

European Communities

EUROPEAN PARLIAMENT

Working Documents

1984-1985

2 April 1984

DOCUMENT 1-66/84 *A*

Report

drawn up on behalf of the Committee on Social Affairs
and Employment

on the harmonization of social legislation in the
Member States

Part A: Motion for a resolution

Rapporteur: Mr C. CALVEZ

PE 87.500/fin. *A*

Or. De.

At its sitting of 21 January 1982, the European Parliament referred the following motions for resolutions, pursuant to Rule 47 of the Rules of Procedure, to the Committee on Social Affairs and Employment as the committee responsible and to the Legal Affairs Committee for an opinion:

1. Doc. 1-413/79/rev. - tabled by Mr Pininfarina and Mr Bangemann with request for an early vote pursuant to Rule 47(5) of the Rules of Procedure to wind up the debate on Oral Question No. 1-384/79 - on harmonization of the policies of the Member States in the field of social legislation
Forwarded: 12.1.1983
2. Doc. 1-423/79/rev. - tabled by Mr Peters and others with request for an early vote pursuant to Rule 47(5) of the Rules of Procedure to wind up the debate on Oral Question Doc. 1-384/79 - on the harmonization of Member States' policies in the field of social legislation
Forwarded: 12.1.1983
3. Doc. 1-770/81 - tabled by Mr Vandemeulebroucke pursuant to Rule 47 of the Rules of Procedure - on sickness insurance difficulties in German-speaking East Belgium
Forwarded: 19.11.1981
4. Doc. 1-917/81 - tabled by Mr Donnez pursuant to Rule 47 of the Rules of Procedure - on harmonization of the provisions governing compensation for industrial accidents and recognition of medical certificates in the Community
Forwarded: 21.1.1982
Committee asked for an opinion: Legal Affairs Committee
5. Doc. 1-1107/82 - tabled by Mr Pearce pursuant to Rule 47 of the Rules of Procedure - on harmonization of social security contributions in the Member States
Forwarded: 12.1.1983

At its meeting of 18/19 April 1983, the Committee on Social Affairs and Employment decided to draw up a report on the harmonization of social legislation in the Member States and appointed Mr Calvez rapporteur.

The committee considered the draft report at its meetings of 21 November 1983 and 19/20 March 1984. At the latter meeting it adopted the motion for a resolution as a whole unanimously

The following took part in the vote: Mr Frischmann, acting chairman; Mr Calvez, rapporteur; Mr Alexiadis (substitute - non-attached), Mr Bournias (deputizing for Mr Ghergo), Mr Chanterie, Mr MacCartin, Mrs Maij-Weggen, Mr van Minnen, Mr Prag, Mr Ouzounidis (deputizing for Mr Dido'), Mrs Salisch, Mr Tuckman and Mr Wawrzik (deputizing for Mr Boyes).

The opinion of the Legal Affairs Committee is attached.

The report was tabled in its final version on 23 March 1984.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Committee on Social Affairs and Employment hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

A

MOTION FOR A RESOLUTION

on the harmonization of social legislation in the Member States.

The European Parliament,

- having regard to the motion for a resolution by Mr Pininfarina and others to wind up the debate on the oral question (Doc. 1-384/79) on harmonization of the policies of the Member States in the field of social legislation (Doc. 1-413/79/rev.),
 - having regard to the motion for a resolution by Mr Peters and others to wind up the debate on the oral question (Doc. 1-384/79) on the harmonization of Member States' policies in the field of social legislation (Doc. 1-423/79/rev.),
 - having regard to the motion for a resolution by Mr Vandemeulebroucke on sickness insurance difficulties in German-speaking East Belgium (Doc. 1-770/81),
 - having regard to the motion for a resolution by Mr Donnez on harmonization of the provisions governing compensation for industrial accidents and recognition of medical certificates in the Community (Doc. 1-917/81),
 - having regard to the motion for a resolution by Mr Pearce on harmonization of social security contributions in the Member States (Doc. 1-1107/82),
 - having regard to the report of the Committee on Social Affairs and Employment and the opinion of the Legal Affairs Committee (Doc. 1-66/84),
- A. whereas, pursuant to Article 3, subparagraph (h), of the Treaty establishing the European Economic Community, the activities of the Community shall include, as provided in that Treaty and in accordance with the timetable set out therein, the approximation of the laws of Member States to the extent required for the proper functioning of the common market,

