wanting to open a branch or subsidiary in another Community country, or simply to offer its services, must obtain a special authorization. But the authorities of the host country often impose conditions which are not easy to accept - such as the obligation to invest in that country or use its currency. As a result, forms of insurance available in certain Community countries are inaccessible to those living elsewhere in the EC.

The European Commission has therefore proposed that insurance companies remain subject to the control of the authorities in their country of origin, but with all 12 EC countries implementing common rules for the protection of consumers. This would mean that the insurance policy would be governed by the legislation in force in the country of the policy holder. The insurance companies would have to meet certain financial requirements, however. The national authorities could intervene should a company engage in doubtful practices and could ban certain types of insurance, such as insurance against kidnapping.

According to the Commission Vice-President Sir Leon Brittan, who launched the proposal, its adoption would mean cheaper insurance policies on the whole. The Commission plans to submit a similar proposal, covering life insurance, before the end of the year.

CONSUMERS: No more unfair clauses in contracts

The European Commission proposes EC legislation aimed at drawing up a blacklist of clauses which give sellers the upper hand.

Suppose you are seriously injured - or even killed - by an appliance you have just bought. Don't imagine for a moment that you - or your heirs - are entitled to compensation, because the seller is likely to have included in the sales contract (generally in tiny letters) a clause severely limiting, even denying, responsibility under the circumstances in question. Or suppose a contract has not been carried out, through no fault of yours. Hard luck; once again the seller refuses to accept any liability. And what if the appliance you have bought fails to work? Don't be too surprised if your guarantee proves worthless; your supplier has taken good care to protect himself against claims such as yours.

There is no shortage of such examples. A multiplicity of traps and pit-falls awaits the customer, against which the most experienced are often defenceless. And this despite the fact that in several European Community countries the law provides for the annulment of unfair clauses. The fact is that the provisions of the law vary from country to country, even sharply in some cases. In Germany, for example, the law covers only standard contracts, while in Britain, France, Ireland and Denmark it covers mixed contracts and, in certain cases, tailor-made contracts also. In three Member States - Italy, Greece and Belgium - the matter is not covered by law. However, all of them recognize the concept of abuse in the context of contractual relations.

At the initiative of the European Commissioner for consumer affairs, Karel Van Miert, the European Commission has undertaken the task of providing consumers a minimum of protection, even while leaving it to each Member State to adopt stricter provisions if it so desires. To this end it has adopted a directive aimed at drawing up a list of clauses held to be unfair and which cannot, therefore, be included in contracts between suppliers and consumers, in their capacity of buyers of goods and services.

The Commission's blacklist includes clauses which limit or even exclude the seller's responsibility should the purchaser suffer physical injury or even die; allow suppliers to change the terms of the contract without the buyer's agreement; encourage uncertainty over price, to the detriment of the buyer; make it possible for suppliers to escape responsibility if they do not carry out their part of the contract; limit or even eliminate altogether the guarantee period and shift the burden of proof from the seller to the buyer. The Commission wants such clauses to be regarded as null and void throughout the Community.

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The most important aspect of the projected directive (which must be embodied in the national legislation of each Member State by 31 December 1992 at the latest) is that it regards as unfair any clause which results in a strong imbalance in the rights and obligations of the various parties to the contract. It could do this by tipping the balance in favour of the seller, leading to results very different from those legitimately foreseen or misleading the buyer. The proposed blacklist is far from exhaustive, however, the stated aim of the Commission's proposal being to put buyers and sellers on an equal footing, by preventing the latter from using their economic strength to deprive the former of the possibility of defending themselves.

The proposed directive pays particular attention to timeshare contracts. The timeshare market has given rise to a high level of abuse, as is evident from the growing number of complaints. In order to protect consumers Mr Karel Van Miert has proposed that the buyer be allowed a week in which to reconsider his decision and unilaterally cancel the timeshare contract he has entered into. The Commission envisages more broad-based legislation to deal with the totality of problems posed by this new sector of the property market.

SOCIAL: Allowances, even when additional, must be border-free

Payment of social security benefits cannot be made subject to the beneficiary's place of residence.

The additional allowances granted in France to certain categories of retired persons, by the National Solidarity Fund, is the concern of the country's social security system, and cannot therefore be distinguished from pensions, of which they are an incidental advantage as of right. For this reason they must be paid in full to the person entitled to the pension in question, regardless of where in the European Community they reside.

The European Community Court of Justice has once again confirmed the right of all workers, and of all retired people, to settle where they like in the Community, without being obliged to give up their rights in matters of social security.