- B. whereas one of the tasks of the Community is to improve employment opportunities for workers and to contribute to the raising of their standard of living,
- C. whereas, during the preparations for the Treaty of Rome, the social issues formed the subject of a preliminary report by the International Labour Office (ILO) entitled 'Report on the social aspects of European Economic cooperation'¹; whereas this report stated that a unified social policy was not essential for the establishment of a common market and that the coordination of economic and social policies within the Community would serve a more useful purpose,
- D. whereas the social provisions of the Treaty establishing the European Economic Community are piecemeal and fragmentary in nature compared with those governing competition and the establishment of the common market, and whereas the measures available to the Community in the social sphere are much more limited than those it can apply in the economic field and under the policies on specific sectors,
- E. whereas there are certain fields in which the Community institutions have their own powers, as in the case of freedom of movement, social security for migrant workers, the European Social Fund and vocational training,
- F. whereas, on the other hand, the 'social sovereignty' of the Member States remains intact as regards wages and labour law in general, with each State retaining the right to have its own policy in this field,
- G. whereas, however, the two main thrusts of social development in the Treaty of Rome are firstly the need to ensure a high level of employment and secondly the concept of harmonizing legislation and, more generally, social policies, in order to bring about an improvement in living and working conditions,
- H. whereas the Treaty of Rome confers on the Commission the task of promoting close cooperation between Member States in certain clearly defined matters in the social field,

¹ ILO 'Studies and documents' series, 1956.

- I. having regard to the decision of the European summit in The Hague of December 1969 aimed at the creation of an economic and monetary union, for which a Community social policy was essential, and to the declaration issued by the European summit in Paris in October 1972, emphasizing that the governments of the Member States attach as much importance to vigorous action in the social field as to the achievement of the economic and monetary union and deeming it essential to ensure the increasing involvement of labour and management in the economic and social decisions of the Community,
- J. having regard to the Council Resolution of 21 January 1974¹ containing a 'social action programme' - a social policy charter for the Member States - which is to be implemented in accordance with the provisions laid down in the Treaty of Rome including, if need be, those of Article 235 of that Treaty which allows for the extension of Community powers should this prove necessary,
- K. having regard to the Solemn Declaration on European Union, adopted at the European summit in Stuttgart on 19 June 1983, which refers to the high priority to be accorded to social progress by the development of a European social policy,
- L. recognizing the extent and complexity of the task involved in laying the basis for harmonization, the aim of which is to provide a more stable foundation for the economic integration of Member States, and recognizing in particular that the concept of harmonization is persistently misunderstood and confused with the idea of unification;
1. Points out that in Title III of Part Three of the Treaty establishing the European Economic Community concerning social provisions, reference is made in Article 117 to the harmonization of living and working conditions while their improvement is being maintained, and the belief expressed that such a development, which will ensue from the functioning of the common market, will favour the harmonization of social systems through the approximation of provisions laid down by law, regulation or administrative action;

¹ OJ No. C 13, 12.2.1974

2. Emphasizes that, pursuant to Article 118 of the Treaty establishing the European Economic Community, the Commission has the task of promoting close cooperation between Member States in the social field, particularly in matters relating to:
 - labour law and working conditions,
 - basic and advanced vocational training,
 - social security,
 - prevention of occupational accidents and diseases,
 - occupational hygiene,
 - the right of association, and collective bargaining between employers and workers;
3. Notes that owing to social, cultural and historical factors and factors resulting from diverse economic structures in each of the Community countries, the differences between social legislation in the Member States are often very pronounced; another significant factor in this situation is that social policies are determined not only by legislative decisions taken by public authorities but also by collective bargaining between employers and workers;
4. Considers, however, that defence of the European economy and securing equal working conditions for undertakings and workers in the Community are the two objectives which make it essential to take steps towards social harmonization;
5. Points out that the differences in the cost burdens of social benefits between countries cannot be seen in themselves as a factor standing genuinely in the way of the liberalization of trade, the reason being that the distorting effects of these differences on competition can only be assessed adequately when productivity is equal, which is far from the case at present, with labour productivity varying from one country to another in the Community;
6. Notes, however, that these social costs, seen in an overall context and taking due account of the differences between tax laws, the laws governing movement of capital and transport costs, may constitute a truly disruptive factor capable of distorting competition and jeopardizing the future attainment of a unified market;

7. Points out that the concept of harmonization, within the meaning of Article 117 of the Treaty establishing the European Economic Community, does not signify measures aimed at unification or even coordination; it implies not identical legal standards but rather a kind of parity of economic performance; this parity must be expressed in terms of wage incomes and social benefits for workers on the one hand, and the social burdens for undertakings on the other;
8. Takes note of the current state of harmonization of social legislation - by means of Council directives or regulations - two types of which can be distinguished:
- special measures for certain groups of workers (harmonization of the laws relating to commercial agents and of those applicable to drivers of road vehicles),
 - general measures;
9. Points out that most of the general harmonization measures were taken following the adoption by the Council - through its resolution of 21 January 1974 - of the social action programme, drawn up after consultation of both sides of industry; as a result, a number of directives were adopted by the Council between 1974 and 1976 on such important subjects as:
- collective redundancies¹,
 - transfers of undertakings²,
 - equal pay for men and women³,
 - equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions⁴,
 - equal treatment for men and women in matters of social security⁵;

¹ Directive of 17.2.1975 (OJ No. L 48, 22.2.1975)

² Directive of 14.2.1977 (OJ No. L 61, 5.3.1977)

³ Directive of 10.2.1975 (OJ No. L 45, 19.2.1975)

⁴ Directive of 9.2.1976 (OJ No. L 39, 14.2.1976)

⁵ Directive of 19.12.1978 (OJ No. L 6, 10.1.1979)

10. Appreciates the efforts made by the Commission, which, in compliance with Article 118 of the Treaty establishing the European Economic Community, has repeatedly sought to promote close cooperation between Member States in the social field by addressing to them recommendations on the improvement of working conditions, hours of work and health policy;
11. Is aware of and regrets the fact that the energy crises and the recession which ensued in all the Community Member States have placed a considerable check on the policy of European integration and thus also on Community social policy;
12. Requests the Commission to undertake a fresh study of the scope for expanding the process of harmonizing social systems and approximating legislation, given that harmonization confined to a few isolated aspects of the social sector can only produce substantially poorer results, an outcome which in the long term would seriously prejudice the 'comparative effectiveness' of the European economic and social system in relation to other, non-Community countries;
13. Considers that a first step in the right direction might be taken by improving the transparency of unemployment statistics, harmonizing the laws governing the situation of workers living in border areas and, because of the wide diversity in Member States' legislation, eliminating disparities in respect of social security benefits for women during pregnancy and the immediate post-natal period, and harmonizing legislation in the area of pre-marital examinations in the interests of preventing certain hereditary diseases.

Since the attainment of the internal market implies the free movement of workers, particular effort must be made in respect of the equivalence of qualifications and freedom of movement and establishment of professional people;

14. Reaffirms the need to ensure the increasing involvement of labour and management in the economic and social decisions of the Community and consequently in the actual process of social harmonization, this being in accordance with the provisions of the Treaty, the declaration by the European summit of October 1972 and the Council Resolution of 21 January 1974;

15. Considers that in a field such as social policy in which the legislative element is giving way to collective self-regulation by professional and trade groupings, it would be inappropriate to contemplate and bring about the harmonization of working conditions and social legislation without the consent, in each Member State, of the employers' and workers' organizations;
16. Insists, however, that integration must be pursued in all those sectors - particularly economic and monetary affairs, competition and the internal market - which are capable of influencing and promoting improved working conditions and of an improved standard of living for workers in the Community and of favouring the harmonization of social systems and legislation while that improvement is being maintained, as specified in the social provisions of the Treaty establishing the European Economic Community;
17. Calls lastly on the Commission to include in each of its annual reports on social developments a special section describing the stage reached in the harmonization of social legislation and social systems;
18. Instructs its President to forward this resolution to the Commission and the Council.