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The European Commission had asked the French government that all those entitled to a pension who were also in receipt of the additional allowance from the National Solidarity Fund continue to receive it when they took up residence in another EC country. The government had objected to this, on the grounds that the allowance was added to the pension in order to guarantee its beneficiaries a minimum income, calculated on the basis of living costs in France itself, and not in a third country.

The Community's judges rejected this argument. They held that the refusal to grant or continue the allowance in question amounted to a breach of the obligations regarding the implementation of the social security system in the case of workers, employees and members of their families who move around within the Community.

Nothing could be clearer

ENVIRONMENT: The EC comes to the help of Eastern Europe

Environment ministers from the Community and Comecon hold their first joint meeting.

One third of Poland's rivers are so polluted that their water cannot be used even for industrial purposes, while exhaust emissions from East Germany's Trabant pollute the air 100 times more than any car made in the West. To clean up the majority of lakes in Eastern and Central Europe it would be necessary to scrub them thoroughly, after first draining them completely. Damage to the environment in Czechoslovakia is so widespread that its citizens can expect to live seven years less on average than people in the European Community.

This bleak picture was painted, not by Western capitalists but the environment ministers of Eastern and Central Europe. At their first, historic meeting with their European Community colleagues, they put the blame on power stations which spew sulphur into the atmosphere, fertilizers and pesticides which make it impossible to drink the water and waste stored in the open air, often without any protection. To this catalogue of woes should be added the consequences of the nuclear accident at Chernobyl and the problem posed by the 22 nuclear power stations of Soviet design operating in the East.

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The East European participants at the Dublin meeting launched a veritable SOS. The Hungarian and Czech ministers even went so far as to ask the European Commission to carry out a feasibility study of the controversial project to build a dam across the Danube. Hungary in fact has invited all the countries of the Danube basin to a conference on the environment during the second half of October, in order to draw up a list of the region's economic problems, set the necessary objectives and a timetable for reaching them.

The level of environmental damage, the result of crazy ecological policies carried out blindly by the Communist governments of Eastern and Central Europe, is difficult to imagine. "I am horrified", the European Environment Commissioner, Carlo Ripa di Meana, declared. "I did not expect to find half of Europe as devastated as this. It's a veritable ecological disaster, which is beginning to contaminate the other half." Hence the need for the Community to intervene - in its own interest as much as from solidarity with East Europeans.

The Twelve have declared themselves ready to do just this, even though they must be pushed into loosening their purse strings. They have earmarked ECU 49mn.* for the moment for environmental programmes in Poland and Hungary. Mr Ripa di Meana expressed the hope that another ECU 60mn. could be made available for the GDR, Czechoslovakia, Bulgaria, Yugoslavia and, eventually, Romania.

Even if the means appear inadequate, the East the Central European countries have taken a positive attitude, with the exception of Romania, which not only refused the Community's invitation but also failed to provide any but the most fragmentary information on the state of its environment. The governments now in power recognized in Dublin that they would have to assume much of the financial burden themselves, in order to make good the mistakes of their predecessors.

* 1 ECU = UK£0.71 or IR£0.77.

PROTECTION OF PRIVACY: Towards Community-wide rules for 1992?

The European Commission wants to make sure electronically stored personal data is properly protected.

Computers make it easier not only to engage in instant communication but also to track down criminals and save human lives. But they also offer unscrupulous officials an additional opportunity to misuse their powers, and criminals the possibility of nosing (electronically) into other people's business. In the run-up to 1992 the combination of new technologies and vanishing European frontiers will make life simpler for both individuals and companies. But the European Commission wants to make sure that this development does not put at risk the individual's right to privacy. Hence its proposal to the 12 Member States in mid-July for a series of measures aimed at providing a high level of protection for personal data.

National legislation already provides protection in seven of the 12 European Community countries. The seven are Britain, Denmark, France, Germany, Ireland, Luxembourg and the Netherlands. But the laws vary considerably and not all of them take into account likely technological developments in the coming years.

The Commission has therefore proposed a Community law aimed at protecting personal data held in an electronic form to begin with. The proposal envisages special protection for sensitive data concerning racial origin, political opinions, religious beliefs, trade union membership, health and sexual behaviour.

The Commission has proposed a second piece of Community legislation covering the telecommunications sector. It would allow telephone subscribers, for example, to ensure that calls from their number cannot be traced to them. It would also require telephone companies to destroy their records of calls made by subscribers once the period for questioning a bill had expired.

The Commission has also asked the Twelve to provide effective security for information held in an electronic form, so that unauthorized persons cannot gain access to this information.

The Commission has not overlooked information held by government bodies and Community institutions, nor that exported outside the frontiers of the 12-nation Community. Even so, the measures it has asked the Twelve to adopt guarantee the free circulation of electronic information throughout the Community.